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Title 3—**Executive Order 13374 of March 14, 2005****The President****Amendments to Executive Order 12293—The Foreign Service of the United States**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 402 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3962), and in order to adjust the basic salary rates for each class of the Senior Foreign Service, it is hereby ordered as follows:

Section 1. Section 4 of Executive Order 12293 of February 23, 1981, as amended, is amended to read as follows:

“**Sec. 4.** Pursuant to section 402 of the Foreign Service Act (22 U.S.C. 3962), and subject to any restrictions therein, there are established the following salary classes with titles for the Senior Foreign Service, at the following ranges of basic rates of pay:

(a) Career Minister

Range from 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 100 percent of the rate payable for level II of the Executive Schedule.

(b) Minister-Counselor

Range from 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 107 percent of the rate payable for level III of the Executive Schedule.

(c) Counselor

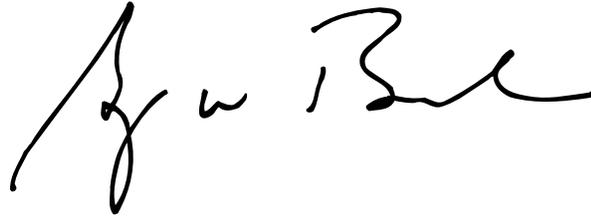
Range from 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 102 percent of the rate payable for level III of the Executive Schedule.”

Sec. 2. Section 2 of Executive Order 12293, as amended, is amended by striking “the Director of the International Communication Agency, the Director of the United States International Development Cooperation Agency” and inserting in lieu thereof “the Administrator of the United States Agency for International Development”.

Sec. 3. Executive Order 13325 of January 23, 2004, is revoked.

Sec. 4. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by any party at law or in

equity against the United States, its departments, agencies, entities, officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to read "G. W. Bush". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

THE WHITE HOUSE,
March 14, 2005.

[FR Doc. 05-5434
Filed 3-16-05; 8:45 am]
Billing code 3195-01-P

Rules and Regulations

Federal Register

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Thursday, March 17, 2005

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-20631; Directorate Identifier 2005-NM-025-AD; Amendment 39-14012; AD 2005-06-04]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes. The existing AD currently requires repetitive inspections of the left and right engine throttle control gearboxes for wear, and corrective action if necessary. The existing AD was prompted by numerous failures of the engine throttle control gearbox, some of which resulted in an in-flight engine shutdown. This AD adds airplanes to the applicability of the existing AD. We are issuing this AD to prevent excessive wear of the gearboxes and subsequent movement or jamming of the engine throttle; movement of the throttle towards the idle position brings it close to the fuel shut-off position, which could result in an in-flight engine shutdown.

DATES: Effective April 1, 2005.

On July 9, 2004 (69 FR 35239, June 24, 2004), the Director of the Federal Register approved the incorporation by reference of Bombardier Service Bulletin 601R-76-019, Revision 'A,' dated February 19, 2004.

On March 25, 2004 (69 FR 11293, March 10, 2004), the Director of the

Federal Register approved the incorporation by reference of Bombardier Service Bulletin 601R-76-019, dated August 21, 2003.

We must receive any comments on this AD by May 16, 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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

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-2005-20631; the directorate identifier for this docket is 2005-NM-025-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: Richard Beckwith, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart

Avenue, Westbury, New York 11581; telephone (516) 228-7302; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION: On June 10, 2004, the FAA issued AD 2004-05-12 R1, amendment 39-13683 (69 FR 35239, June 24, 2004), for certain Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes. That AD requires repetitive inspections of the left and right engine throttle control gearboxes for wear, and corrective action if necessary. That AD was prompted by numerous failures of the engine throttle control gearbox, some of which resulted in an in-flight engine shutdown. We issued that AD to prevent excessive wear of the gearboxes and subsequent movement or jamming of the engine throttle; movement of the throttle towards the idle position brings it close to the fuel shut-off position, which could result in an in-flight engine shutdown.

Actions Since AD Was Issued

AD 2004-05-12 R1 was originally issued with a limited applicability because Transport Canada Civil Aviation (TCCA), which is Canada's aviation authority, did not expect that Bombardier would produce any airplanes beyond serial number 7999. Recently, Bombardier has produced airplanes with serial numbers 8000 and subsequent.

Relevant Service Information

Bombardier has issued Service Bulletin 601R-76-019, dated August 21, 2003; and Revision 'A', dated February 19, 2004; which provide instructions for detailed inspection for wear of the left and right engine throttle control gearboxes, and corrective actions if necessary. The corrective actions include replacing the gearbox with a new or serviceable gearbox. We have determined that accomplishment of the actions specified in the service information will adequately address the unsafe condition.

TCCA mandated the service information and issued Canadian airworthiness directive CF-2004-01, dated January 21, 2004, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of This AD

These airplane models are manufactured in Canada and are 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, TCCA has kept us informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to supersede AD 2004-05-12 R1. This new AD continues to require repetitive inspections of the left and right engine throttle control gearboxes for wear, and corrective action if necessary. This AD also applies to additional serial numbered airplanes beyond the last serial number listed in the applicability of the existing AD. This AD requires you to use the Bombardier service information described previously to perform these actions, except as discussed under "Difference Between the AD and Service Information." This action also requires that operators report the inspection results to Bombardier.

Differences Between the AD and Service Information

Although the Bombardier service information recommends returning discrepant gearboxes to the parts manufacturer, this AD does not contain that requirement.

The service information also does not define the type of inspection for wear of the engine throttle control gearboxes. We have clarified the inspection requirement contained in the AD as a detailed inspection. A note has been added to the AD to define that inspection.

Differences Between the AD and Canadian Airworthiness Directive CF-2004-01

TCCA did not anticipate that Bombardier would produce additional Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes beyond serial numbers 7003 through 7067 inclusive, and 7069 through 7999 inclusive. Therefore, Canadian airworthiness directive CF-2004-01, dated January 21, 2004, limits the applicability to those serial numbers. Because Bombardier has recently produced airplanes with serial numbers 8000 and subsequent, this AD applies to Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 7003 through 7067 inclusive, and 7069 and subsequent. We have coordinated with TCCA that we are

superseding AD 2004-05-12 R1 to include airplanes having serial numbers 8000 and subsequent.

Change to Existing AD

This AD retains all requirements of AD 2004-05-12 R1. Since AD 2004-05-12 R1 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS	
Requirement in AD 2004-05-12 R1	Corresponding requirement in this AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).

Interim Action

We consider this AD to be interim action. The reports that you are required to submit will enable the manufacturer to obtain better insight into the nature, cause, and extent of the wear of the engine throttle control gearbox, and eventually to develop final action to address the unsafe condition. Once final action has been identified, we may consider further rulemaking.

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-2005-20631; Directorate Identifier 2005-NM-025-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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–13683 (69 FR 35239, June 24, 2004), and adding the following new airworthiness directive (AD):

2005–06–04 Bombardier, Inc (Formerly Canadair): Amendment 39–14012. Docket No. FAA–2005–20631; Directorate Identifier 2005–NM–025–AD.

Effective Date

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

Affected ADs

(b) This AD supersedes AD 2004–05–12 R1, amendment 39–13683 (69 FR 35239, June 24, 2004).

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers (S/Ns) 7003 through 7067 inclusive, and 7069 and subsequent, certificated in any category.

Unsafe Condition

(d) This AD was prompted by numerous failures of the engine throttle control gearbox, some of which resulted in an in-flight engine shutdown. We are issuing this AD to prevent excessive wear of the gearboxes and subsequent movement or jamming of the engine throttle; movement of the throttle towards the idle position brings it close to the fuel shut-off position, which could result in an in-flight engine shutdown.

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.

Repetitive Inspections

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD, do a detailed inspection for wear of the left and right engine throttle control gearboxes having part number (P/N) 2100140–005 or 2100140–007 by doing all the actions per part A, paragraphs A., B., and C.(1) through C.(4), of the Accomplishment Instructions of

Bombardier Service Bulletin 601R–76–019, dated August 21, 2003; or Revision “A,” dated February 19, 2004. If the wear value is the same as that specified in part A, paragraph B.(8), of the Accomplishment Instructions of the service bulletin, repeat the inspection thereafter at intervals not to exceed 1,000 flight hours.

(1) For airplanes having SNs 7003 through 7067 inclusive and 7069 through 7999 inclusive: Within 1,000 flight hours or 90 days after March 25, 2004 (the effective date of AD 2004–05–12), whichever is later.

(2) For airplanes having S/Ns 8000 and subsequent: Within 1,000 flight hours or 90 days after the effective date of this AD, whichever is later.

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

Corrective Action

(g) If the wear value found during any inspection required by paragraph (f) of this AD is not the same as that specified in part A, paragraph B.(8), of the Accomplishment Instructions of Bombardier Service Bulletin 601R–76–019, dated August 21, 2003; or Revision “A,” dated February 19, 2004: Do the applicable actions required by paragraph (g)(1), (g)(2), or (g)(3) of this AD, at the time specified, per the Accomplishment Instructions of the service bulletin. Repeat the inspection required by paragraph (f) of this AD thereafter at intervals not to exceed 1,000 flight hours.

(1) If the wear value on one or both of the gearboxes is the same as that specified in part A, paragraph B.(5), of the Accomplishment Instructions of the service bulletin: Before further flight, replace the affected gearbox with a new or serviceable gearbox, by doing all the actions per part B, paragraphs D. through F.(7), of the Accomplishment Instructions of the service bulletin.

(2) If the wear value on both the left and right gearboxes is the same as that specified in part A, paragraph B.(6), of the Accomplishment Instructions of the service bulletin: Before further flight, replace the gearbox having the higher wear value with a new or serviceable gearbox, by doing all the actions per part B, paragraphs D. through F.(7), of the Accomplishment Instructions of the service bulletin. Within 1,000 flight hours after doing the replacement, replace the other gearbox.

(3) If the wear value on only one gearbox is the same as that specified in part A, paragraph B.(7), and the wear value on the other gearbox is the same as that specified in part A, paragraph B.(8), of the Accomplishment Instructions of the service bulletin: Within 1,000 flight hours after the inspection, replace the gearbox with the wear value that is the same as that specified in part A, paragraph B.(7), with a new or serviceable

gearbox. Do the replacement by doing all the actions per part B, paragraphs D. through F.(7), of the Accomplishment Instructions of the service bulletin.

Additional Service Information

Note 2: Bombardier Service Bulletin 601R–76–019, dated August 21, 2003; and Revision ‘A,’ dated February 19, 2004; reference Trans Digm, Inc., AeroControlex Group, Service Bulletin 2100140–007–76–04, dated July 22, 2003, as an additional source of service information for accomplishment of the inspections and replacement.

Reporting Requirement

(h) At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, submit a report of gearbox wear to Bombardier Aerospace, In-Service Engineering (Engine Group); fax (514) 855–7708. The report must include the airplane serial number, the number of flight hours on the airplane, and the number of flight hours on each gearbox (if different than the number of flight hours on the airplane). Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) For Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 7003 through 7067 inclusive, and 7069 through 7999 inclusive: Submit a report within 10 days after doing the inspection required by paragraph (f) of this AD, or within 10 days after March 25, 2004, whichever is later.

(2) For Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 8000 and subsequent: Submit a report within 10 days after doing the inspection required by paragraph (f) of this AD, or within 10 days after the effective date of this AD, whichever is later.

Alternative Methods of Compliance

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

Related Information

(j) Canadian airworthiness directive CF–2004–01, dated January 21, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Bombardier Service Bulletin 601R–76–019, dated August 21, 2003; or Bombardier Service Bulletin 601R–76–019, Revision ‘A,’ dated February 19, 2004; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register previously approved the incorporation by reference of Bombardier Service Bulletin 601R–76–019, Revision “A,” dated February 19, 2004; on July 9, 2004, (69 FR 35239, June 24, 2004).

(2) The Director of the Federal Register previously approved the incorporation by

reference of Bombardier Service Bulletin 601R-76-019, dated August 21, 2003; on March 25, 2004 (69 FR 11293, March 10, 2004).

(3) You can get copies of the service information from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. 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 March 8, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-5139 Filed 3-16-05; 8:45 am]

BILLING CODE 4190-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

[Notice: 05-045]

RIN 2700-AC39

Small Self-Contained Payloads (SSCPs)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is removing the rule on "Small Self-Contained Payloads (SSCPs)." This rule established the rules on Space Shuttle services that are provided by NASA to participants in the SSCP program. Removal of this rule will terminate the SSCP program.

DATES: This regulation is effective March 17, 2005.

FOR FURTHER INFORMATION CONTACT: Anne Sweet, (202) 358-3784.

SUPPLEMENTARY INFORMATION: The Vision for Space Exploration, announced in January 2004, directs NASA to implement a sustained and affordable human and robotic program to explore the solar system and beyond. The first step toward accomplishing these goals is returning the Space Shuttle to safe flight and fulfilling NASA's obligations to its international partners in assembling the International Space Station. As NASA returns the Space Shuttle to flight, new safety enhancements and a backlog of Space Station up-mass requirements will severely constrain the Agency's ability

to launch secondary and tertiary payloads aboard the Space Shuttle. Once assembly of the International Space Station is complete, NASA plans to retire the Space Shuttle. Consistent with this new direction and the lack of future flight opportunities, NASA has determined that the SSCP program cannot be sustained as a viable activity, and the program has been terminated. Therefore, NASA has determined that 14 CFR Ch. V 1214.9 is no longer applicable and should be removed.

List of Subjects in 14 CFR Part 1214

Government employees, Government procurement, Security measures, Space transportation and exploration.

■ Therefore, under the authority of 42 U.S.C. 2451 *et seq.*, 14 CFR subpart 1214.9, consisting of §§ 1214.900 through 1214.912, is removed.

Subpart 1214.9—[Removed]

Sean O'Keefe,

Administrator.

[FR Doc. 05-5089 Filed 3-16-05; 8:45 am]

BILLING CODE 7510-13-P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 725

RIN 0703-AA76

Release of Official Information for Litigation Purposes and Testimony by Department of the Navy Personnel

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Secretary of the Navy's sole delegate for service of process, the Navy General Counsel, is changing the address where the service of process documents shall be delivered. This action is being taken in order to streamline the service process and expedite legal response on behalf of the Department of the Navy.

DATES: Effective March 17, 2005.

FOR FURTHER INFORMATION CONTACT: LT Samuel Wartell, Administrative Assistant, Office of the Navy General Counsel, 1000 Navy Pentagon, Washington, DC 20350-1000, 703-614-4473.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Office of the General Counsel, Department of the Navy, amends 32 CFR part 725. DOD Directive 5530.1 stipulates that the General Counsel is the sole delegate of the Secretary of the Navy for service of process in the Department of the Navy.

This amendment provides notice that the General Counsel wishes to update the address given for this procedure in order to expedite the legal response on behalf of the Department of the Navy. It has been determined that invitation of public comment on this amendment would be impractical and unnecessary, and is therefore not required under the public rule-making provisions of 32 CFR parts 336 and 701. However, interested persons are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions of 32 CFR part 725, or the instructions on which they are based. It has been determined that this final rule is not a major rule within the criteria specified in Executive Order 12866, as amended by Executive Order 13258, and does not have substantial impact on the public. This submission is a statement of policy and as such can be effective upon publication of the **Federal Register**.

Matters of Regulatory Procedure

Executive Order 12866, Regulatory Planning and Review

This rule does not meet the definition of "significant regulatory action" for purposes of Executive Order 12866, as amended by Executive Order 13258.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

List of Subjects in 32 CFR Part 725

Courts, Government employees.

■ For the reasons set forth in the preamble, the Department of the Navy revises 32 CFR 725.6 (d)(D)(iii) to read as follows:

PART 725—RELEASE OF OFFICIAL INFORMATION FOR LITIGATION PURPOSES AND TESTIMONY BY DEPARTMENT OF THE NAVY PERSONNEL

§ 725.6 Authority to determine and respond.

* * * * *

(d) * * *

(D) * * *

(iii) *Documents*. 10 U.S.C. 7861 provides that the Secretary of the Navy has custody and charge of all DON

books, records, and property. Under DOD Directive 5530.1,⁶ the Secretary of the Navy's sole delegate for service of process is the General Counsel of the Navy. See CFR 257.5(c). All process for such documents shall be served upon the General Counsel at the Department of the Navy, Office of the General Counsel, Navy Litigation Office, 720 Kennon Street SE, Bldg 36 Room 233, Washington Navy Yard, DC 20374-5013, 202-685-7039, who will refer the matter to the proper delegate for action.

* * * * *

Dated: March 11, 2005.

I.C. Le Moyne Jr.,

*Lieutenant, Judge Advocate General's Corps,
U.S. Navy, Alternate Federal Register Liaison
Officer.*

[FR Doc. 05-5288 Filed 3-16-05; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC 2005-20085]

RIN 2135-AA20

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The changes will update the following sections of the Regulation and Rules: Condition of Vessels; Preclearance and Security for Tolls; Seaway Navigation; Dangerous Cargo; Toll Assessment and Payment; Information and Reports; and General. These amendments are necessary to take account of updated procedures and/or technology and will enhance the safety of transits through the Seaway.

DATES: This rule is effective on April 18, 2005.

FOR FURTHER INFORMATION CONTACT: Craig H. Middlebrook, Acting Chief Counsel, Saint Lawrence Seaway

Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-0091.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. A Notice of Proposed Rulemaking was published on January 25, 2005 (70 FR 3495). In that notice, the SLSDC proposed changes that would update the following sections of the Regulation and Rules: Condition of Vessels; Preclearance and Security for Tolls; Seaway Navigation; Dangerous Cargo; Toll Assessment and Payment; Information and Reports; and General. Many of these changes are to clarify existing requirements in the regulations. Where new requirements or regulations are being adopted, an explanation for such a change is provided below. Interested parties have been afforded an opportunity to comment. One comment was received seeking clarification of two of the proposed amendments. No comments in opposition were received.

Regulatory Notices: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

The SLSDC is amending the joint regulations pertaining to the Condition of Vessels. Among the proposed changes include new requirements for certain types of vessels. For example, the SLSDC is adding a new subsection to § 401.3, "Maximum vessel dimensions", to notify ships with a beam greater than 23.20 m that they may be subject to transit restrictions and/or delays during periods of ice cover. Larger beamed vessels often require special handling through the locks under ice conditions and this amendment will adequately notify such vessels that they may be subject to special restrictions or delays as a result of these special precautions.

Under § 401.4, "Maximum length and weight", the SLSDC is adding language that would clarify that a transit would be through the Seaway Locks. Also, under § 401.6, "Markings", the SLSDC

is adding additional language that clarifies the type of marking needed for vessels with a bulbous bow that extends forward beyond its stem head.

The SLSDC is amending § 401.7, "Fenders", to require that permanent fenders be installed on vessels where any structural part of a ship protrudes so as to endanger Seaway installations. From the SLSDC's experience, permanent fenders provide greater protection than portable fenders and this amendment would enhance the safety of lock transits.

The SLSDC is also amending § 401.7 to allow for a one-transit use of a portable fender, pursuant to special approval. The SLSDC recognizes that certain vessels may only need to transit the Seaway once and that requiring them to install permanent fenders may be burdensome. Also, the SLSDC is adding a new subsection to § 401.7 that would allow ships of unusual design to use temporary or permanent fenders not greater than 30 cm in thickness, subject to special approval. Through this new subsection, the SLSDC recognizes that for certain vessels that may need to transit the locks infrequently, or only once, the requirement for permanent fenders may be burdensome.

Under § 401.8, "Landing Booms", the SLSDC is adding a new subsection that would require that a ship's crew shall be adequately trained in the use of landing booms. For ships of more than 50 m in overall length transiting the Seaway, they are to be equipped with landing booms, and it is essential for safety that their crews be trained in the proper use of this equipment. The SLSDC is also adding a new subsection requiring vessels not equipped with landing booms to use the Seaway's tie-up service. The SLSDC recognizes that some vessels may not be equipped with landing booms and it provides this service for such vessels. Requiring them to use this service will help ensure that ships transit the Seaway safely.

The one comment we received regarding the changes to this section sought clarification of the term "adequately trained" as it relates to the use of landing booms. The commenter stated that clarifying this term would allow it and other shipowners to understand the Seaway's intent in implementing this requirement, which would assist them in complying with the provision. In response to this comment, we note that if a vessel is equipped with landing booms, the booms will be inspected as part of the regular Seaway Inspection, just as any other piece of deck equipment is subject to inspection. Shipowners are responsible for ensuring that their crews

know how to use safely any piece of deck equipment, including landing booms. Seaway inspectors may, under certain conditions, ask for a demonstration in the proper use of the landing booms. The vessel's Master will be asked by Seaway inspectors if the crew is competent in the use of the landing booms.

The SLSDC is amending § 401.9, "Radiotelephone equipment", to clarify that VHF (very high frequency) transmission positions are designated by channel numbers instead of by MHz (megahertz) frequencies.

Under § 401.10, "Mooring lines", the SLSDC is adding language that provides greater specificity on the type of mooring lines already required. Also, the SLSDC is adding a requirement that such lines be certified and that a test certificate shall be available on board for inspection for each mooring line. Moreover, the SLSDC is adding a new subsection that would not permit the use of nylon lines. Mooring lines are a vital equipment component used in the transit of vessels through a lock. The SLSDC believes that adding these requirements will help ensure the integrity and safety of these lines. In addition, the SLSDC has updated the table under this section to note the necessary breaking strengths for various mooring lines in terms of Metric Tons (M/T) instead of kiloNewtons (kN). This change will simply adopt the currently accepted unit of measurement for breaking strength.

The SLSDC is amending § 401.11, "Fairleads", to require that mooring lines and synthetic hawsers, where permitted, shall pass through not more than three inboard rollers that are fixed in place and equipped with horns to ensure that lines will not slip off when slackened. The SLSDC believes such a change is necessary to increase the safe handling of mooring lines.

Under § 401.12, "Minimum requirements—mooring lines and fairleads", the SLSDC is amending the mooring line and fairlead requirements for various ship sizes. The first category of ship size would be for vessels of 80 meters or less instead of 40 meters; the next category would be for ships of more than 80 meters but not more than 100 meters, instead of between 40 and 60 meters; the next category would now be for vessels between 100 meters and 120 meters; and the final category would be for ships of more than 120 meters in length. For each of these categories, additional requirements are being added that will increase the safe handling of vessels through the locks. The table under this section is also amended to reflect these changes.

The one comment we received concerning this section sought to confirm that a mooring line arrangement that has already been approved by the Seaway authorities under the previous requirements will be acceptable to allow transit through the Seaway. After receiving the comment, the SLSDC and the SLSMC have reviewed the matter, and we conclude that mooring line arrangements previously approved would be acceptable. All vessels that have not had their mooring line arrangements previously approved by the Seaway authorities, however, will be required to comply with the new requirements.

The SLSDC is amending § 401.13, "Hand lines", by adding language that requires that the ends of hand lines shall be back spliced or tapered and not be weighted or have knotted ends. These changes will greatly increase the likelihood that the Seaway's line handlers will be able to work safely with a ship's hand lines and not be injured in the process of tying up a vessel.

Under § 401.14, "Anchor marking buoys", the SLSDC is amending this section to give ship owners more flexibility in making their anchor marking buoys highly visible. The current section requires that anchor buoys must be orange.

For § 401.16, "Propeller direction alarms", and § 401.17, "Pitch indicators and alarms", the SLSDC is amending these sections by also making them applicable to integrated tug and barge or articulated tug and barge units of combined 1,600 gross registered tons or more. This change reflects the reality that tug and barge units of this size now use the Seaway with greater frequency. Requiring that such units possess this equipment ensures their safe operation through the Seaway.

Under § 401.19, "Disposal and discharge systems", the SLSDC is adding language that clarifies which pertinent laws and regulations are Canadian and which are U.S. In addition, the SLSDC is adding a requirement that would prohibit the burning of shipboard garbage in certain areas of the Seaway.

The SLSDC is amending § 401.20, "Automatic Identification System", by adding a provision that would require that the Minimum Keyboard Display (MKD) be located as close as possible to the primary conning position as possible and be visible. The Seaway has been using the Automatic Identification System as part of its Traffic Management System since 2002, and based on this experience, it has been determined that the MKD must be

located close to the primary conning position and be visible to be most effective in ensuring the safe navigation of the vessel.

The SLSDC is amending the joint regulations regarding the Preclearance and Security for Tolls. Among the amendments are changes to § 401.22, "Preclearance of vessels", that would change the minimum size of a pleasure craft not needing to apply for Preclearance from 317.5 tonnes to 300 gross registered tonnes (GRT) and would change the minimum size from 317.5 tonnes to 300 gross registered tonnage under which a non-commercial ship cannot apply for Preclearance and must transit as a pleasure craft. These slight increases in the minimum ship size are needed to bring these criteria in line with Great Lakes Pilotage Authority requirements (300 GRT).

Under § 401.24, "Application for Preclearance", the SLSDC is amending the section by allowing ship representatives to obtain an application directly from the SLSDC and SLSMC joint Web site (www.greatlakes-seaway.com). Allowing users to download the Preclearance applications will make it easier for Seaway users to obtain these documents.

Under the SLSDC's regulations pertaining to Seaway Navigation, the SLSDC is making several amendments. For example, under § 401.30, "Ballast water and trim", the SLSDC is adding a requirement that no ship shall be accepted for transit whose trim by the stern exceeds 45.7 dm (decimeters), except under certain circumstances. This would limit the length of a vessel permitted to transit the Seaway in terms of its trim by the stern. The upper limit permitted would be 45.7 dm, beyond which a ship's trim could potentially interfere with the proper functioning of the lock. This specificity regarding trim has been added to the regulations to provide greater clarity to users to facilitate their planned transit through the Seaway. The change still allows for vessels exceeding this limit to transit under exceptional circumstances.

Under § 401.34, "Vessels in tow", language is being added that would make it clear that non-self-propelled vessels, *i.e.* vessels in tow, are required to be securely tied to an adequate tug or tugs. The number of non-self-propelled vessels, such as those used in integrated tug/barges, transiting the Seaway is increasing. This change to the existing language of § 401.34 ensures that such vessels are safely secured to their power units and thereby enhance overall Seaway safety.

To enhance the safety of the navigation of vessels in certain areas of

the Seaway, a requirement is being added to § 401.35, "Navigation underway", to have a helmsman present in the wheelhouse of the ship in addition to either the master or certified deck officer. Having two qualified personnel in the wheelhouse will enhance the ability of the vessel to transit without incident in those areas of the Seaway where navigation is more difficult.

Under § 401.37 "Mooring at tie-up walls", the proposal would delete the requirement that only Canadian or U.S. Coast Guard approved life jackets are permissible. This requirement is being deleted because not only these two countries have approval requirements for their lifejackets.

Under § 401.39, "Preparing mooring lines for passing through", new language will state that winches must be capable of paying out at a minimum speed of 46 m (meters) per minute. The current language allows for winches paying out at a lower rate to be used as long as sufficient lengths of mooring lines are drawn off the winch drums and laid out on the deck. Such a procedure is no longer deemed optimally safe and requiring all winches to have this minimum pay out speed will maximize ship and line handling safety.

§ 401.42, "Passing hand lines", paragraph (b), which prohibits the use of knotted or weighted hand lines in a lock chamber, is deleted. Listing this prohibition here is redundant, as it would now be listed earlier in § 401.13(c).

To aid those leaving or boarding a vessel, a requirement under § 401.57, "Disembarking or boarding", is being added that would require a member of the crew to assist persons disembarking or boarding vessels. Having a crew member assist in such instances greatly reduces the risk of injury.

Under § 401.58, "Pleasure craft scheduling", an additional requirement is being added that requires every pleasure craft planning to transit to arrange for the transit by contacting the lock personnel using the direct-line phone at a pleasure craft dock and to make the lockage fee payment by purchasing a ticket using the automated ticket dispensers located at pleasure craft docks. This new requirement will aid in the scheduling of pleasure craft transits and simplify the collection of fees.

The SLSDC is making several amendments to the joint regulations pertaining to Dangerous Cargo. Among these is a change to § 401.68, "Explosives permit", to require a permit for all ships carrying any quantity of

explosives with a mass explosive risk, up to a maximum of 2 tonnes, under IMO Class 1, Division 1.1 and 1.5.

Under § 401.72, "Reporting—explosive and hazardous cargo vessels", additional reporting requirements for ships carrying grain have been added. Specifically, every ship carrying grain that is under fumigation must now declare to the nearest traffic control center the nature of the fumigant as well as which cargo holds are affected. Also, all ships carrying grain under fumigation would be required to file with the SLSMC, prior to transiting, a copy of its current load plan. These changes will increase the ability of the Seaway to transit ships carrying grain safely.

Also § 401.72 now requires that the load plan should include the approximate total weight in metric tonnes or total volume in cubic meters. This added information will help ensure that the correct information is provided.

An additional requirement being added to § 401.72 requires tankers in ballast to report the previous cargo of each cargo hold on a model of the current load plan for loaded vessels. Such information will assist the Seaway in ensuring the safe transit of such vessels through the waterway. Moreover, a midships cross-section showing the double bottom tanks and ballast side tanks for tankers is now required.

Under § 401.72, the Seaway will now distribute a ship's load plan to all other Seaway Traffic Control Centers, and if any changes in stowage are made to the plan, including loading and discharging during a transit, the ship must submit an updated plan before departing from any port in the Seaway. Having current information of this type and ensuring that it is disseminated to all Vessel Traffic Control Centers will enhance the Seaway's ability to handle such ships safely in all sectors of the waterway.

Finally under § 401.72, a new subsection would put users on notice that failure to comply with these requirements may result in unnecessary delays or transit refusal.

Under the SLSDC's regulations pertaining to Toll Assessment and Payment, the SLSDC is making several amendments. For example, under § 401.74, "Transit declaration", the Seaway Transit Declaration Form is now available only through the SLSMC's Cornwall office, and not the SLSDC's Massena office. The SLSMC is already the entity that receives these forms, and thus limiting the source of this form to the SLSMC's location in Cornwall will facilitate the Seaway's ability to keep

these forms current and to collect them efficiently.

In § 401.75, "Payment of tolls", additional language would require pleasure craft to transit each Canadian lock with prepaid tickets purchased in Canadian funds using automated credit card ticket dispensers located at pleasure craft docks. The use of these new dispensers will aid in the efficient transiting of pleasure craft by eliminating the need to collect fees in hard currency. At U.S. locks, the fee is paid in U.S. funds or the pre-established equivalent in Canadian funds.

The SLSDC is making several amendments to the joint regulations pertaining to Information and Reports. This includes a change to § 401.79, "Advance notice of arrival, vessels requiring inspection", that increases the requirement for advance notice of arrival from 24 hours prior to all transits to 96 hours. This change is needed to comply with recent changes to the Canadian and U.S. laws requiring such notice.

A change to § 401.81, "Reporting an accident", would add language that all ships involved in an accident or a dangerous occurrence, must report the incident prior to departing the Seaway system. This language should remove any ambiguity about when such reporting is required.

Under the SLSDC's regulations pertaining to General matters, the SLSDC is making several amendments. Under § 401.93, "Access to Seaway property", the reference to "Shore Traffic Regulations" is replaced with "Seaway Property Regulations" to reflect the correct name of the document.

In § 401.94, "Keeping copies of regulations", an additional requirement is being added that would require ships transiting the Seaway to store permanently a duplicate set of the ship's Fire Control Plans in a prominently marked and weather-tight enclosure outside the deckhouse. Storing this document in this way will assist emergency response personnel who may be called on board to respond to a fire.

Under § 401.95, "Compliance with regulations", an additional requirement has been added that would require the master or owner of a ship to ensure that all requirements of the Joint Practices and Procedures as well as Seaway Notices applicable to that ship are complied with. Adding Seaway Notices clarifies the responsibilities of the master and ship owner.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and

therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et reg.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that it does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio,

Reporting and recordkeeping requirements, Vessels, Waterways.

■ Accordingly, the Saint Lawrence Seaway Development Corporation is amending 33 CFR part 401, Seaway Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

■ 1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

■ 2. In § 401.3, a new paragraph (f) is added to read as follows:

§ 401.3 Maximum vessel dimensions.

* * * * *

(f) Vessels with beams greater than 23.20 m may be subject to transit restrictions and/or delays during periods of ice cover.

* * * * *

■ 3. Section 401.4 is revised to read as follows:

§ 401.4 Maximum length and weight.

No vessel of less than 6 m in overall length or 900 kg in weight shall transit through Seaway Locks.

■ 4. In § 401.6, paragraph (c) is revised to read as follows:

§ 401.6 Markings.

* * * * *

(c) Where a vessel's bulbous bow extends forward beyond her stem head, a symbol of a bulbous bow shall be marked above the vessel's summer load line draught mark in addition to a + symbol followed by a number indicating the total length in meters by which the bulbous bow projects beyond the stem.

* * * * *

■ 5. In § 401.7, paragraphs (a) introductory text and (a)(2) introductory text are revised, and paragraphs (b) and (c) are added to read as follows:

§ 401.7 Fenders.

(a) Where any structural part of a vessel protrudes so as to endanger

Seaway installations, the vessel shall be equipped with permanent fenders—

* * * * *

(2) On special application, portable fenders, other than rope hawsers, may be allowed for a single transit if the portable fenders are—

* * * * *

(b) Tires shall not be used as fenders.

(c) On special application, ships of unusual design may be permitted to utilize temporary or permanent fenders not greater than 30 cm in thickness.

■ 6. Section 401.8 is revised to read as follows:

§ 401.8 Landing booms.

(a) Vessels of more than 50 m in overall length shall be equipped with at least one adequate landing boom on each side.

(b) Vessels' crews shall be adequately trained in the use of landing booms.

(c) Vessels not equipped with landing booms must use the Seaway's tie-up service at approach walls.

■ 7. In § 401.9, paragraph (b)(2) is revised to read as follows:

§ 401.9 Radiotelephone Equipment.

* * * * *

(b) * * *

(2) Be fitted to operate from the conning position in the wheelhouse and to communicate on channels 11, 12, 13, 14, 17 and 66a.

* * * * *

■ 8. In § 401.10, paragraph (a)(3) and the table at the end of the section are revised, and paragraphs (a)(6) and (d) are added to read as follows:

§ 401.10 Mooring lines.

* * * * *

(a) * * *

(3) Be fitted with a hand spliced eye or Flemish type mechanical spliced eye not less than 2.4 m long;

* * * * *

(6) Be certified and a test certificate for each mooring line shall be available on board for inspection.

* * * * *

(d) Notwithstanding paragraphs (a) through (c) of this section, nylon line is not permitted.

TABLE

Overall length of vessels	Length of mooring lines (m)	Breaking strength (M/T)
40 m or more but not more than 60 m	110	10
More than 60 m but not more than 90 m	110	15
More than 90 m but not more than 120 m	110	20
More than 120 m but not more than 180 m	110	28
More than 180 m but not more than 222.5 m	110	35

* * * * *

■ 9. In § 401.11, the introductory text and paragraph (b) are revised to read as follows:

§ 401.11 Fairleads.

Mooring lines, and synthetic hawsers where permitted, shall:

* * * * *

(b) Pass through not more than three inboard rollers that are fixed in place and equipped with horns to ensure that leins will not slip off when slackened and provided with free-running sheaves or rollers; and

* * * * *

■ 10. In § 401.12, paragraphs (a)(1), (a)(2), (a)(3), (a)(4) introductory text, (a)(4)(i), (b), and the table at the end of the section are revised to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) * * *

(1) Vessels of 80 m or less in overall length shall have at least three synthetic hawsers, two of which shall be independently power operated and one of which shall be hand held:

(i) One synthetic hawser shall lead forward from the break of the bow and one synthetic hawser shall lead astern from the quarter and be independently power operated by winches, capstans or windlasses and lead through closed chocks or fairleads acceptable to the Manager and the Corporation; and

(ii) One synthetic hawser shall be hand held and lead astern from the break of the bow through closed chocks to suitable mooring bitts on deck.

(2) Vessels of more than 80 m but not more than 100 m in overall length shall have four synthetic hawsers, of which three shall be independently power operated by winches, capstans or windlasses and one being hand held. All lines shall be led through closed chocks or fairleads acceptable to the Manager and the Corporation, of which three mooring lines:

(i) One shall lead forward and one shall lead astern from the break of the bow and one lead astern from the quarter and all three lines shall be independently power operated; and

(ii) One shall lead forward from the quarter and be hand held;

(3) Vessels of more than 100 m but not more than 120 m in overall length shall

have four mooring lines or synthetic hawsers independently power operated by winches, capstan or windlasses as follows:

(i) One mooring line shall lead forward and one mooring line shall lead astern from the break of the bow and shall be independently power operated by the main drums of adequate power operated winches, and

(ii) One synthetic hawser shall lead forward and one synthetic hawser shall lead astern from the quarter and shall be independently power operated by either winches, capstan or windlasses;

(4) Vessels of more than 120 m in overall length shall have four mooring lines, two of which shall lead from the break of the bow and two of which shall lead from the quarter, and;

(i) All shall be independently power operated by the main drums of adequate power operated winches and not by capstans or windlasses; and

* * * * *

(b) The following table sets out the requirements for the location of fairleads for ships of 80 m or more in overall length:

TABLE

Overall length of ships	For mooring lines Nos. 1 and 2	For mooring lines Nos. 3 and 4
80 m or more but not more than 120 m	Between 12 m & 30 m from the stem	Between 15 m & 35 from the stern.
More than 120 m but not more than 150 m	Between 12 m & 35 m from the stem	Between 15 m & 40 from the stern.
More than 150 m but not more than 180 m	Between 15 m & 40 m from the stem	Between 20 m & 45 from the stern.
More than 180 m but not more than 222.5 m	Between 20 m & 50 m from the stem	Between 20 m & 50 from the stern.

* * * * *

■ 11. Section 401.13 is revised to read as follows:

§ 401.13 Hand lines.

Hand lines shall:

(a) Be made of material acceptable to the Manager and the Corporation;

(b) Be of uniform thickness and have a diameter of not less than 15 mm and not more than 17 mm and a minimum length of 30 m. The ends of the lines shall be back spliced or tapered; and

(c) Not be weighted or have knotted ends.

■ 12. Section 401.14 is revised to read as follows:

§ 401.14 Anchor marking buoys.

A highly visible anchor marking buoy of a type approved by the Manager and the Corporation, fitted with 22 m of suitable line, shall be secured directly to each anchor so that the buoy will mark the location of the anchor when the anchor is dropped.

■ 13. In § 401.16, the introductory text is revised to read as follows:

§ 401.16 Propeller direction alarms.

Every vessel of 1600 gross registered tons or integrated tug and barge or articulated tug and barge unit of combined 1600 gross registered tons or more shall be equipped with—

* * * * *

■ 14. In § 401.17, the introductory text is revised to read as follows:

§ 401.17 Pitch indicators and alarms.

Every vessel of 1600 gross registered tons or integrated tug and barge or articulated tug and barge unit of combined 1600 gross registered tons or more equipped with a variable pitch propeller shall be equipped with—

* * * * *

■ 15. In § 401.19, paragraphs (a) and (b)(2) are revised, and paragraph (d) is added to read as follows:

§ 401.19 Disposal and discharge systems.

(a) Every vessel not equipped with containers for ordure shall be equipped with a sewage disposal system enabling compliance with the Canadian Garbage Pollution Prevention Regulations, the Canadian Great Lakes Sewage Pollution Prevention Regulations, the U.S. Clean Water Act, and the U.S. River and Harbor Act, and amendments thereto.

(b) * * *

(2) Retained on board in covered, leak-proof containers, until such time as it can be disposed of in accordance with the provisions of the Canadian Garbage Pollution Prevention Regulations, the Canadian Great Lakes Sewage Pollution Prevention Regulations, the U.S. Clean Water Act, and the U.S. River and Harbor Act, and amendments thereto.

* * * * *

(d) Burning of shipboard garbage is prohibited between CIP 2 & Cardinal and between CIP 15 and CIP 16.

* * * * *

■ 16. In § 401.20, paragraphs (b)(5), (b)(6), and (b)(7) are redesignated as paragraphs (b)(6), (b)(7), and (b)(8), and a new paragraph (b)(5) is added to read as follows:

§ 401.20 Automatic Identification System.

* * * * *

(b) * * *

(5) The Minimum Keyboard Display (MKD) shall be located as close as possible to the primary conning position and be visible;

* * * * *

■ 17. In § 401.22, paragraphs (a) and (c) are revised to read as follows:

§ 401.22 Preclearance of vessels.

(a) No vessel, other than a pleasure craft 300 gross registered tonnage or less, shall transit until an application for preclearance has been made, pursuant to § 401.24, to the Manager by the vessel's representative and the application has been approved by the Corporation or the Manager pursuant to § 401.25.

* * * * *

(c) A non-commercial vessel of 300 gross registered tonnage or less cannot apply for preclearance status and must transit as a pleasure craft.

* * * * *

■ 18. Section 401.24 is revised to read as follows:

§ 401.24 Application for preclearance.

The representative of a vessel may, on a preclearance form (3 copies) obtained from the Manager, Cornwall, Ontario, or downloaded from the St. Lawrence Seaway Web site (<http://www.greatlakes-seaway.com>), apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the fees that may be incurred by the vessel.

■ 19. In § 401.30, paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), newly designated paragraph (e) introductory text and (e)(2) are revised, and a new paragraph (c) is added to read as follows:

§ 401.30 Ballast water and trim.

* * * * *

(c) No vessel, other than under exceptional circumstances and with special permission, shall be accepted for transit whose trim by the stern exceeds 45.7 dm.

* * * * *

(e) To obtain clearance to transit the Seaway:

* * * * *

(2) Every other vessel entering the Seaway that operates within the Great

Lakes and the Seaway must agree to comply with the "Voluntary Management Practices to Reduce the Transfer of Aquatic Nuisance Species Within the Great Lakes by U.S. and Canadian Domestic Shipping" of the Lake Carriers Association and Canadian Shipowners Association dated January 26, 2001, while operating anywhere within the Great Lakes and the Seaway. A copy of the "Code of the Best Practices for Ballast Water Management" and of the "Voluntary Management Practices to Reduce the Transfer of Aquatic Nuisance Species Within the Great Lakes by U.S. and Canadian Domestic Shipping" can be found under "Navigation", Notice #6, 2002, on www.greatlakes-seaway.com.

■ 20. Section 401.34 is revised to read as follows:

§ 401.34 Vessels in tow.

No vessel that is not self-propelled (including but not limited to tug/tows and/or deadship/tows) shall be underway in any Seaway waters unless it is securely tied to an adequate tug or tugs, in accordance with special instructions given by the Manager or the Corporation pursuant to § 401.33.

■ 21. In § 401.35, paragraph (c) is revised to read as follows:

§ 401.35 Navigation underway.

* * * * *

(c) Man the wheelhouse of the vessel at all times by either the master or certified deck officer, and a helmsman, and;

* * * * *

■ 22. In § 401.37, paragraph (b) is revised to read as follows:

§ 401.37 Mooring at tie-up walls.

* * * * *

(b) Crew members being put ashore on landing booms and handling mooring lines on tie-up walls shall wear approved life jackets.

* * * * *

■ 23. In § 401.39, the introductory text and paragraph (a) are revised to read as follows:

§ 401.39 Preparing mooring lines for passing through.

Before a vessel enters a lock:

(a) Winches shall be capable of paying out at a minimum speed of 46 m per minute; and

* * * * *

■ 24. In § 401.42, paragraph (a)(4) is revised, paragraph (b) is removed, and paragraph (c) is redesignated as paragraph (b) to read as follows:

§ 401.42 Passing hand lines.

(a) * * *

(4) Upbound vessels of overall length in excess of 218 m in Locks 4 and 5, Welland Canal, shall secure the hand lien to the eye of the No. 1 mooring wire by means of a bowline.

* * * * *

■ 25. Section 401.57 is amended by adding a new paragraph (c) to read as follows:

§ 401.57 Disembarking or boarding.

* * * * *

(c) Persons disembarking or boarding shall be assisted by a member of the vessel's crew.

■ 26. Section 401.58 is revised to read as follows:

§ 401.58 Pleasure craft scheduling.

(a) The transit of pleasure craft shall be scheduled by the vessel traffic controller or the officer in charge of a lock and may be delayed so as to avoid interference with other vessels; and

(b) Every pleasure craft seeking to transit shall stop at a pleasure craft dock and arrange for transit by contacting the lock personnel using the direct-line phone and make the lockage fee payment by purchasing a ticket using the automated ticket dispensers.

■ 27. In § 401.68, paragraphs (a)(1) and (a)(4) are revised to read as follows:

§ 401.68 Explosives permit.

(a) * * *

(1) For all vessels carrying any quantity of explosives with a mass explosive risk, up to a maximum of 2 tonnes (IMO Class 1, Division 1.1 and 1.5);

* * * * *

(4) For all vessels carrying more than 100 tonnes and up to a maximum of 500 tonnes of safety explosives and shop goods (IMO Class 1, Divisions 1.4).

* * * * *

■ 28. In § 401.72, paragraphs (a), (e) introductory text, (e)(2), (f), and (h) are revised, and paragraphs (e)(6) and (i) are added to read as follows:

§ 401.72 Reporting—explosive and hazardous cargo vessels.

(a) Every explosive vessel or hazardous cargo vessel shall, when reporting information related to cargo as required by § 401.64(a), report the nature and tonnage of its explosive or hazardous cargo where applicable. Every vessel carrying grain which is under fumigation shall declare to the nearest traffic control center the nature of the fumigant, its properties and cargo holds affected.

* * * * *

(e) Every vessel carrying dangerous cargo, as defined in § 401.66, and all

tankers carrying liquid cargo in bulk, and all vessels carrying grain under fumigation shall, prior to transiting any part of the Seaway, file with the Manager a copy of the current load plan that includes the following information:

* * * * *

(2) The approximate total weight in metric tonnes or total volume in cubic meters and the stowage location of each commodity;

* * * * *

(6) Tankers in ballast shall report the previous cargo of each cargo hold on a plan as described in this paragraph (e).

(f) For tankers, the information required under this section shall be detailed on a plan showing the general layout of the tanks, and a midships cross-section showing the double bottom tanks and ballast side tanks.

* * * * *

(h) Every vessel shall submit its load plan to the nearest Seaway Traffic Control Center from which it will be distributed to all other Seaway Traffic Control Centers. Any changes in stowage, including loading and discharging during a transit, the ship shall submit an updated plan before departing from any port between St. Lambert and Long Point.

(i) Failure to comply with the requirements in this section may result in unnecessary delays or transit refusal.

■ 29. In § 401.74, paragraph (a) is revised to read as follows:

§ 401.74 Transit declaration.

(a) A Seaway Transit Declaration Form (Cargo and Passenger) shall be forwarded to the Manager by the representative of a ship, for each ship that has an approved preclearance except non-cargo ships, within fourteen days after the vessel enters the Seaway on any upbound or downbound transit. The form may be obtained from The St. Lawrence Seaway Management Corporation, 202 Pitt Street, Cornwall, Ontario, K6J 3P7.

* * * * *

■ 30. In § 401.75, paragraph (b) is revised to read as follows:

§ 401.75 Payment of tolls.

* * * * *

(b) Tolls, established by agreement between Canada and the United States, and known as the St. Lawrence Seaway Schedule of Tolls, shall be paid by pleasure crafts with prepaid tickets purchased in Canadian funds using credit card ticket dispensers located at pleasure craft docks. At U.S. locks, the fee is paid in U.S. funds or the pre-

established equivalent in Canadian funds.

■ 31. Section 401.79 is revised to read as follows:

§ 401.79 Advance notice of arrival, vessels requiring inspection.

Every vessel shall provide at least 96 hours notice of arrival to the nearest Seaway station prior to all transits or in case reinspection of the ship is required.

■ 32. In § 401.81, paragraph (a) is revised to read as follows:

§ 401.81 Reporting an accident.

(a) Where a vessel on the Seaway is involved in an accident or a dangerous occurrence, the master of the vessel shall report the accident or occurrence, pursuant to the requirements of the Transportation Safety Board Regulations, to the nearest Seaway or Canadian or U.S. Coast Guard radio or traffic stations, as soon as possible and prior to departing the Seaway system.

* * * * *

■ 33. In § 401.93, paragraph (b) is revised to read as follows:

§ 401.93 Access to Seaway property.

* * * * *

(b) Except as authorized by an officer or by the Seaway Property Regulations or its successors, no person shall enter upon any land or structure of the Manager or the Corporation or swim in any Seaway canal or lock area.

■ 34. Section 401.94 is revised to read as follows:

§ 401.94 Keeping copies of regulations.

(a) A copy of these Regulations (subpart A of part 401), a copy of the vessel's latest Ship Inspection Report, and Seaway Notices for the current navigation year shall be kept on board every vessel in transit.

(b) Onboard every vessel transiting the Seaway a duplicated set of the Ship's Fire Control Plans shall be permanently stored in a prominently marked weather-tight enclosure outside the deckhouse for the assistance of shore-side fire-fighting personnel.

■ 35. Section 401.95 is revised to read as follows:

§ 401.95 Compliance with regulations.

The master or owner of a vessel shall ensure that all requirements of these Regulations and Seaway Notices applicable to that vessel are complied with.

Issued at Washington, DC on March 11, 2005.

Saint Lawrence Seaway Development Corporation.

Albert S. Jacques,
Administrator.

[FR Doc. 05-5268 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-61-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7885-6]

Georgia: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule; reopening of comment period and stay of effective date.

SUMMARY: The EPA is announcing a stay of the immediate final rule published in the **Federal Register** of January 27, 2005 (70 FR 3894), authorizing revisions to Georgia's hazardous waste management program under the Resource Conservation and Recovery Act (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA). The effect of the stay is to allow for an extended public comment period. EPA did not publish a public notice in the newspaper concurrent with publication of the **Federal Register** notice published on January 27, 2005. Therefore, since EPA is committed to its policy of ensuring public involvement in the decision-making process, EPA is reopening the comment period.

DATES: Effective February 24, 2005, the immediate final rule published on January 27, 2005 (70 FR 3894), is stayed until April 20, 2005. EPA will accept comments until March 20, 2005. If no adverse comments are received by March 20, 2005, the stay will expire, and the January 27, 2005, immediate final rule will take effect without further notice on April 20, 2005.

FOR FURTHER INFORMATION CONTACT:

Audrey E. Baker, Georgia Authorizations Coordinator, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960; (404) 562-8483.

Dated: March 10, 2005.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 05-5320 Filed 3-16-05; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register

Vol. 70, No. 51

Thursday, March 17, 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 ENERGY

National Nuclear Security Administration

10 CFR Part 727

48 CFR Parts 904 and 952

[Docket No. NNSA-RM-00-3235]

RIN 1992-AA27

Computer Security; Access to Information on Department of Energy Computers and Computer Systems

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and opportunity for public comment.

SUMMARY: The Department of Energy (DOE) is proposing regulations to codify minimum requirements governing access to information on Department of Energy computers.

DATES: DOE must receive comments on the proposed rulemaking by May 16, 2005.

ADDRESSES: You may submit comments (8 copies), identified by Docket Number NNSA-RM-00-3235 and/or RIN Number 1992-AA27, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-Mail: connie@hg.doe.gov. Include Docket Number NNSA-RM-00-3235 and/or RIN Number 1992-AA27 in the subject line of the message.

Mail: Office of Nuclear Safeguards and Security Programs (NA-55), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

William Hunteman, NNSA Cyber Security Program Manager, Office of Chief Information Officer, (NA-65), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4775; Bruce Brody, Associate Chief Information Officer for Cyber Security, Office of the Chief Information Officer

(IM-30), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0940, or Samuel M. Bradley, U.S. Department of Energy, Office of General Counsel (GC-53), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6738.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Description of the Proposed Rule
- III. Regulatory Review

I. Background

Pursuant to the DOE Organization Act (42 U.S.C. 7101, *et seq.*) and the Atomic Energy Act of 1954 (AEA) (42 U.S.C. 2011, *et seq.*), DOE carries out a variety of programs, including defense nuclear programs. DOE performs its defense nuclear program activities in the Washington, DC, area, and at locations that DOE owns around the United States, including national laboratories and nuclear weapons production facilities. Prime contractors operate the national laboratories and production facilities.

DOE, as the successor agency to the Atomic Energy Commission, has broad responsibilities under the AEA to protect sensitive and classified information and materials involved in the design, production, and maintenance of nuclear weapons. (42 U.S.C. 2161-69, 2201) DOE also has a general obligation to ensure that permitting an individual to have access to information classified under the AEA will not endanger the nation's common defense and security (42 U.S.C. 2165b). In addition, various Executive Orders of government-wide applicability require DOE to take steps to protect classified information. Executive Order No. 12958, Classified National Security Information (April 17, 1995), requires the Secretary to establish controls to ensure that classified information is used only under conditions that provide adequate protection and prevent access by unauthorized persons. Executive Order No. 12968, Access to Classified Information (August 2, 1995), requires the Secretary to establish and maintain an effective program to ensure that employee access to classified information is clearly consistent with the interests of national security.

However, DOE's obligation to protect information is not limited to classified information and materials involved in the design, production, and

maintenance of nuclear weapons. DOE is obligated to protect, according to the requirements of various laws, regulations, and directives, information which it creates, collects, and maintains. Much of this information is sensitive but unclassified.

In recent years, in order to protect its information, DOE has developed and elaborated policies that limit unauthorized access to DOE computer systems, particularly those used for work with classified information, and assure that no employee misuses the computers assigned for the performance of work-related assignments. DOE has issued these policies in the form of internal directives in the DOE Directives System. These directives apply to DOE employees and to DOE contractors to the extent their contracts require compliance. Directives that apply to DOE contractors are listed in an appendix to the contracts under the standard Laws, Regulations, and DOE Directives clause that is set forth at 48 CFR 970.5204-2.

The directives issued by DOE relating to computer security include DOE Notice 205.3, Password Generation, Protection, and Use, which establishes minimum requirements for the generation, protection, and use of passwords to support authentication when accessing classified and unclassified DOE information systems where feasible; and DOE Order 471 .2A, Information Security Program, and DOE Manual 471.2-2, Classified Information Systems Security Manual, which require that warning banners appear whenever an individual logs on to a DOE computer. A DOE memorandum signed by the Chief Information Officer on June 17, 1999, requires that the banner inform users that activities on the system are subject to interception, monitoring, recording, copying, auditing, inspection, and disclosure. The banner notifies users that continued use of the system indicates awareness of and consent to such monitoring and recording. Other directives relevant to computer security include DOE O 200.1, Information Management Program; DOE P 205.1, Departmental Cyber Security Management Program; DOE O 205.1, Cyber Security Management Program; DOE O 470.1 Chg 1, Safeguards and Security Program; DOE O 471.1A, Identification and Protection of Unclassified Controlled Nuclear

Information; DOE O 5639.8A, Security of Foreign Intelligence Information and Sensitive Compartmented Information Facilities; and DOE O 5670.3, Counterintelligence Program. These directives are available for inspection and downloading at the DOE Web site, <http://www.directives.doe.gov>.

Sections 3235 and 3295(c) of the National Defense Authorization Act for Fiscal Year 2000 (NDAA) (50 U.S.C. 2425, 2483(c)) require DOE to promulgate regulations establishing certain requirements for access to information on National Nuclear Security Administration (NNSA or Administration) computers. The key provision in section 3235 requires NNSA employees and contractor employees with access to information on NNSA computers to give written consent for access by an authorized investigative agency to any Administration computer used in the performance of his or her duties during the term of that employment and for a period of three years thereafter. Section 3235(c) defines the term "authorized investigative agency" to mean an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information. The written consent requirement in section 3235(a) is mandatory as it pertains to individuals with access to or use of NNSA computers or computer systems. An individual who does not provide such written consent will not be allowed access to or use of NNSA computers or computer systems.

Upon recommendation of the Administrator of NNSA, the Secretary of Energy has determined that the requirements of section 3235 should be applied to the entire DOE complex. In arriving at this determination, the Secretary took into account that the considerations underlying section 3235 with respect to information on NNSA computers also apply to other information on computers throughout the DOE complex, the requirements of section 3235 are similar to DOE's present computer access policies, and that DOE and DOE contractor computers occasionally contain NNSA information.

Consistent with section 3235 and general rulemaking authorities in the DOE Organization Act, DOE today is proposing a new part 727 to codify computer access policies which would apply to all DOE employees, contractors, contractor employees and subcontractor employees, and any other

individual who transfers information from or onto computers owned by DOE. DOE also is proposing conforming amendments to its acquisition regulations that would apply to prime contractors consistent with the terms of their contracts with DOE.

The Secretary has approved this notice of proposed rulemaking for publication.

II. Description of the Proposed Rule

This portion of the **SUPPLEMENTARY INFORMATION** provides supporting information to assist commenters in understanding the basis and purpose of the proposed regulations.

A. Proposed Part 727

Section 727.1 What Is the Purpose and Scope of This Part?

The stated purpose of part 727 would be to codify minimum requirements governing access to information on DOE computers. The part also would deal with the privacy expectations of any person who uses a DOE computer by sending an e-mail message to it.

Section 727.2 What Are the Definitions of the Terms Used in This Part?

The term "computer" is broadly defined to include computer networks, network devices and automated information systems. DOE considered adding a definition for the term "contractor." DOE decided not to do so because, in context (see proposed section 727.6), it is clear that the term applies only to entities that have a direct contractual relationship with DOE. DOE invites comment on this choice including any suggested definition.

Section 727.4 Is There Any Expectation of Privacy Applicable to a DOE Computer?

This section makes clear that no user of a DOE computer, including any person who sends an e-mail message to a DOE computer, would have any expectation of privacy in the use of that DOE computer.

Section 727.5 What Acknowledgment and Consent Is Required for Access to Information on DOE Computers?

This section would describe the nature of the written consent required for access to information on a DOE computer. Every DOE and contractor employee subject to the rule would be required to sign a written acknowledgment and consent form in accordance with this section.

Section 727.6 What Are the Obligations of a DOE Contractor?

This section would identify the obligations, and related record keeping requirements, of a DOE contractor to ensure that neither its employees nor the employees of any of its DOE subcontractors has access to information on a DOE computer unless the DOE contractor has complied with the requirements of section 727.5 of part 727 by obtaining a written acknowledgment and consent from each employee. This section would also cross reference provisions of section 234B of the AEA which in some instances would authorize civil penalties and reduction in award fees against contractors determined to be in violation of part 727.

B. Proposed Acquisition Regulatory Amendments

The Department of Energy Acquisition Regulation (DEAR) would be amended at 48 CFR part 904 by adding a requirement for contracting officers to insert a contract clause from part 952 addressing computer security. Part 952 of the DEAR would be amended to add a contract clause to be inserted in all contracts where the contractor may have access to computers owned, leased, or operated on behalf of the DOE. This clause contains a flow down requirement for all subcontracts where there may be access to DOE computers.

III. Regulatory Review

A. National Environmental Policy Act

DOE has determined that this proposed rule is covered under the Categorical Exclusion found in the Department's National Environmental Policy Act regulations at paragraph A.6 of Appendix A to subpart D, 10 CFR part 1021, which applies to rule makings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19,

2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site: <http://www.gc.doe.gov>.

DOE has reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This proposed rule would not directly regulate small businesses or other small entities. The proposed rule would apply only to individuals who use DOE computers. Under the rule, DOE and DOE contractor employees, or applicants for such positions, would be required to execute a written acknowledgment and consent provided by DOE. Although a small number of individuals subject to this rule may work for DOE subcontractors who are small entities, the costs associated with compliance with the rule's requirements would be negligible and in most cases reimbursable under the contract. On the basis of the foregoing, DOE certifies that the proposed rule, if promulgated would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

C. Paperwork Reduction Act

This proposed rule contains a collection of information subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* Proposed § 727.6(b) would require DOE contractors to maintain a file of written acknowledgments and consents executed by its employees and subcontractor employees. This collection of information has been submitted to OMB for approval. DOE estimates the total annual recordkeeping burden from this collection of information to be 20,000 hours.

Send comments regarding this burden estimate, and any other aspect of this collection of information, to OMB at the Office of Information and Regulatory Affairs, Washington, DC 20503 (Attention: DOE Desk Officer). The Department asks interested persons to send a copy of their comments to the Office of the Chief Information Officer, Records Management Division, IM-11,

Paperwork Reduction Project), U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585-1290. OMB is particularly interested in comments on: (1) The necessity for the proposed collection of information, including whether the information will have practical utility; (2) the accuracy of the Department's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of \$100 million or more. Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

This proposed rule does not impose a Federal mandate on State, local or tribal governments. This proposed rule will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of

\$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

E. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well being. While this proposed rule applies to individuals who may be members of a family, the rule does not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

F. Executive Order 12866

Section 6 of Executive Order 12866 provides for a review by the Office of Information and Regulatory Affairs (OIRA) of a significant regulatory action, which is defined to include an action that may have an effect on the economy of \$100 million or more, or adversely affect, in a material way, the economy, competition, jobs, productivity, the environment, public health or safety, or State, local, or tribal governments. DOE has concluded that this proposed rule is not a significant regulatory action.

G. Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this proposed rule and has determined that it would not preempt State law and 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. No further action is required by Executive Order 13132.

H. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, Civil Justice Reform, 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following

requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

I. Executive Order 13084

Under Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments), DOE may not issue a discretionary rule that significantly or uniquely affects Indian tribal governments and imposes substantial direct compliance costs. This proposed rule would not have such effects. Accordingly, Executive Order 13084 does not apply to this rulemaking.

J. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB.

OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

List of Subjects

10 CFR Part 727

Classified information, Computers, Contractor employees, Government employees, National defense, Security information.

48 CFR Chapter 9

Government procurement.

Issued in Washington, DC on January 31, 2005.

Kyle McSlarrow,
Deputy Secretary.

For the reasons stated in the preamble, DOE hereby proposes to amend chapter III of title 10 and chapter 9 of title 48 of the Code of Federal Regulations as set forth below:

1. 10 CFR Part 727 is added to read as follows:

PART 727—CONSENT FOR ACCESS TO INFORMATION ON DEPARTMENT OF ENERGY COMPUTERS

Sec.

- 727.1 What is the purpose and scope of this part?
727.2 What are the definitions of the terms used in this part?
727.3 To whom does this part apply?
727.4 Is there any expectation of privacy applicable to a DOE computer?
727.5 What acknowledgment and consent is required for access to information on DOE computers?
727.6 What are the obligations of a DOE contractor?

Authority: 42 U.S.C. 7101, *et seq.*; 42 U.S.C. 2011, *et seq.*; 50 U.S.C. 2425, 2483; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391.

§ 727.1 What is the purpose and scope of this part?

The purpose of this part is to establish minimum requirements applicable to all DOE employees, DOE contractors, DOE contractor and subcontractor employees for access to any DOE computer, including a requirement for written consent to access by an authorized investigative agency to any DOE computer used in the performance of the employee's duties during the term of that individual's employment and for a period of three years thereafter. This part also applies to any person who uses a DOE computer by sending an e-mail message to such a computer.

§ 727.2 What are the definitions of the terms used in this part?

For purposes of this part:

Computer means desktop computers, portable computers, computer networks (including the DOE network and local area networks at or controlled by DOE organizations), network devices,

automated information systems, or other related computer equipment owned by, leased, or operated on behalf of the DOE.

DOE means the Department of Energy, including the National Nuclear Security Administration.

DOE, or Department, computer means any computer owned by, leased, or operated on behalf of the DOE.

Individual means an employee of DOE or a DOE contractor, or any other person who has been granted access to a DOE computer.

User means any person, including any individual or member of the public, who sends information to or receives information from, or otherwise accesses a DOE computer.

§ 727.3 To whom does this part apply?

This part applies to DOE employees, DOE contractors, DOE contractor and subcontractor employees, and any other individual who transfers information from or to a DOE computer.

§ 727.4 Is there any expectation of privacy applicable to a DOE computer?

Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986), no user of a DOE computer, including any person who sends an e-mail message to a DOE computer, shall have any expectation of privacy in the use of that DOE computer.

§ 727.5 What acknowledgment and consent is required for access to information on DOE computers?

An individual may not have access to information on a DOE computer unless:

(a) The individual has acknowledged in writing that the individual has no expectation of privacy in the use of a DOE computer; and

(b) The individual has consented in writing to permit access by an authorized investigative agency to any DOE computer used during the period of that individual's access to information on a DOE computer and for a period of three years thereafter.

§ 727.6 What are the obligations of a DOE contractor?

(a) A DOE contractor must ensure that neither its employees nor the employees of any of its subcontractors has access to information on a DOE computer unless the DOE contractor has obtained a written acknowledgment and consent by each contractor or subcontractor employee that complies with the requirements of § 727.5 of this part.

(b) A DOE contractor must maintain a file of original written acknowledgments and consents executed by its employees

and all subcontractors employees that comply with the requirements of § 272.5 of this part.

(c) Upon demand by the cognizant DOE contracting officer, a DOE contractor must provide an opportunity for a DOE official to inspect the file compiled under this section and to copy any portion of the file.

(d) If a DOE contractor violates the requirements of this section with regard to a DOE computer with Restricted Data or other classified information, then the DOE contractor may be assessed a civil penalty or a reduction in fee pursuant to section 234B of the Atomic Energy Act of 1954 (42 U.S.C. 2282b).

2. The authority citation for parts 904 and 952 continues to read as follows:

Authority: 42 U.S.C.2201, 2282a, 2282b, 2282c, 7101 *et seq.*; 41 U.S.C. 418b; 50 U.S.C. 2401 *et seq.*

PART 904—ADMINISTRATIVE MATTERS

3. Section 904.404 is amended by adding a new paragraph (d)(7) to read as follows:

904.404 Solicitation provision and contract clause. [DOE coverage—paragraph (d)]

(d) * * *

(7) Computer Security, 952.204–XX. This clause is required in contracts in which the contractor may have access to computers owned, leased or operated on behalf of the Department of Energy.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 952.204–XX is added to read as follows:

952.204–XX Computer Security.

As prescribed in 904.404(d)(7), insert the following clause:

Computer Security (xx xxxx)

(a) Definitions

(1) Computer means desktop computers, portable computers, computer networks (including the DOE Network and local area networks at or controlled by DOE organizations), network devices, automated information systems, and other related computer equipment owned by, leased, or operated on behalf of the DOE.

(2) Individual means a DOE contractor or subcontractor employee, or any other person who has been granted access to a DOE computer.

(b) Access to DOE computers. A contractor shall not allow an individual to have access to information on a DOE computer unless:

(1) The individual has acknowledged in writing that the individual has no expectation of privacy in the use of a DOE computer; and,

(2) The individual has consented in writing to permit access by an authorized investigative agency to any DOE computer used during the period of that individual's access to information on a DOE computer, and for a period of three years thereafter.

(c) No expectation of privacy. Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986), no individual using a DOE computer shall have any expectation of privacy in the use of that computer.

(d) Written records. The contractor is responsible for maintaining written records for itself and subcontractors demonstrating compliance with the provisions of paragraph (b) of this section. The contractor agrees to provide access to these records to the DOE, or its authorized agents, upon request.

(e) Subcontracts. The contractor shall insert this clause, including this paragraph (e), in subcontracts under this contract that may provide access to computers owned, leased or operated on behalf of the DOE.

[FR Doc. 05–5183 Filed 3–16–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20438; Directorate Identifier 2005–CE–03–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 172R, 172S, 182T, T182T, 206H, and T206H Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 172R, 172S, 182T, T182T, 206H, and T206H airplanes.

This proposed AD would require you to inspect any MC01–3A I.C. 9 or MC01–3A I.C. 10 main electrical power junction box circuit breakers for correct amperage (amp) (a correct 40-amp circuit breaker) and replace any incorrect amp circuit breaker with the correct 40-amp circuit breaker. This proposed AD results from several reports of circuit breakers that are not the correct 40-amp circuit breaker installed in the MC01–3A main electrical power junction box. We are issuing this proposed AD to replace any incorrect circuit breaker installed in the MC01–3A I.C. 9 or MC01–3A I.C. 10 main electrical power junction box,

which could result in premature tripping of the power junction box main feeder circuit breakers and could lead to partial or complete loss of all electrical power on the airplane. This failure could lead to the loss of all navigation and communication equipment and lighting in the cockpit.

DATES: We must receive any comments on this proposed AD by May 16, 2005.

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

- **DOT Docket Web site:** Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- **Government-wide rulemaking Web site:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

- **Fax:** 1–202–493–2251.

- **Hand Delivery:** Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this proposed AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006.

To view the comments to this proposed AD, go to <http://dms.dot.gov>. The docket number is FAA–2005–20438; Directorate Identifier 2005–CE–03–AD.

FOR FURTHER INFORMATION CONTACT: Jose Flores, Aerospace Engineer, Wichita Aircraft Certification Office (ACO), FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4133; facsimile: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include the docket number, “FAA–2005–20438; Directorate Identifier 2005–CE–03–AD” at the beginning of your comments. We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, anyone

can find and read the comments received into 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.). This is docket number FAA-2005-20438; Directorate Identifier 2005-CE-03-AD. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Docket Information

Where can I go to view the docket information? You may view the AD docket that contains the proposal, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m. (eastern standard time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES**. You may also view

the AD docket on the Internet at <http://dms.dot.gov>. The comments will be available in the AD docket shortly after the DMS receives them.

Discussion

What events have caused this proposed AD? Cessna has reported three cases of incorrect amperage (amp) circuit breakers installed in the MC01-3A I.C. 9 (part number (P/N) S3100-297) or MC01-3A I.C. 10 (P/N S3100-344) main electrical power junction box. The design of the main electrical power junction box requires 40-amp circuit breakers. Two of the three cases of incorrect circuit breakers were found in Cessna production and a third was found in Cessna spares.

What is the potential impact if FAA took no action? Any incorrect circuit breaker installed in the MC01-3A main electrical power junction box could result in premature tripping of the power junction box main feeder circuit breakers, which could lead to partial or complete loss of all electrical power on the airplane. This failure could lead to the loss of all navigation and communication equipment and lighting in the cockpit.

Is there service information that applies to this subject? Cessna has issued Service Bulletin No. SB05-24-01, dated January 31, 2005.

What are the provisions of this service information? The service bulletin includes procedures for:

- Inspecting any MC01-3A I.C. 9 or MC01-3A I.C. 10 main electrical power junction box circuit breakers for any circuit breaker that is not a required 40-amp circuit breaker; and

- Replacing any incorrect circuit breaker with the correct 40-amp circuit breaker.

FAA's Determination and Requirements of This Proposed AD

What has FAA decided? We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For this reason, we are proposing AD action.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 778 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to do this proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work hour × \$65 = \$65	None	\$65	778 × \$65 = \$50,570.

We estimate the following costs to do any necessary replacements that would

be required based on the results of this proposed inspection. We have no way of

determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost per airplane
1 work hour × \$65 = \$65	\$40	\$105

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? 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 AD.

Regulatory Findings

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

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed AD:

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 summary of the costs to comply with this proposed AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "AD Docket FAA-2005-20438; Directorate Identifier 2005-CE-03-AD" in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Cessna Aircraft Company: Docket No. FAA-2005-20438; Directorate Identifier 2005-CE-03-AD.

When Is the Last Date I Can Submit Comments on This Proposed AD?

- (a) We must receive comments on this proposed airworthiness directive (AD) by May 16, 2005.

What Other ADs Are Affected by This Action?

- (b) None.

What Airplanes Are Affected by This AD?

- (c) This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
172R	17281186 through 17281232.
172S	172S9476 through 172S9689, and 172S9691 through 172S9770.
182T	18281242 through 18281502, 18281506, and 18281507.
T182T	T18208212 through T18208357.
206H	20608195 through 20608223, 20608225, and 20608226.
T206H	T20608410 through T20608475, T20608477 through T20608501, T20608503, and T20608506.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of several reports of circuit breakers that are not the correct 40-amp circuit breaker installed in the MC01-3A I.C. 9 or MC01-3A I.C. 10 main electrical power junction box. The actions specified in

this AD are intended to replace any incorrect circuit breaker installed in the MC01-3A main electrical power junction box, which could result in premature tripping of the power junction box main feeder circuit breakers and could lead to partial or complete loss of all electrical power on the

airplane. This failure could lead to the loss of all navigation and communication equipment and lighting in the cockpit.

What Must I Do To Address This Problem?

- (e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect any MC01-3A I.C. 9 (part number (P/N) S3100-297) or MC01-3A I.C. 10 (P/N S3100-344) main electrical power junction box for any incorrect amperage (amp) circuit breaker installed in place of the required 40-amp circuit breakers.	Within the next 30 days after the effective date of this AD, unless already done.	Follow Cessna Service Bulletin No. SB05-24-01, dated January 31, 2005.
(2) Replace any incorrect amp circuit breaker with the required 40-amp circuit breaker.	Before further flight after the inspection required by paragraph (e)(1) of this AD.	Follow Cessna Service Bulletin No. SB05-24-01, dated January 31, 2005.
(3) Only install in any MC01-3A I.C. 9 (P/N S3100-297) or MC01-3A I.C. 10 (P/N S3100-344) main electrical power junction box the required 40-amp circuit breakers.	As of the effective date of this AD	Not Applicable.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Wichita Aircraft Certification Office (ACO), FAA. For information on any already

approved alternative methods of compliance, contact Jose Flores, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946-4133; facsimile: (316) 946-4107.

May I Obtain a Special Flight Permit for the Initial Inspection Requirement of This AD?

- (g) Yes, special flight permits are allowed per 14 CFR 39.19 provided airplane operations are limited to Day/visual flight rules (VFR) flight.

May I Get Copies of the Documents Referenced in This AD?

(h) To get copies of the documents referenced in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517-5800; facsimile: (316) 942-9006. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, or on the

Internet at <http://dms.dot.gov>. The docket number is Docket No. FAA-2005-20438; Directorate Identifier 2005-CE-03-AD.

Issued in Kansas City, Missouri, on March 10, 2005.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-5294 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-20628; Directorate Identifier 2004-NM-51-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model DHC-8-301, -311, and -315 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model DHC-8-301, -311, and -315 airplanes. This proposed AD would require replacing the pressure control valve of the Type 1 emergency door. This proposed AD is prompted by reports that the pressure control valve of the Type 1 emergency door is susceptible to freezing. We are proposing this AD to ensure that the pressure control valve does not freeze and prevent the door seal from deflating, which could result in the inability to open the door in an emergency.

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

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

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL-401, Washington, DC 20590.
- By fax: (202) 493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington,

DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada.

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-2005-20628; the directorate identifier for this docket is 2004-NM-51-AD.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Equipment Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7320; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-20628; Directorate Identifier 2004-NM-51-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model DHC-8-301, -311, and -315 airplanes. TCCA advises that field reports indicate that several operators experienced difficulties with the operation of the Type 1 emergency door. The existing pressure control valve of the Type 1 emergency door is susceptible to freezing. A frozen valve could prevent the door seal from deflating, which could result in the inability to open the door in an emergency.

Relevant Service Information

Bombardier has issued Service Bulletin 8-52-60, dated August 28, 2002. The service bulletin describes procedures for replacing the pressure control valve of the Type 1 emergency door with a new pressure control valve by incorporating ModSum 8Q101159. The replacement includes additional rework to the door actuation mechanism. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCCA mandated the service information and issued Canadian airworthiness directive CF-2003-04, dated February 3, 2003, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. In keeping with this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

This proposed AD would affect about 13 airplanes of U.S. registry. The proposed actions would take about 6 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts would cost about \$700 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$14,170, or \$1,090 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA-2005-20628; Directorate Identifier 2004-NM-51-AD.

Comments Due Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC-8-301, -311, and -315 airplanes, certificated in any category, serial numbers 100 through 593 inclusive.

Unsafe Condition

(d) This AD was prompted by reports that the pressure control valve of the Type 1 emergency door is susceptible to freezing. We are issuing this AD to ensure that the pressure control valve does not freeze and prevent the door seal from deflating, which could result in the inability to open the door in an emergency.

Compliance

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

Replace Pressure Control Valve

(f) Within 30 months after the effective date of this AD, replace the pressure control valve of the Type 1 emergency door by incorporating ModSum 8Q101159 in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8-52-60, dated August 28, 2002.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, New York Aircraft Certification Office, 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

(h) Canadian airworthiness directive CF-2003-04, dated February 3, 2003, also addresses the subject of this AD.

Issued in Renton, Washington, on March 8, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-5295 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-20627; Directorate Identifier 2004-NM-39-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes. This proposed AD would require the following: Repetitive eddy current inspections for cracks of the countersunk rivet holes in the lower lobe, adjacent to the radio altimeter cutouts; additional inspections, for certain airplanes, for cracks and/or corrosion; and further investigative and corrective action if any crack is found. This proposed AD also would provide an optional terminating action for the repetitive inspections. This proposed AD was prompted by reports of cracks in the fuselage skin of the lower lobe. We are proposing this AD to detect and correct fatigue cracks of the countersunk rivet holes, which could result in cracks of the fuselage skin of the lower lobe, and consequent rapid depressurization of the cabin.

DATES: We must receive comments on this proposed AD by May 2, 2005.

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

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL-401, Washington, DC 20590.

- By fax: (202) 493-2251.
- Hand Delivery: room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-20627; the directorate identifier for this docket is 2004-NM-39-AD.

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6438; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-20627; Directorate Identifier 2004-NM-39-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in

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

Discussion

We have received a report indicating that five operators have found seven cracks in the lower lobe fuselage skin on Boeing Model 737-200 series airplanes. All cracks originated at the countersunk rivet holes adjacent to the radio altimeter cutouts at body stations (BSs) 430 and 450, and were located at buttock line (BL) 0. The cracks were from 0.375 inch to 5.25 inches in length. One operator reported two cracks on the same airplane: a 2-inch crack running aft of BS 431, and a 2.125-inch crack running forward of BS 449. The two cracks were growing toward each other from two adjacent cutouts. The cracks propagate by normal fatigue due to operating loads (pressure). Cracking of the countersunk rivet holes, if not detected and corrected, could result in cracks in the lower lobe fuselage skin reaching critical length for residual strength, and consequent rapid depressurization of the cabin.

The fuselage skin configuration on certain Model 737-200 series airplanes is almost identical to that on certain Model 737-100, -200C, -300, -400, and -500 series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737-53-1230, dated June 13, 2002. This service bulletin describes procedures for doing an eddy current inspection for cracks of the surface area around the countersunk rivet holes in the lower lobe, adjacent to the radio altimeter cutouts at BL 0, between BS 390 and BS 450. This inspection is done with the fasteners installed.

If no crack is found during the eddy current inspection, the service bulletin describes options for repeating the eddy current inspection (with fasteners installed), or for doing a preventive modification that would eliminate the need for the repetitive inspections.

For operators that choose to do the optional preventive modification, the service bulletin describes procedures for an additional eddy current inspection

for cracks of the satellite holes with the fasteners removed.

If no crack is found during the additional eddy current inspection, the service bulletin gives procedures for fabricating and installing the preventive modification doublers. The service bulletin states that a preventive modification doubler is not needed at BS 390 if the doubler has been previously installed in accordance with Boeing Service Bulletin 737-53-1117, Revision 1, dated April 6, 1989. For these airplanes, the preventive modification is removing the ten fasteners around the altimeter cutout at BS 390, doing an eddy current inspection of the satellite holes, and installing oversize fasteners.

If any crack is found during the additional eddy current inspection, the service bulletin specifies to discontinue the preventive modification and repair the affected area, as described below. Repair of the affected area eliminates the need for the repetitive inspections.

If any crack is found during any eddy current inspection, the service bulletin describes procedures for repair, which includes further investigative and corrective actions. The corrective actions included in the repair are cutting out the crack if it is within the allowable cutout repair zone, and fabricating and installing a repair doubler and spacer ring. The further investigative actions included in the repair are an eddy current inspection of the edge of the cutout area, an eddy current inspection of the satellite holes (with fasteners removed) for additional cracking, and a visual inspection for corrosion of the area under the previously repaired area. If any crack is outside the allowable cutout repair zone, or if any corrosion is detected, the service bulletin specifies to contact Boeing for repair instructions.

Accomplishing the actions specified in Special Attention Service Bulletin 737-53-1230 will address the identified unsafe condition adequately.

This special attention service bulletin refers to Boeing Service Bulletin 737-53-1117, Revision 1, dated April 6, 1989, as an additional source of service information for repairing certain affected airplanes.

Concurrent Service Bulletin for Certain Airplanes

Boeing Service Bulletin 737-53-1117, Revision 1, dated April 6, 1989, must be accomplished before or at the same time as the repair procedures in Boeing Special Attention Service Bulletin 737-53-1230 for any airplane that meets all three of the following conditions:

1. The airplane is specified as belonging in Group 1, 2, 3, 4, or 5 as listed in Boeing Special Attention Service Bulletin 737-53-1230;

2. The airplane has a skin crack at the cutout at BS 390; and

3. The airplane has not had an external repair doubler installed previously in accordance with Boeing Service Bulletin 737-53-1117. The repair in Service Bulletin 737-53-1117 includes further investigative and corrective actions, which are an additional inspection and repair of any crack by stop-drilling the cracks and installing an external repair doubler.

FAA’s Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require you to accomplish the actions specified in Special Attention Service Bulletin 737-53-1230, except as discussed under “Differences Between the Proposed AD and the Service Bulletins.” This proposed AD also would provide for optional terminating action for the repetitive inspections.

This proposed AD would allow repetitive inspections to continue in lieu of the terminating action. In making

this determination, we considered that long-term continued operational safety in this case would be adequately ensured by repetitive inspections to detect cracks before they represent a hazard to the airplane.

Differences Between the Proposed AD and the Service Bulletins

For airplanes designated as Groups 1, 2, 3, 4, and 5 that have a skin crack at BS 390, Part III of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737-53-1230 specifies additional actions in accordance with Boeing Service Bulletin 737-53-1117. These additional actions are a detailed inspection and repair, if necessary, of an adjacent equipment cooling duct cutout just forward of BS 390. The repair in Boeing Service Bulletin 737-53-1117 allows for repair of any crack by stop-drilling and installing an external repair doubler. This repair doubler reinforces the equipment cooling duct cutout and the BS 390 cutout. This proposed AD also would allow operators the option to do an eddy current inspection and repair in accordance with Figure 17 of Boeing Special Attention Service Bulletin 737-53-1230.

Special Attention Service Bulletin 737-53-1230 specifies that you may contact the manufacturer for instructions for certain repair instructions. However, rather than

contacting the manufacturer, and for instructions for repairing any crack that is 3 inches in length or greater that is found during the inspection specified in Service Bulletin 737-53-1117, this proposed AD would require you to do these repairs in one of the ways listed in the bullets below.

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

Clarification of Inspection Language

Both Boeing Service bulletins request that operators “visually inspect” for certain conditions. This proposed AD defines this inspection in Boeing Service Bulletin 737-53-1117 as a “detailed inspection,” and in Boeing Special Attention Service Bulletin 737-53-1230 as a “general visual inspection.” These inspections are defined in Note 1 and Note 2 of this proposed AD.

Costs of Compliance

This proposed AD would affect about 3,132 airplanes worldwide. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	3	\$65	No parts required	\$195	1,004	\$195,780

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

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

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA-2005-20627; Directorate Identifier 2004-NM-39-AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by May 2, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 737-53-1230, dated June 13, 2002.

Unsafe Condition

(d) This AD was prompted by reports of cracks in the lower lobe fuselage skin of the affected airplanes. We are issuing this AD to detect and correct fatigue cracks of the countersunk rivet holes, which could result

in cracks of the fuselage skin of the lower lobe, and consequent rapid depressurization of the cabin.

Compliance

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

Service Bulletin Reference

(f) The term “special attention service bulletin,” as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737-53-1230, dated June 13, 2002.

Repetitive Inspections

(g) Before the airplane accumulates 20,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever occurs later: Do an eddy current inspection for cracks of the surface area around the satellite holes of the radio altimeter cutouts at buttock line 0, between body station (BS) 390 and BS 450. Do the inspection with the fasteners installed. Repeat the inspection at intervals not to exceed 4,500 flight cycles. Do all inspections in accordance with the special attention service bulletin.

Repair

(h) If any crack is found during any eddy current inspection required by this AD: Before further flight, repair the area by doing all applicable corrective and further

investigative actions in accordance with the special attention service bulletin. Accomplishment of the repair terminates the repetitive inspection requirements of paragraph (g) of this AD for the repaired area. Where the special attention service bulletin specifies to contact Boeing for appropriate action or for instructions about how to repair certain conditions: Before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically reference this AD.

Additional Inspection and Repair for Certain Airplanes

(i) For the following airplanes, before or at the same time as the repair in paragraph (h) of this AD, inspect in accordance with Table 1 of this AD: Any airplane in Group 1, 2, 3, 4, or 5 of the special attention service bulletin; any airplane that has a skin crack at the cutout at BS 390 found during any inspection required by paragraphs (g) and (h) of this AD; and any airplane that has not had an external repair doubler installed in accordance with Boeing Service Bulletin 737-53-1117, Revision 1, dated April 6, 1989.

TABLE 1.—SERVICE INFORMATION

Inspect in accordance with either—	
The Accomplishment Instructions of Boeing Service Bulletin 737-53-1117, Revision 1, dated April 6, 1989—	Figure 17 of the special attention service bulletin—
A detailed inspection for cracks in the fuselage lower skin in the area of the electronics bay cooling duct cutout.	An eddy current inspection for cracks of the exhaust port duct cutout edge and the 6 fastener locations; An eddy current and open-hole probe inspection for cracks of the satellite holes; and A general visual inspection for corrosion of the area under the repair.

(1) If any crack at the equipment cooling duct cutout is found that is less than 3 inches in length: Before further flight, stop-drill the crack or cracks and install an external repair doubler in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737-53-1117, Revision 1, dated April 6, 1989; or repair in accordance with Part III of the special attention service bulletin. Accomplishment of the repair terminates the repetitive inspection requirements of paragraph (g) of this AD for the repaired area.

(2) If any corrosion is found, or if any crack is found that is 3 inches in length or greater: Before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those

findings. For a repair method to be approved, the approval must specifically reference this AD.

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

Note 2: For the purposes of this AD, a detailed inspection is “an intensive examination of a specific item, installation, or assembly to detect damage, failure, or

irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirrors magnifying lenses, etc. may be necessary. Surface cleaning and elaborate procedures may be required.”

Optional Terminating Action

(j) Installing preventive modification doublers in accordance with the special attention service bulletin, including the additional eddy current inspection with the fasteners removed (with no crack finding), terminates the repetitive inspection requirements of paragraph (g) of this AD. If any crack is found during the eddy current inspection specified by this paragraph: Before further flight, discontinue the preventive modification and do the applicable actions in paragraph (h) of this AD.

Alternative Methods of Compliance

(k)(1) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office (SACO), is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings.

Issued in Renton, Washington, on March 8, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 05-5296 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2005-20629; Directorate Identifier 2004-NM-266-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767-300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 767-300 series airplanes. This proposed AD would require replacing the frequency converters used to supply power for medical outlets with modified frequency converters, and related actions. This proposed AD is prompted by a report indicating that a hard short circuit condition between the output of certain frequency converters and their downstream circuit breakers will produce a continuous output current that could cause the undersized output wiring to overheat when the frequency converters fail to shut off. We are proposing this AD to prevent overheating of the output wiring of the frequency converters, which could result in the failure of a wire bundle and consequent adverse effects on other systems sharing the affected wire bundle.

DATES: We must receive comments on this proposed AD by May 2, 2005.

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

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL-401, Washington, DC 20590.

- By fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-20629; the directorate identifier for this docket is 2004-NM-266-AD.

FOR FURTHER INFORMATION CONTACT:

Binh Tran, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6485; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-20629; Directorate Identifier 2004-NM-266-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual

who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

Examining the Docket

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

Discussion

We have received a report indicating that analysis by the airplane manufacturer has shown that a hard short circuit condition between the output of certain frequency converters and their downstream, load circuit breakers will produce a continuous output current of 170-200 percent of nominal, on certain Boeing Model 747-200F and -400 series airplanes; Model 767-300 and -400ER series airplanes; and Model 777 series airplanes. The continuous current could cause the undersized output wiring to exceed its wire temperature rating of 150 degrees Celsius and consequently overheat when the frequency converters fail to shut off in response to a short circuit or overload. Overheating of the output wiring, if not corrected, could result in the failure of a wire bundle and consequent adverse effects on other systems sharing the affected wire bundle.

Other Related Rulemaking

On September 1, 2004, we proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 747-200F and -400 series airplanes; Model 767-400ER series airplanes; and Model 777 series airplanes. That action, published in the **Federal Register** on September 13, 2004 (69 FR 55120), proposed to require replacing the frequency converter(s) used to supply electrical power for utility outlets (for the galley, medical equipment, or personal computers) with modified frequency converter(s). That action also proposed to require any specified action and related concurrent actions, as necessary. That proposed AD was prompted by a report that a hard short condition between the frequency

converter's output and its downstream circuit breakers will produce a continuous circuit that could cause the undersized output wiring to overheat. The actions required by that proposed AD are intended to prevent the overheating of the frequency converter's undersized output wiring, which could lead to the failure of a wire bundle, and consequent adverse effects on other systems sharing the affected wire bundle.

Since issuance of that proposed AD, we have determined that the same unsafe condition addressed in that proposed AD also exists on certain Model 767-300 series airplanes. We have been advised that 54 Model 767-300 series airplanes were delivered with outlet installations using frequency converters affected by that proposed AD. Therefore, these additional airplanes are also subject to the same unsafe condition addressed in that proposed AD.

Relevant Service Information

We have reviewed Boeing Service Bulletin 767-25-0334, Revision 1, dated June 19, 2002. The service bulletin describes procedures for replacing the frequency converters used to supply power for medical outlets with modified frequency converters, and related actions. Replacement includes removing and sending the frequency converters to the vendor (Avionic Instruments, Inc.) for rework, and installing the reworked frequency converters. The other related actions include the following:

- Collaring and labeling the circuit breaker(s) of the frequency converter input as "INOP" and removing the label(s) after installation of the modified frequency converters;
- Capping and stowing the wire bundles of the frequency converters and reinstalling/connecting the wire bundles after installation of the modified frequency converters;
- Installing a "DEACTIVATED" label on the frequency converter outlets and removing the labels after installation of the modified frequency converters;
- Contacting the vendor for coordination of the rework; and
- Doing a functional test of the replaced frequency converters.

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

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same

type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

We have considered a number of factors in determining whether to issue a separate proposed AD or a supplemental notice of proposed rulemaking (NPRM) to the "related" NPRM (69 FR 55120, September 13, 2004). Although the 54 additional airplanes included in the applicability of this proposed AD were inadvertently omitted from the "related" NPRM, issuing a supplemental NPRM would require reopening the comment period of the "related" NPRM. However, to delay that action would be inappropriate, since we have determined that an unsafe condition exists and that modifications need to be made to ensure continued safety. We also have considered the entire fleet size that would be affected by issuing a supplemental NPRM and the fact that no new work would be required for airplanes affected by the "related" NPRM. In light of this, we have determined that a less burdensome approach is to propose a separate AD applicable only to the additional airplanes. This proposed AD would not reopen the comment period of the "related" NPRM; airplanes listed in the applicability of the "related" NPRM would be required to comply with the requirements of that proposed AD. This proposed AD is a separate AD action that is applicable only to certain Boeing Model 767-300 series airplanes, certificated in any category.

Costs of Compliance

There are about 55 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 54 airplanes of U.S. registry. The proposed actions would take about 1 work hour per frequency converter, at an average labor rate of \$65 per work hour. There are about 2 frequency converters per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$7,020, or \$130 per airplane.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701,

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA-2005-20629; Directorate Identifier 2004-NM-266-AD.

Comments Due Date

- (a) The Federal Aviation Administration (FAA) must receive comments on this AD action by May 2, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to certain Boeing Model 767-300 series airplanes, certificated in any category; as listed in Boeing Service Bulletin 767-25-0334, Revision 1, dated June 19, 2002.

Unsafe Condition

(d) This AD was prompted by a report indicating that a hard short circuit condition between the output of certain frequency converters and their downstream circuit breakers will produce a continuous output current that could cause the undersized output wiring to overheat when the frequency converters fail to shut off. We are issuing this AD to prevent overheating of the output wiring of the frequency converters, which could result in the failure of a wire bundle and consequent adverse effects on other systems sharing the affected wire bundle.

Compliance

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

Replace Frequency Converters

(f) Within 18 months after the effective date of this AD, replace the frequency converters used to supply power for medical outlets with modified frequency converters, and do any related actions, by doing all of the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 767-25-0334, Revision 1, dated June 19, 2002.

Credit for Previous Service Bulletin

(g) Actions done before the effective date of this AD in accordance with Boeing Service Bulletin 767-25-0334, dated November 7, 2002, are acceptable for compliance with the requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

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

Issued in Renton, Washington, on March 8, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 05-5289 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 7**

RIN 1024-AD21

**Gulf Islands National Seashore,
Personal Watercraft Use**

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to designate areas where personal watercraft (PWC) may be used in Gulf Islands National Seashore, Florida and Mississippi. This proposed rule implements the provisions of the NPS general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. The NPS Management Policies 2001 directs individual parks to determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, and overall management objectives.

DATES: Comments must be received by May 16, 2005.

ADDRESSES: Comments on the proposed rule should be sent to the Superintendent, Gulf Islands National Seashore, 1801 Gulf Breeze Parkway, Gulf Breeze, FL 32563. Comments may also be sent by e-mail to guis@den.nps.gov. If you comment by e-mail, please include "PWC rule" in the subject line and your name and return address in the body of your Internet message. Also, you may hand deliver comments to Gulf Islands National Seashore, 1801 Gulf Breeze Parkway, Gulf Breeze, FL 32563. For additional information see "Public Participation" under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Jerry Case, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208-4206. E-mail: jerry_case@nps.gov.

SUPPLEMENTARY INFORMATION:**Background***Additional Alternatives*

The information contained in this proposed rule supports implementation of portions of the preferred alternative in the Environmental Assessment published March 2004. The public should be aware that two other alternatives were presented in the EA, including a no-PWC alternative, and

those alternatives should also be reviewed and considered when making comments on this proposed rule.

Personal Watercraft Regulation

On March 21, 2000, the National Park Service published a regulation (36 CFR 3.24) on the management of personal watercraft (PWC) use within all units of the national park system (65 FR 15077). This regulation prohibits PWC use in all national park units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall management objectives. The regulation banned PWC use in all park units effective April 20, 2000, except for 21 parks, lakeshores, seashores, and recreation areas. The regulation established a 2-year grace period following the final rule publication to provide these 21 park units time to consider whether PWC use should be permitted to continue.

Description of Gulf Islands National Seashore

Gulf Islands National Seashore is located in the northeastern portion of the Gulf of Mexico and includes a widely spaced chain of barrier islands extending nearly 160 miles from the eastern end of Santa Rosa Island in Florida to Cat Island in Mississippi. Other islands in the national seashore include Horn, Petit Bois, and East Ship and West Ship islands in Mississippi and a section of Perdido Key in Florida. Gulf Islands National Seashore also includes mainland tracts at Pensacola Forts and Naval Live Oaks Reservation near Pensacola, Florida, and Davis Bayou, adjacent to Ocean Springs, Mississippi. The national seashore contains 139,775.46 acres within the authorized boundary, excluding Cat Island (only a portion has been acquired as of this date). Of this total acreage, 19,445.46 acres are fastlands (above water) and 119,730 acres are submerged lands.

Gulf Islands National Seashore contains snowy-white beaches, sparkling blue waters, fertile coastal marshes, and dense maritime forests. Visitors can explore 19th century forts, enjoy shaded picnic areas, hike on winding nature trails, and camp in comfortable campgrounds. In addition, Horn and Petit Bois islands located in Mississippi are federally designated wilderness areas. Nature, history, and recreational opportunities abound in this national treasure. All areas of Gulf Islands National Seashore in the Florida

District and the Davis Bayou area in the Mississippi District are reachable from Interstate 10. The Mississippi District barrier islands are only accessible by boat.

Purpose of Gulf Islands National Seashore

Gulf Islands National Seashore, Florida and Mississippi, was authorized by Act of Congress, Public Law 91-660, January 8, 1971, to provide for recognition of certain historic values such as coastal fortifications and other purposes such as the preservation and enjoyment of undeveloped barrier islands and beaches.

Gulf Islands National Seashore conserves certain outstanding natural, cultural and recreational resources along the Northern Gulf Coast of Florida and Mississippi. These include several coastal defense forts spanning more than two centuries of military activity, historic and prehistoric archaeological sites, and pristine examples of intact Mississippi coastal barrier islands, salt marshes, bayous, submerged grass beds, complex terrestrial communities, emerald green water, and white sand beaches.

Gulf Islands National Seashore was established for the following purposes:

- Preserve for public use and enjoyment certain areas possessing outstanding natural, historic, and recreational values.
- Conserve and manage the wildlife and natural resources.
- Preserve as wilderness any area within the national seashore found to be suitable and so designated in accordance with the provisions of the Wilderness Act (78 Stat. 890).
- Recognize, preserve, and interpret the national historic significance of Fort Barrancas Water Battery (Battery San Antonio), Fort Barrancas; Advanced Redoubt of Fort Barrancas at Pensacola Naval Station; Fort Pickens on Santa Rosa Island, Florida; Fort McRee site, Perdido Key, Florida; and Fort Massachusetts on West Ship Island, Mississippi, in accordance with the Act of August 21, 1935 (49 Stat. 666). That act states: "it is a National policy to preserve for public use historic sites, buildings, and objects of National significance for inspiration and benefits of the people of the United States."

Significance of Gulf Islands National Seashore

Gulf Islands National Seashore is significant for the following reasons:

- Nationally significant historical coastal defense forts representing a continuum of development.

- Several mostly undisturbed, natural areas in close proximity to major population centers.

- Areas of natural significant high quality beaches, dunes, and water resources.
- Endangered species occur in several areas.
- Contains regionally important prehistoric archaeological sites.
- Provides outstanding controlled areas conducive to the successful reintroduction of native threatened and endangered species.
- Provides habitat for early life stages of many coastal and marine flora and fauna of commercial and recreational importance.
- Provides a benchmark to compare environmental conditions in developed areas of the Gulf Coast.

Authority and Jurisdiction

Under the National Park Service's Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*) Congress granted the NPS broad authority to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) allows the NPS, through the Secretary of the Interior, to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *

16 U.S.C. 1a-1 states, "The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *

As with the United States Coast Guard, NPS' regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, is based upon the Property and Commerce Clauses of the U.S. Constitution. In regard to the NPS, Congress in 1976 directed the NPS to "promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *" (16 U.S.C. 1a-2(h)). In 1996 the NPS published a final rule (61 FR 35136; July 5, 1996) amending 36 CFR 1.2(a)(3) to clarify its authority to regulate activities within the National Park System boundaries occurring on waters subject to the jurisdiction of the United States.

PWC Use at Gulf Islands National Seashore

Personal watercraft use emerged at Gulf Islands National Seashore in the 1980s. Although PWC use was a small percentage of total boat use within the national seashore, park staff believes that use had increased over the five years prior to the closure. If reinstated, PWC use at the national seashore is not expected to decrease. In fact, an increase in usage would be expected as more residents purchase personal watercraft and tourism continues to grow.

Prior to the closure to personal watercraft in April 2002, personal watercraft were recognized as a Class A motorboat and were treated as any other such vessel. All regulations that apply to any registered vessel operating in waters of Florida and Mississippi that are regulated by the NPS applied to personal watercraft.

Personal watercraft were permitted throughout the national seashore, except as follows: no motorized vessels are permitted above the mean high tide line on the designated wilderness islands of Horn and Petit Bois; the lakes, ponds, lagoons and inlets of East Ship Island, West Ship Island, Horn Island, Petit Bois Island, and Cat Island (lands under NPS management) are closed to the use of motorized vessels; the lagoons of Perdido Key within Big Lagoon are closed to all combustion engines; and the areas 200 feet from the remnants of the old fishing pier and 200 feet from the new fishing pier at Fort Pickens are closed to all boating operations. There are also seasonal closures to watercraft to protect nesting shorebirds and other sensitive wildlife and relict dunes.

Perdido Key in Florida and East Ship and West Ship islands in Mississippi have the most concentrated boating use within the national seashore. Many area residents in both States have boat docks and own boats or personal watercraft, and visit the national seashore.

Florida District. In Florida, the park is situated between the Gulf of Mexico and the Pensacola Bay system. Although the Gulf offers almost unlimited area for personal watercraft use, most operation occurs within the bay. In 2000, personal watercraft comprised 12.5% of all registered vessels statewide. In the Florida District of the park, it is estimated that personal watercraft comprised 0.5% of recreational boating. Personal watercraft traversed along the north shoreline of Santa Rosa Island while very few traversed the south, or Gulf, shoreline. In general, PWC usage within the Florida District of the park was concentrated in the Perdido Key area. During the summer months, most

areas of PWC use consisted of 6 or 7 personal watercraft per month, while on a peak-use day PWC activity in the Perdido Key area might have comprised 25 personal watercraft. The reason for the higher use in the Perdido Key area is the sheltered nature of the area and the proximity to residences with launching facilities.

Mississippi District. The Mississippi portion of the park separates the Gulf of Mexico from the Mississippi Sound. Personal watercraft account for 6% of the registered boats in Mississippi, and it is estimated that they comprised approximately 4% of recreational boating in the Mississippi District of the park. The islands are situated between 6 to 14 miles from the mainland, weather conditions can change quickly, and large ships use the intracoastal waterway shipping channels. These factors combined to limit PWC use in the Mississippi District as transportation to the islands, and use of Gulfside waters was almost nonexistent except immediately adjacent to the islands. Observations of PWC use indicate that they were mainly used for recreational riding and not for transportation. Most personal watercraft used in the Mississippi District of the park were towed by larger boats from the Pascagoula/Biloxi/Gulfport, Mississippi, area. The primary use season reflects overall visitation patterns, with use decreasing during the winter months.

PWC use areas are similar to general motorboat use areas. Personal watercraft were concentrated mostly on the east and west tips of the islands, around the West Ship Island Pier, and the entire north side of Spoil Island.

Resource Protection and Public Use Issues

Gulf Islands National Seashore Environmental Assessment

As a companion document to this proposed rule, NPS has issued the Gulf Islands National Seashore, Personal Watercraft Use Environmental Assessment. The Environmental Assessment (EA) was open for public review and comment from April 19, 2004 to May 18, 2004. Copies of the environmental assessment may be downloaded at <http://www.nps.gov/guis/pphtml/documents.html> or obtained at park headquarters Monday through Friday, 8 a.m. to 4:30 p.m. Mail inquiries should be directed to park headquarters: Gulf Islands National Seashore, 1801 Gulf Breeze Parkway, Gulf Breeze, FL 32563.

The purpose of the environmental assessment was to evaluate a range of alternatives and strategies for the

management of PWC use at Gulf Islands to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Seashore's enabling legislation, purpose, mission, and goals. The analysis assumed alternatives would be implemented beginning in 2002 and considered a 10-year period, from 2002 to 2012.

The environmental assessment evaluates three alternatives concerning the use of personal watercraft at Gulf Islands:

- The no-action alternative would continue the prohibition of PWC use in Gulf Islands National Seashore. No special rule would be promulgated.
- Alternative A would reinstate PWC use under a special NPS regulation as previously managed.
- Alternative B would reinstate PWC use under a special NPS regulation with additional management prescriptions.

Based on the environmental analysis prepared for PWC use at Gulf Islands, alternative B is considered the environmentally preferred alternative because it would best fulfill park responsibilities as trustee of this sensitive habitat; ensure safe and healthy, productive, and aesthetically and culturally pleasing surroundings; and attain a wider range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.

This document proposes regulations to implement alternative B at Gulf Islands National Seashore.

The NPS will consider the comments received on this proposal, as well as the comments received on the Environmental Assessment when making a final determination. In the final rule, the NPS will implement alternative B as proposed, or choose a different alternative or combination of alternatives. Therefore, the public should review and consider the other alternatives contained in the Environmental Assessment when making comments on this proposed rule.

The following summarizes the predominant resource protection and public use issues associated with PWC use at Gulf Islands National Seashore. Each of these issues is analyzed in the *Gulf Islands National Seashore, Personal Watercraft Use Environmental Assessment*.

Water Quality

Most research on the effects of personal watercraft on water quality focuses on the impacts of two-stroke engines, and it is assumed that any

impacts caused by these engines also apply to two-stroke engines in personal watercraft. Two-stroke engines (and some personal watercraft) discharge a gas-oil mixture into the water. Fuel used in many PWC and motorboat engines contains many hydrocarbons, including benzene, toluene, ethylbenzene, and xylene (collectively referred to as BTEX). Polycyclic aromatic hydrocarbons (PAHs) also are released from boat engines, including those in personal watercraft. These compounds are not found appreciably in the unburned fuel mixture, but rather are products of combustion. Discharges of all these compounds—BTEX and PAHs—have potential adverse effects on aquatic life and human health if present at high enough concentrations. A common gasoline additive, methyl tertiary butyl ether (MTBE) also is released with the unburned portion of the gasoline. In 2001, premium grade fuel (octane of 90 and higher) in Florida had MTBE concentrations ranging from 0% to 10.8% of the fuel mixture, with an average of 3.5%; no data was available for Mississippi. For this assessment, it was assumed that the concentration of MTBE in fuel used by all vessels in the Florida and Mississippi districts is 3.5%. There are no plans to ban the use of MTBE in fuels in Florida or Mississippi. The PWC industry suggests that although some unburned fuel does enter the water, the fuel's gaseous state allows it to evaporate readily.

A typical conventional (*i.e.*, carbureted) two-stroke PWC engine discharges as much as 30% of the unburned fuel mixture into the exhaust. At common fuel consumption rates, an average two-hour ride on a personal watercraft may discharge 3 gallons (11.34 liters) of fuel into the water. According to data from *Personal Watercraft Illustrated* and the Environmental Protection Agency, an average 2000 model-year personal watercraft can discharge between 3.8 and 4.5 gallons of fuel during one hour at full throttle. (As described in appendix A of the Environmental Assessment, an estimated discharge rate of 3 gallons per hour is used in the water quality impact calculations.)

Florida District. Under the proposed regulation, based on alternative B in the Environmental Assessment, PWC use would be reinstated in all waters within the Florida District as previously managed under the *Superintendent's Compendium*, and all State regulatory requirements would apply. In addition, a PWC flat wake zone would be established a minimum of 300 yards from all park shorelines. PWC flat wake

speed engine emissions were assumed to be negligible; therefore it was assumed that the same number of PWC-hours of full-throttle use under alternative A in the three areas would occur, but only beyond 300 yards of park shorelines. This effectively reduces the available water volume for diluting PWC engine emissions.

The results of the water quality analysis for PWC activity shows that for all discharged pollutants evaluated, the ecotoxicological threshold volumes estimated for 2002 and 2012 would be well below volumes of water available at the three areas. Threshold volumes range from 0.1 to 260 acre-feet, while water volumes accessible to personal watercraft under this alternative range from 13,010 to 301,704 acre-feet. Impacts to aquatic organisms are expected to be negligible for all pollutants evaluated.

Threshold volumes for human health benchmarks of benzo(a)pyrene and benzene are also well below volumes of water available at the three areas in 2002 and 2012. Threshold volumes range from 7 to 310 acre-feet, while water volumes available to personal watercraft range from 13,010 to 301,704 acre-feet. Impacts to human health are expected to be negligible for all pollutants evaluated. Mixing, flushing, and the resulting dilution of park waters by adjacent waters would further reduce pollutant concentrations. Tidal currents at the Pensacola Bay entrance reach a speed of 4.1 knots. Incoming tides increase the available water volume, especially at the Big Lagoon area of Perdido Key where the average depth is less than 8 feet. Outgoing tides transport soluble pollutants out of park waters to the Gulf of Mexico.

Mississippi District. Under the proposed regulation, PWC use would be reinstated in all waters within the Mississippi District as previously managed under the *Superintendent's Compendium*, and all State regulatory requirements would apply. In addition, a PWC flat wake zone would be established 300 yards from park shorelines at West Ship, East Ship, and Spoil Islands and 0.5 mile from Horn and Petit Bois Islands and West Ship Island pier. PWC flat wake speed engine emissions were assumed to be negligible, so it was assumed that the same number of PWC-hours of full-throttle use under alternative A in Mississippi Sound and in Gulf-side waters would occur, but only beyond the flat wake boundary. This effectively reduces the available water volume for diluting PWC engine emissions.

The results of the water quality analysis for PWC activity shows that for

all discharged pollutants evaluated, the ecotoxicological threshold volumes estimated for 2002 and 2012 would be well below volumes of water available at both areas. Threshold volumes range from 2 to 1,800 acre-feet, while water volumes available to PWC use range from 183,665 to 273,952 acre-feet. Impacts to aquatic organisms are expected to be negligible for all pollutants evaluated.

Threshold volumes for human health benchmarks of benzo(a)pyrene and benzene are also well below volumes of water available at both areas in 2002 and 2012. Threshold volumes range from 140 to 2,200 acre-feet, while water volumes accessible to personal watercraft under this alternative range from 183,665 to 273,952 acre-feet. Impacts to human health are expected to be negligible for all pollutants evaluated. Mixing, flushing, and the resulting dilution of park waters by adjacent waters would further reduce pollutant concentrations. Incoming tides increase the available water volume, especially in shallow areas. Outgoing tides transport soluble pollutants out of park waters to Mississippi Sound and the Gulf of Mexico.

Conclusion. Under the proposed regulation, water quality impacts from PWC use based on ecotoxicological and human health benchmarks would be negligible adverse for all pollutants in all areas of the national seashore in 2002. In 2012, although PWC use is projected to increase more rapidly than non-PWC use, all water quality impacts from PWC use are expected to remain negligible due to reduced emission rates of newer technology engines.

In 2002, personal watercraft contributed approximately 30% of the cumulative emissions from all motorized watercraft, and in 2012, personal watercraft will contribute approximately 50% of the cumulative emissions. Impacts would still be negligible for all pollutants in all areas of the national seashore in 2002 and 2012. At most, cumulative impact threshold volumes would constitute less than 5% of the volume available to personal watercraft. In 2012, even with increased motorcraft use, cumulative water quality impacts from all watercraft are expected to be lower than in 2002 due to reduced emission rates. It is recognized that the current phase-in of cleaner running engine technologies by the Personal Watercraft Industry should result in a reduced amount of water pollutants and an overall reduction of hydrocarbon emissions.

Implementation of this proposed regulation would not result in an impairment of water quality.

Air Quality

Personal watercraft emit various compounds that pollute the air. Up to one third of the fuel delivered to the typical two-stroke carbureted PWC engine is unburned and discharged; the lubricating oil is used once and is expelled as part of the exhaust; and the combustion process results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO_x), particulate matter (PM), and carbon monoxide (CO). Personal watercraft also emit fuel components such as PAH that are known to cause adverse health effects.

Even though PWC engine exhaust is usually routed below the waterline, a portion of the exhaust gases go into the air. These air pollutants may adversely impact park visitor and employee health as well as sensitive park resources. For example, in the presence of sunlight VOC² and NO_x emissions combine to form ozone (O₃). O₃ causes respiratory problems in humans, including coughs, airway irritation, and chest pain during inhalations. O₃ is also toxic to sensitive species of vegetation. It causes visible foliar injury, decreases plant growth, and increases plant susceptibility to insects and disease. CO can affect humans as well. It interferes with the oxygen carrying capacity of blood, resulting in lack of oxygen to tissues. NO_x and PM emissions associated with PWC use can degrade visibility. NO_x can also contribute to acid deposition effects on plants, water, and soil. However, because emission estimates show that NO_x from personal watercraft are minimal (less than 5 tons per year), acid deposition effects attributable to PWC use are expected to be minimal. It is recognized that the current phase-in of cleaner running engine technologies by the Personal Watercraft Industry should result in a reduced amount of air pollutants and an overall reduction of hydrocarbon emissions.

Impacts to human health. Under the proposed regulation, the use of the national seashore by personal watercraft would be reinstated with some additional restrictions to the management strategies in force prior to the closure. The additional restrictions would establish a flat wake zone 300 yards from all park shorelines at the low-water mark, except at the West Ship Island Pier and around all designated wilderness boundaries where a 0.5-mile flat wake zone would be established. Furthermore, no PWC operation would be permitted within 200 feet of non-motorized watercraft and people in the water. Human-health air quality impacts from the proposed regulation would be

the same as described for alternative A for 2002 and 2012 in both Florida and Mississippi and would be negligible for CO, PM₁₀, HC, and NO_x. The human health risk from PAH would also be negligible in 2002 and 2012. The additional restrictions would not change the type of personal watercraft in use, nor increase or decrease the number of personal watercraft forecasted or their daily duration of use between 2002 and 2012.

Because no reduction in PWC use is expected, the proposed regulation would result in the same air quality impacts to human health from PWC emissions as alternative A. The additional management prescriptions would not noticeably affect PWC emissions as compared to alternative A; therefore, the total increase in emissions resulting from alternative A shown in tables 40 and 41 of the Environmental Assessment for the Florida and Mississippi districts, respectively, is the same as the proposed regulation. Negligible adverse impacts from PWC emissions for CO, PM₁₀, HC, and NO_x would occur for 2002 and 2012 in both the Florida and Mississippi districts. The risk from PAH would also be negligible in 2002 and 2012.

Cumulative adverse impacts from PWC and other boating emissions at the national seashore would be the same as for alternative A. In the Florida District, adverse impacts to human health from air pollutants in 2002 would be negligible for PM₁₀ and NO_x and moderate for CO and HC. In 2012, levels would remain negligible for PM₁₀ and NO_x, and moderate for CO and HC. In the Mississippi District, impacts would be minor for CO and negligible for PM₁₀, HC, and NO_x, in 2002. In 2012, CO impact would increase to moderate; and impacts for the other pollutants would remain at 2002 levels. Regional ozone emissions would improve due to a reduction in HC emissions. The proposed regulation would have negligible adverse impacts to human health air quality conditions, with future reductions in PM₁₀ and HC emissions due to improved emission controls. The PWC contribution to emissions of HC is estimated to be less than 1% of the cumulative boating emissions in 2002 and 2012. All impacts would be long term.

Implementation of the proposed regulation would not result in an impairment of air quality as it relates to human health.

Impacts to air quality related values. Under the proposed regulation, the annual number of personal watercraft using the Gulf Islands National Seashore would be the same as alternative A for

both the Florida and Mississippi districts. Additional management prescriptions under the proposed regulation, including flat wake restrictions, would not affect PWC use numbers and potential future increases. The predicted emission levels and impacts of continued PWC use to air quality related values would be the same as those described for alternative A based on annual emission rates. Impacts to air quality related values from PWC in 2002 and 2012 would be minor.

The impacts of the proposed regulation on air quality related values would be the same as alternative A. Emissions of each pollutant would be less than 50 tons per year in both 2002 and 2012. Minor adverse impacts to air quality related values from PWC would occur in both 2002 and 2012 in both districts of the national seashore. In both 2002 and 2012, adverse impacts from cumulative emissions from motorized boats and PWC would be moderate in the Florida District, and minor in the Mississippi District. This conclusion is based on calculated levels of pollutant emissions, regional SUM06 values, and the lack of observed visibility impacts or ozone-related plant injury in the national seashore.

Implementation of the proposed regulation would not result in an impairment of air quality related values.

Soundscapes

The primary soundscape issue relative to PWC use is that other visitors may perceive the sound made by personal watercraft as an intrusion or nuisance, thereby disrupting their experiences. This disruption is generally short term because personal watercraft travel for a relatively short time along the shore and spend most of the time in outlying areas. However, PWC occasionally congregate in popular shoreline areas with other visitors, and as PWC use increases, related noise may become more of an issue, particularly during certain times of the day. Additionally, visitor sensitivity to PWC noise varies from fisherman (more sensitive) to swimmers at popular beaches (less sensitive).

The biggest difference between noise from personal watercraft and noise from motorboats is that PWC continually leave the water, which magnifies noise in two ways. Without the muffling effect of water, the engine noise is typically 15 dBA louder and the smacking of the craft against the water surface results in a loud "whoop" or series of them. With the rapid maneuvering and frequent speed changes, the impeller has no constant "throughput" and no

consistent load on the engine. Consequently, the engine speed rises and falls, resulting in a variable pitch. This constantly changing sound is often perceived as more disturbing than the constant sound from motorboats.

PWC users tend to operate close to shore, to operate in confined areas, and to travel in groups, making noise more noticeable to other recreationists (*e.g.*, if identical boats emit 75 dB, two such boats together would be expected to emit 78 dB, three boats together would emit 80 dB). Motorboats traveling back and forth in one area at open throttle or spinning around in small inlets often generate complaints about noise levels; however, most motorboats tend to operate away from shore and to navigate in a straight line, thus being less noticeable to other recreationists.

Under this proposed regulation, based on alternative B in the Environmental Assessment, a special regulation would be written to reinstate personal watercraft use. Additional management strategies would mitigate watercraft safety concerns, protect natural and cultural resources, and enhance overall visitor experience.

PWC use would follow the same patterns assumed in alternative A; however, the proposed regulation would implement flat wake zoning for personal watercraft to help minimize the effects of PWC noise to park visitors, including anglers and near shoreline users of the swimming, picnic, and camping areas. The magnitude of noise near the speed restriction areas would be dependent on the changes in location and speed of the personal watercraft. As described in the analysis for alternative A in the Environmental Assessment, a reduction from 40 mph to 20 mph would reduce PWC noise levels approximately 5 dBA. Noise reductions would occur with reductions in speed limits below 20 mph. Increasing the distance from the personal watercraft to the listener from 100 to 200 feet would result in a noise reduction of about 6 dBA.

The types of adverse impacts to the soundscape of Gulf Islands National Seashore would be generally the same as alternative A because of the type of sound. However, the level of impact would be less due to increased distances between the PWC activity and shoreline activity. Overall, negligible to minor adverse impacts would result from PWC use on the soundscape of the national seashore. Impacts would generally be short in duration but occur over the long-term. Although they could periodically be more frequent at shoreline areas on very high use days where motorized watercraft noise may predominate for most of the day, most

visitors to Gulf Islands National Seashore during those high use periods expect to hear motorized craft during the day, as the seashore is known for providing this type of recreational opportunity in addition to other activities. Since motorized noise would be expected to be infrequent and at low levels due to use restrictions, minor adverse impacts might occur if PWC users choose to operate in areas of the park that are away from launch areas and campgrounds, and where shoreline visitors would be anticipating a quiet, wilderness experience such as at Horn and Petit Bois Islands. As in alternative A, impacts could potentially increase if the noise output on newer engines does not decrease substantially enough to overcome the increase in PWC use.

Noise from personal watercraft would be short-term in duration but would be expected to occur over the long-term. Impacts would be negligible to minor adverse depending on the location, within the unit, the time of day, and the time of year. Flat wake zoning would reduce noise levels from PWC in shoreline areas, specifically those areas around Horn and Petit Bois Islands. Impact levels would relate to the number of personal watercraft operating as well as the sensitivity of other visitors and could potentially increase by 2012 based on noise levels of newer engine technology.

Cumulative adverse noise impacts from personal watercraft and other watercraft, commercial boats, and aircraft would be negligible to moderate. Impacts would be short in duration but occur over the long-term because of the high volume of annual boating use, and could increase with increased boating use in the future.

Implementation of the proposed regulation would not result in an impairment of the park's soundscape.

Shoreline and Submerged Aquatic Vegetation

Personal watercraft are able to access areas that other types of watercraft may not, which may cause direct disturbance to vegetation. Indirect impact to shoreline vegetation may occur through trampling if operators disembark and engage in activities on shore. In addition, wakes created by personal watercraft may affect shorelines through erosion by wave action.

Under the proposed regulation, PWC use would be reinstated in all waters within the national seashore as previously managed under the Gulf Islands National Seashore *Superintendent's Compendium*, and all State regulatory requirements would apply. In addition, a flat wake zone

would be established 300 yards from all park shorelines except around the West Ship Island Pier and around wilderness boundaries (Horn and Petit Bois Islands) where 0.5-mile flat wake zones would be in effect. The flat wake zoning component of the management prescriptions under the proposed regulation would minimize both erosion effects from PWC induced wave action and direct PWC disturbance to shoreline marsh and dune communities. These impacts would be adverse and negligible under the proposed regulation. Minor adverse impacts from PWC use to emergent vegetation communities within the national seashore would result from visitor disturbance to dune communities as a result of PWC access. Overall, PWC use would have negligible to minor adverse impacts on shoreline vegetation communities within the national seashore.

Of the approximately 1,930 acres of potential seagrass habitat within the Florida District of the national seashore, about 1,000 acres would be open to full-throttle PWC use. In the Perdido Key area of the Florida District, where PWC use is most intense (peak use of 25 personal watercraft), only about 300 of the 640 acres of seagrass habitat would be accessible to PWC full-throttle use. Direct and indirect PWC impacts to seagrass beds would occur, but would be minimized by the wake restrictions. Potential direct impacts would include collision, uprooting, and sediment alteration. Indirect impacts would include increased turbidity, decreased available sunlight, and deposition of suspended sediment, which adversely affects the growth and health of seagrass beds. Under the proposed regulation, PWC use within the Florida District would have impacts to submerged aquatic vegetation communities that are direct and indirect, minor, and short- and long-term.

In the Mississippi District, a flat wake zone would be established 300 yards from park shorelines at West Ship, East Ship, and Spoil Islands and 0.5 mile from the shorelines at Horn and Petit Bois Islands and West Ship Island pier. Approximately 700 of the 3,300 acres of potential seagrass habitat would be accessible to full-throttle PWC use under the proposed regulation. Direct and indirect adverse PWC impacts to seagrass habitats would occur, but would be minimized by the flat wake zoning. Under the proposed regulation, PWC use within the Mississippi District would have impacts to seagrass habitats that are direct and indirect, minor, and short- and long-term.

Projected increases in PWC use within the national seashore would potentially result in higher levels of impacts in 2012 relative to 2002.

PWC use would cause negligible adverse impacts to shoreline vegetation from physical disturbance and wave action, and minor adverse impacts from visitor access to emergent shoreline vegetation communities. PWC use under the proposed regulation would have impacts to seagrass habitats that are direct and indirect, minor, and short- and long-term, because shallow water habitats in the national seashore are the preferred areas for PWC use, particularly the Perdido Key and Mississippi Sound areas. The flat wake zoning would restrict PWC impacts to about one-half of the potential seagrass habitat in Florida and one-quarter of the potential seagrass habitat in Mississippi. Therefore, the proposed regulation, based on alternative B in the Environmental Assessment, would have fewer adverse impacts to shoreline and submerged aquatic vegetation than alternative A. Cumulative impacts to shoreline vegetation would include effects from all visitor activities, including PWC use and other motorized vessels, and would be minor to moderate. Cumulative impacts to seagrass habitats associated with use by all motorized vessels would be minor to moderate locally, as motorboat use could continue to cause propeller scarring and sediment resuspension and its effects. Impacts would potentially be higher in 2012 relative to 2002 due to projected increases in PWC and other motorized watercraft use.

Implementation of this proposed regulation would not result in an impairment of shoreline or submerged aquatic vegetation.

Wildlife and Wildlife Habitat

Some research suggests that PWC use affects wildlife by causing interruption of normal activities, alarm or flight, avoidance or degradation of habitat, and effects on reproductive success. This is thought to be a result of a combination of PWC speed, noise, and ability to access sensitive areas, especially in shallow-water depths.

Waterfowl and nesting birds are the most vulnerable to personal watercraft. Fleeing a disturbance created by personal watercraft may force birds to abandon eggs during crucial embryo development stages, prevent nest defense from predators, or contribute to stress and associated behavior changes.

Impacts to sensitive species, such as the manatee and the Perdido Key beach mouse, are discussed in the

“Threatened, Endangered, or Special Concern Species” section.

Under the proposed regulation, based on alternative B of the Environmental Assessment, PWC use would occur as under alternative A, with additional management prescriptions. A flat wake zone would be established 300 yards from all park shorelines, with the exception of the West Ship Island Pier, where a flat wake zone would extend 0.5 mile from the shoreline and 0.5 mile from either side of the pier. A flat wake zone would also be established 0.5 mile from the shorelines around all designated wilderness boundaries and no PWC operation would be permitted within 200 feet of non-motorized watercraft and people in the water.

Impacts to aquatic wildlife species, especially in high use areas such as the Perdido Key area, the area north of Santa Rosa Island, and Mississippi Sound would be fewer than alternative A. The proposed regulation would minimize impacts from PWC because the most shallow water habitats and considerable portions of seagrass bed habitats lie within the PWC flat wake zones prescribed by the proposed regulation. Aquatic wildlife species inhabiting shallow protected waters and seagrass beds within the flat wake zone would not be subjected to PWC full-throttle impacts. However, PWC use in areas providing essential fish habitats could disrupt normal feeding and other critical life functions of fish and shellfish species and could adversely affect suitability of these areas to meet life cycle requirements. Adverse impacts to fish and shellfish and their habitat from PWC-generated sediment resuspension and emissions may occur in these areas. Reinstating PWC use in park waters with the establishment of a PWC flat wake zone would have fewer adverse impacts than alternative A. The proposed regulation is expected to have short-term, minor, direct and indirect adverse impacts to aquatic wildlife species and habitats.

The extended flat wake zoning under the proposed regulation would minimize impacts from PWC activity to terrestrial wildlife species by restricting speed near shoreline habitat areas and thus limiting the potential for disturbance from noise and rapid approach by personal watercraft. Impacts to terrestrial mammals from PWC use would be negligible due to both the infrequent use of shoreline areas by these species and the extension of flat wake zoning.

Prior established seasonal closures of areas around avian nesting sites in conjunction with increased flat wake zoning under the proposed regulation

would minimize long-term impacts to nesting individuals. Adverse impacts to avian species from PWC noise and activity within the national seashore would be negligible to minor from short-term disturbance from PWC noise and access to loafing or foraging shorebirds, wading birds, and other water birds. Osprey would also experience short-term negligible to minor adverse effects due to the potential for PWC access to disturb roosting or feeding activities.

Projected increases in PWC use within the national seashore would result in higher levels of impacts in 2012 relative to 2002.

Under the proposed regulation, flat wake zoning prescriptions would minimize impacts to shoreline wildlife within the national seashore. Reinstating PWC use in park waters while establishing a flat wake zone is expected to have short-term, minor, direct and indirect adverse impacts to aquatic wildlife species and habitats. PWC use would contribute negligible short-term adverse impacts to terrestrial mammals, and negligible to minor mostly short-term adverse impacts to avian species with primary habitat located in shoreline areas.

Cumulative impacts to aquatic and avian wildlife associated with all types of motorized vessel use are expected to be short-term, minor, direct and indirect, and adverse. There would be a slight potential for some long-term impacts to avian species if nesting individuals are disturbed to an extent that would cause individuals to relocate. Cumulative impacts to terrestrial wildlife would be negligible to minor and short term.

Impacts in 2012 would likely be higher relative to 2002 levels due to the projected increase in PWC and other motorized watercraft use within the national seashore.

Implementation of the proposed regulation would not result in impairment to aquatic or terrestrial wildlife or wildlife habitat.

Threatened, Endangered, or Special Concern Species

The same issues described for PWC use and general wildlife also pertain to special status species. Potential impacts from personal watercraft include inducing flight and alarm responses, disrupting normal behaviors and causing stress, degrading habitat quality, and potentially affecting reproductive success. In addition to wildlife, threatened, endangered, or special concern plant species are also at risk from disturbance related to PWC use. Special status species at the national seashore include federally listed

threatened, endangered, or candidate species. Additionally, some species at Gulf Islands National Seashore are designated by the States of Florida and/or Mississippi as threatened, endangered, or special concern species.

Under the proposed regulation, based on alternative B of the Environmental Assessment, PWC use would occur as under alternative A, with additional management prescriptions. A flat wake zone would be established 300 yards from all park shorelines, with the exception of the West Ship Island Pier, where a flat wake zone would extend 0.5 mile from the shoreline and 0.5 mile from either side of the pier. A flat wake zone would also be established 0.5 mile from the shorelines around all designated wilderness boundaries and no PWC operation would be permitted within 200 feet of non-motorized watercraft and people in the water.

The extended flat wake zoning under the proposed regulation would minimize impacts from PWC activity to threatened and endangered species by restricting speed near shoreline habitat areas and thus limiting the potential for disturbance from noise and rapid approach by personal watercraft.

Potential impacts to special status species from PWC use within the national seashore under the proposed regulation are as follows.

Aquatic Species. PWC use may affect, but is not likely to adversely affect, the Florida manatee, Atlantic green, Kemp's ridley, Atlantic loggerhead, and alligator snapping sea turtles through collisions and noise impacts. The 300-yard PWC flat wake zone would encompass much of the shallow seagrass habitats in the Perdido Key area and north of Santa Rosa Island in the Florida District, and in Mississippi Sound in the Mississippi District where manatees and turtles may occur, thereby minimizing the chance of collisions.

The Gulf sturgeon and its designated critical habitat may be affected but are not likely to be adversely affected by PWC noise and water quality impacts, because much of this habitat in the national seashore occurs within the 300-yard PWC flat wake zone. PWC use may affect, but is unlikely to adversely affect, the State listed saltmarsh topminnow. The PWC flat wake zone restriction would eliminate full-throttle PWC use in the salt marsh and shoreline habitats of the national seashore where this fish occurs.

Terrestrial Species. Direct adverse impacts from personal watercraft to the Perdido Key beach mouse and the Santa Rosa beach mouse would be unlikely due to the nocturnal nature of both species and the general avoidance of

human activity. Closures of sensitive dune ecosystems as stated in the Gulf Islands National Seashore *Superintendent's Compendium* would minimize the potential for indirect effects related to PWC access and resultant visitor activity in habitat areas. PWC use under the proposed regulation may affect the Perdido Key and Santa Rosa species of beach mouse, but adverse effects to the species would be unlikely.

The gopher tortoise could be potentially affected by disturbance to individuals or habitat from people with shoreline access, including PWC users. Within the national seashore, the gopher tortoise is known mainly to occur in inland locations, away from areas of PWC access, and is unlikely to be adversely affected by PWC use.

Avian Species. Flat wake zoning of personal watercraft within at least 300 yards of shoreline areas would minimize adverse impacts from PWC noise and physical disturbance to the federally or State listed bird species in both the Florida and Mississippi districts of the national seashore. Minor effects from PWC use to special status bird species may occur under the proposed regulation. As in other alternatives, seasonal closures of important nesting sites for shoreline birds reduce the potential for impacts to nesting individuals. Under the proposed regulation, the slower speeds and decreased noise from personal watercraft that would result from implementation of flat wake zoning in shoreline areas, would preclude adverse effects from PWC use within the national seashore to the bald eagle, piping plover, American peregrine falcon, brown pelican, southeastern snowy plover, least tern, southeastern American kestrel, black skimmer, reddish egret, snowy egret, and little blue heron. Any effects that would occur from PWC use would be short-term in nature and would likely result in temporary flight responses by loafing or foraging individuals.

Special Status Plants. The additional management prescriptions under the proposed regulation would not affect the accessibility of shoreline areas or reduce the potential for PWC users to disembark and explore the islands, potentially impacting special status plant species.

The affinity of the white-top pitcher plant for bogs and other wet environments precludes impacts from typical recreational exploration and trampling within either the Florida or Mississippi district of the national seashore. No effects to this species are

expected to result from PWC access within the national seashore.

Within the national seashore, populations of Cruise's golden aster and Godfrey's golden aster that occur in dune communities would be the most susceptible to trampling by visitors with PWC access to the shoreline. Closures of sensitive dune communities to foot traffic as mandated by the *Superintendent's Compendium* would serve as a measure of protection for both Cruise's and Godfrey's golden asters from PWC user access. PWC use within the national seashore may affect, but is unlikely to adversely affect Cruise's golden aster and Godfrey's golden aster.

Visitors who gain access by personal watercraft and explore areas away from the shoreline may affect Curtiss' sandgrass. Adverse impacts are unlikely as it is not present in the open shoreline areas of the shoreline where visitor exploration and access is likely to occur.

Large-leaved jointweed may be affected but is unlikely to be adversely affected by PWC activity within the national seashore due to the isolated occurrence of the species in locations away from open shoreline areas where personal watercraft would be likely to land and to its location in the Naval Live Oaks area where PWC use would be low.

Conclusion. Reinstating PWC use within the national seashore and establishing a PWC flat wake zone would minimize the likelihood of adverse effects on threatened or endangered species in the national seashore boundaries from PWC use. PWC use may affect, but would be unlikely to adversely affect, any federally or State-listed species. In combination with prior mandated closures of sensitive habitat areas, the extension of flat wake zoning to a minimum of 300 yards from the shoreline under the proposed regulation would serve as a measure of protection against impacts from PWC use to terrestrial and avian special status species. PWC use would have no effect on the white-top pitcher plant.

Cumulative impacts to special status species from non-PWC sources would be the same as under alternative A. PWC use would contribute slightly to cumulative effects, but PWC or other visitor use and activities would not be likely to cause adverse impacts to special status species within the national seashore.

Implementation of the proposed regulation would not result in an impairment of threatened or endangered species.

Visitor Use and Experience

Some research suggests that PWC use is viewed by some segments of the public as a nuisance due to their noise, speed, and overall environmental effects, while others believe personal watercraft are no different from other watercraft and that people have a right to enjoy the sport. The primary concern involves changes in noise, pitch, and volume due to the way personal watercraft are operated. Additionally, the sound of any watercraft can carry for long distances, especially on a calm day.

Under the proposed regulation, based on alternative B of the Environmental Assessment, PWC use would be reinstated as described under alternative A, with additional management prescriptions. A flat wake zone would be established 300 yards from all park shorelines, with the exception of the West Ship Island Pier, where a flat wake zone would extend 0.5 mile from the shoreline and 0.5 mile from either side of the pier. A flat wake zone would also be established 0.5 mile from the shorelines around all designated wilderness boundaries and no PWC operation would be permitted within 200 feet of non-motorized watercraft and people in the water.

Impact on PWC Users. Under the proposed regulation, PWC use would be reinstated and all of the national seashore waters would be accessible to PWC use except where restricted. Implementation of the above mentioned flat wake areas would prohibit high speed maneuvering in these areas, but this type of activity would still be allowed outside of the flat wake areas within park waters. Compared to the baseline of no PWC use in the national seashore, the proposed regulation would have beneficial impacts on PWC users, because they would be allowed to recreate with a personal watercraft in the national seashore. However, implementation of the restrictions included in the proposed regulation would have negligible adverse impacts on the visitor experience of PWC users, because their access would be more limited.

Impact on Other Boaters. The majority of motorized boating in the Florida District occurs in Gulf waters on the south side of the islands (4,500 compared to 500 in non-Gulf waters in 2002). However, PWC favor the bay and sound areas, where waters are calm (2 PWC in Gulf waters compared to 37 in non-Gulf waters in 2002). The PWC restrictions defined by Escambia County, Florida, would also apply under alternative B, benefiting boaters in this area.

PWC are more prevalent and more evenly distributed in the Mississippi District (a total of 161 PWC in Mississippi in 2002). Conversely, far fewer boaters visit the Mississippi District (1,607 in Mississippi compared to 5,000 in Florida in 2002). East and West Ship islands experience the heaviest visitor use and boaters there would likely experience the biggest impacts. PWC concentrate in areas that boaters also prefer, usually on the east and west ends of the islands, around the West Ship Island Pier, and the north side of Spoil Island.

Under the proposed regulation, PWC would be prohibited within 200 feet of non-motorized watercraft and people in the water. The additional flat wake restrictions included the proposed regulation would also benefit motorized boaters in both districts, because they would likely share the same waters as PWC users. Therefore, impacts to motorized boaters would be long-term and adverse due to an increase in the number of vessels operating in the same space, but negligible to minor.

Personal watercraft would be operating in park waters along with non-motorized watercraft users. However, PWC would be prohibited from areas 200 feet from the old fishing pier and 200 feet from the new fishing pier at Fort Pickens. In addition, a flat wake zone would be established 300 yards from all park shorelines, except at the West Ship Island Pier, where the flat wake zone would extend 0.5 mile from the shoreline and either side of the pier. The flat wake zone would also extend 0.5 mile from the shoreline around all wilderness boundaries. PWC would also be prohibited within 200 feet of non-motorized watercraft. The proposed canoe trail along the north side of Perdido Key would provide a non-motorized boat route for canoeists and kayakers to enjoy. The canoe trail would be within the flat wake zone established 300 yards from the shoreline, providing beneficial impacts to these non-motorized boaters. In addition, park staff have received no documented complaints from non-motorized boaters concerning PWC use, and few canoeists and kayakers visit the park. Therefore, impacts to non-motorized watercraft under the proposed regulation would be long-term, adverse, and negligible to minor.

Impact on Other Visitors. Swimmers, anglers, campers, hikers, and other shoreline visitors to the national seashore would have contact with personal watercraft users. Shoreline areas that are popular with both personal watercraft and other shoreline users include the north sides of the

Mississippi islands and the Perdido Key area.

Swimmers. High-density beach use occurs on Rosamond Johnson Beach at Perdido Key, Opal Beach in the Santa Rosa area, Langdon Beach at Fort Pickens, and West Ship Island. PWC use in the Florida District would likely be concentrated in the Perdido Key area primarily on the bay, or north side of the key. However, few PWC traversed the south, or Gulf shoreline, reducing the amount of adverse impacts to the Rosamond Johnson Beach (in Perdido Key), as well as Opal and Langdon Beach, where PWC use was less frequent. The proposed regulation would further restrict PWC use by establishing a flat wake zone 300 yards from all park shorelines, which would benefit swimmers at all swim beaches. The proposed regulation would also prohibit PWC use within 200 feet of people in the water. For these reasons, impacts from PWC use in the Florida District would likely be long-term, adverse, and minor.

Most PWC use in the Mississippi District would likely occur as recreational riding on the north side of the islands, as before the ban. PWC use would be concentrated on the east and west ends of the Mississippi islands and around the West Ship Island Pier. West Ship Island experiences most of the high-density beach use in the Mississippi District. However, swimming is prohibited within 200 feet of the West Ship Island Pier, and under the proposed regulation a flat wake zone would be established 0.5 mile from the shoreline and either side of the pier, minimizing some impacts to beach users in the area. Therefore, impacts to swimmers from PWC use in this area of West Ship Island would likely be long-term, adverse, and minor. In addition, a flat wake zone would also be established 0.5 mile from the shorelines around the wilderness areas of Horn and Petit Boise islands, limiting impacts to swimmers and beach users on these islands. The lakes, ponds, lagoons, and inlets of the islands in the Mississippi District would be closed to motorized vessels. These restrictions, coupled with lower visitation at the islands of Cat, East Ship, Horn, and Petit Bois, would likely result in long-term, adverse, negligible to minor impacts to swimmers in the Mississippi District.

For the reasons stated above, overall impacts to swimmers in both the Florida and Mississippi districts would be long-term, adverse, and minor.

Divers. Diving and snorkeling are common near Fort Pickens and the sea grass beds north of Santa Rosa Island, which are both in the Florida District.

PWC prefer the calm waters of Santa Rosa Sound, which is north of the island, so divers there would be adversely impacted. Diving and PWC use are both prohibited within 200 feet of the Fort Pickens piers. However, snorkelers would benefit from the restriction described under the proposed regulation limiting PWC use to flat wakes 300 yards from all park shorelines. In addition, the proposed regulation would further prohibit PWC operation within 200 feet of people in the water, which would benefit both snorkelers and divers. For these reasons, impacts to divers and snorkelers would be long-term and adverse, but negligible due to the distribution of PWC, the additional restrictions imposed under the proposed regulation, and the small number of PWC users and divers that visit the park.

Anglers. Impacts to anglers would be similar to those described under alternative A of the Environmental Assessment. The same restrictions would apply to the lagoons of Perdido Key and the fishing piers at Fort Pickens. However, the proposed regulation calls for an additional flat wake zone 300 yards from all park shorelines. In addition, a flat wake zone would extend 0.5 mile from the shoreline and either side of the pier at West Ship Island, and a 0.5-mile flat wake zone would be established around the wilderness islands of Horn and Petit Bois. Although the additional flat wake restrictions would benefit anglers in all areas of the park, impacts would likely be long-term and adverse, but negligible due to additional PWC restrictions.

Campers and Hikers. Impacts to campers and hikers would be similar to those described under alternative A of the Environmental Assessment, particularly in the Florida District since most of the restrictions under the proposed regulation would apply to the Mississippi District. However, the proposed regulation calls for establishment of a flat wake zone 300 yards from all park shorelines, which would benefit all campers and hikers at the park. PWC use at Horn and Petit Bois islands in the Mississippi District would be restricted to flat wake speed 0.5 mile from the shoreline, which would benefit users of these wilderness areas. PWC operation would be limited to daylight hours in both districts, when campers may be participating in other activities.

PWC use would have long-term, negligible to minor, adverse impacts on the experience of all camping and hiking visitors due to the additional restrictions described under the proposed regulation.

Conclusion. The proposed regulation would provide overall beneficial impacts on PWC users, because they would be allowed to recreate with a personal watercraft in the national seashore, although PWC users would be required to comply with additional restrictions. Impacts of PWC use on motorized and non-motorized boaters would be negligible to minor, long-term, adverse. Impacts to swimmers would also be long-term, adverse, and minor. Impacts to divers, snorkelers, and anglers would be long-term and adverse, but negligible. PWC use would have long-term, negligible to minor, adverse impacts on the experience of all camping and hiking visitors. Overall PWC use would result in long-term, adverse, negligible to minor impacts to non-PWC users. Cumulative impacts would be long-term, adverse, and minor.

Visitor Conflict and Safety

Industry representatives report that PWC accidents decreased in some States in the late 1990s. The National Transportation Safety Board reported that in 1996 personal watercraft represented 7.5% of State-registered recreational boats but accounted for 36% of recreational boating accidents. In the same year, PWC operators accounted for more than 41% of people injured in boating accidents. PWC operators accounted for approximately 85% of the persons injured in accidents studied in 1997. Since PWC operators can be as young as 12 in several States, accidents can involve children. The American Academy of Pediatrics recommends that no one younger than 16 operate personal watercraft.

In Florida in 2000, personal watercraft comprised 12.5% of all registered vessels statewide and accounted for 32% of all boating accidents. In the Florida District in 2000, 44 boating violation citations were issued, 36% of which were to personal watercraft. An analysis of park boating violations in Mississippi from 1997 to September 2001 reveals that 58% of the violations involved a personal watercraft.

Under the proposed regulation, based on alternative B of the Environmental Assessment, PWC use would be reinstated as under alternative A, with additional management prescriptions. A flat wake zone would be established 300 yards from all park shorelines, with the exception of at the West Ship Island Pier, where a flat wake zone would extend 0.5 mile from the shoreline and 0.5 mile from either side of the pier. A flat wake zone would also be established 0.5 mile from the shorelines around all designated wilderness boundaries, and no PWC operation

would be permitted within 200 feet of non-motorized watercraft and people in the water. In addition, PWC user and boater education would be provided through interpretive talks, onsite bulletins, and brochures given to PWC registrants and visitors who rent personal watercraft. These educational efforts would benefit all seashore visitors described below.

Impact on PWC Users. Under the proposed regulation, PWC use would be reinstated and all of the national seashore waters would be accessible to PWC use except where restricted. Implementation of the flat wake zones would not permit high speed maneuvering use in these areas, but this type of activity would be permitted outside these areas in park waters. However, PWC users would experience beneficial safety impacts because the restrictions would minimize conflicts and potential for accidents between PWC, other PWC, and non-PWC users. Overall, impacts to PWC users would be long-term, beneficial, and minor.

Impact on Other Boaters. The majority of motorized boating in the Florida District occurs in Gulf waters on the south side of the islands. However, PWC favor the bay and sound areas, where waters are calm. This natural distribution would help alleviate conflicts between boaters and PWC users in the Florida District.

PWC are more prevalent and more evenly distributed in the Mississippi District, which has far fewer boaters than the Florida District. East and West Ship islands experience the heaviest visitor use and boaters there would likely experience the biggest impacts. PWC concentrate in areas that boaters also prefer, usually on the east and west ends of the islands, around the West Ship Island Pier, and the north side of Spoil Island. In addition, PWC would also be prohibited within 200 feet of non-motorized watercraft in both districts. A flat wake zone would be established 300 yards from all park shorelines, except at the West Ship Island Pier, where the flat wake zone would extend 0.5 mile from the shoreline and either side of the pier. The flat wake zone would also extend 0.5 mile from the shoreline around all wilderness boundaries. These restrictions would provide additional safety measures to both PWC and motorboat users at the seashore.

For the reasons described above, impacts to motorized boaters in both districts would be long-term and adverse. However, these impacts would be negligible to minor due to the additional restrictions and PWC

prohibitions defined under the proposed regulation.

PWC would interact with non-motorized boaters as well. PWC use would be prohibited 200 feet from the old fishing pier and 200 feet from the new fishing pier at Fort Pickens. The proposed canoe trail along the north side of Perdido Key would provide a safe, non-motorized boat route for canoeists and kayakers to enjoy because it would be within the flat wake zone established 300 yards from the shoreline. In addition, park staff have received no documented complaints from non-motorized boaters concerning PWC use. Nonmotorized boaters would also benefit from safety measures provided by additional restrictions described above. In addition, both Mississippi and Florida require that PWC operators use cut-off devices, which would not necessarily reduce the amount of conflict but would improve safety for non-motorized watercraft users at the seashore. Therefore, impacts to non-motorized watercraft under the proposed regulation would be long-term, adverse, and negligible to minor.

Impact on Other Visitors. Swimmers, anglers, campers, hikers, and other shoreline visitors to the national seashore would have contact with personal watercraft users. Shoreline areas that are popular with both personal watercraft and other shoreline users include the north sides of the Mississippi islands and the Perdido Key area.

Swimmers. Impacts to swimmers would be similar to those described under alternative A of the Environmental Assessment. However, the proposed regulation would further restrict PWC use by establishing a flat wake zone 300 yards from all park shorelines, which would benefit swimmers at non-designated swim beaches. The proposed regulation would also prohibit PWC use within 200 feet of people in the water, providing additional safety and reducing the likelihood of conflicts and accidents.

In addition, a flat wake zone would also be established 0.5 mile from the shorelines around the wilderness areas of Horn and Petit Bois islands, limiting impacts to swimmers and beach users on these islands. The lakes, ponds, lagoons, and inlets of the islands in the Mississippi District would be closed to motorized vessels.

Both Mississippi and Florida require that PWC operators use cut-off devices, which would not necessarily reduce the amount of conflict but would improve safety for swimmers at the seashore. Therefore, impacts to swimmers from PWC use in both districts would likely

be long-term, adverse, and minor due to additional restrictions and the concentration of PWC activity to the north side of most designated swim beaches.

Anglers. Impacts to anglers would be similar to those described under alternative A of the Environmental Assessment. The proposed regulation calls for an additional flat wake zone 300 yards from all park shorelines at the low-water mark. In addition, a flat wake zone would extend 0.5 mile from the shoreline and either side of the pier at West Ship Island, and a 0.5-mile flat wake zone would be established around the wilderness islands of Horn and Petit Bois. Although the additional flat wake restrictions would benefit anglers in all areas of the park, impacts would likely be long-term and adverse, but negligible due to additional PWC restrictions.

Campers and Hikers. The Florida District receives a much higher amount of camping visitation compared to the Mississippi District. The Fort Pickens campground provides the highest number of campsites (200) but is not located on the shoreline, and primitive camping is also allowed on the east end of Perdido Key. The Davis Bayou campground in the Mississippi District provides 51 campsites. No designated campsites exist on the Mississippi islands, but backcountry camping occurs on the islands.

Backcountry campers on Perdido Key and East Ship Island would experience long-term, minor, adverse impacts from PWC use under the proposed regulation. A flat wake zone would be established 300 yards from all park shorelines, which would reduce impacts to campers and hikers. PWC use at Horn and Petit Bois islands would be restricted to flat wake speed one-half mile from the shoreline, which would benefit users of these wilderness areas. PWC operation would be limited to daylight hours in both districts, when campers may be participating in other activities.

PWC use would have long-term, minor, adverse impacts on the experience of all camping and hiking visitors due to restrictions contained under the proposed regulation and distribution of types of visitor activities.

Conclusion. Impacts to PWC users would be long-term, beneficial, and minor. Impacts to motorized and non-motorized boaters would be long-term, adverse, and negligible to minor. Swimmers would likely experience long-term, adverse, and minor impacts. Anglers in all areas of the park would likely experience long-term and adverse, but negligible impacts due to additional PWC restrictions. PWC use would have long-term, minor, adverse impacts on

the experience of all camping and hiking visitors due to restrictions contained under the proposed regulation and distribution of types of visitor activities. Cumulative impacts would be adverse and minor over the short term and long term.

Cultural Resources

PWC users would have access to unknown archaeological and submerged cultural resources under the proposed regulation. Both known and undocumented submerged resources exist. Given the expanded wake restrictions under the proposed regulation, PWC use is unlikely to result in damage to submerged resources close to shore. Water depth is likely to protect other submerged resource.

Potential impacts directly attributable to unrestricted PWC use are difficult to quantify. The most likely impact to archaeological sites would result from PWC users landing in areas otherwise inaccessible to most other national seashore visitors and illegally collecting or damaging artifacts. According to park staff, looting and vandalism of cultural resources has been a problem. A direct correlation of impacts attributed to PWC users is difficult to draw, since many of these areas are also accessible to other watercraft users and visitors. Under the proposed regulation, PWC users within the national seashore would have only minor adverse impacts on listed or potentially listed archaeological resources.

Restricting areas of use and the establishment of a flat wake speed zone would serve as a measure to minimize impacts on potentially listed archaeological resources from possible illegal collection and vandalism. Cumulative impacts from other activities on archaeological resources that are readily accessible could be minor to moderate and adverse, due to the number of visitors and the potential for illegal collection or destruction.

Implementation of the proposed regulation would not result in an impairment of cultural resources.

The Proposed Rule

Under this NPRM, which is based on the preferred alternative, alternative B, a special regulation at 36 CFR 7.12 would reinstate PWC use at the national seashore. The proposed rule would include the management actions listed under alternative A, as well as additional management prescriptions under alternative B to protect natural and cultural resources, to mitigate PWC safety concerns, to provide for visitor health and safety, and to enhance overall visitor experience.

The management actions listed under alternatives A and B include the following:

1. *Area of Use and Location Restrictions.* PWC use would be allowed throughout the national seashore, except in areas where use restrictions for all vessels had been in place before April 22, 2002, including:

- The lakes, ponds, lagoons and inlets of East Ship Island, West Ship Island, Horn Island, Petit Bois Island and Cat Island are closed to the use of motorized vessels.

- The lagoons of Perdido Key within Big Lagoon are closed.

- The areas 200 feet from the remnants of the old fishing pier and 200 feet from the new fishing pier at Fort Pickens are closed.

- Operating a vessel in excess of 5 mph or creating a wake is prohibited within 500 feet of the Davis Bayou launch ramp, the West Ship Island Pier, the Horn Island Pier, and the Fort Pickens Pier; within the buoyed, area at Spoil (Sand) Island; and within the posted area on the north side of Perdido Key near the Fort McRee site.

- Seasonal closures within the seashore to protect wildlife and habitat as determined necessary by superintendent.

- PWC would be allowed to beach at any point along the shore not closed by the above.

The additional management restrictions under alternative B include the following:

- A flat wake zone would be expanded to 300 yards from all park shorelines with the exception of:

- At the West Ship Island Pier a flat wake zone would extend 0.5 mile from the shoreline and 0.5 mile from either side of the pier.

- Around all designated wilderness boundaries a flat wake zone would be established 0.5 mile from the shorelines.

- No PWC operation would be permitted within 200 feet of non-motorized watercraft and people in the water.

In addition, applicable State and Federal boating laws and regulations would apply to PWC operators, including regulations that address reckless or negligent operation, excessive speed, hazardous wakes or washes, hours of operation, age of driver, and distance between vessels. The boating regulations for Florida and Mississippi have been adopted by the NPS and apply to PWC use at Gulf Islands National Seashore.

Further, it is a management objective of the park staff at Gulf Islands National

Seashore to promote and enhance PWC user and boater education through interpretive talks, onsite bulletins, and brochures given to PWC registrants and visitors who rent personal watercraft. Within the capabilities of staff levels and funding, the park will also seek to increase awareness and enhance enforcement of Federal laws and regulations pertaining to harassment of marine mammals through ongoing water patrols (Marine Mammal Protection Act, Endangered Species Act).

Summary of Economic Impacts: Personal Watercraft Regulations in Gulf Islands National Seashore

Alternative C, the no-action alternative, represents the baseline of

this analysis. Under that alternative, all PWC use would remain prohibited in the park. Alternative A would permit PWC use as managed in the park prior to the ban and Alternative B would permit PWC use, but with additional restrictions compared with pre-ban management. All benefits and costs associated with these regulatory alternatives are measured relative to the baseline established by Alternative C. Therefore, there are no incremental benefits or costs associated with Alternative C.

The primary beneficiaries of Alternatives A and B would be the park visitors who use PWCs and the businesses that provide services to PWC

users such as rental shops, restaurants, gas stations, and hotels. The present value of benefits to PWC users are estimated to range between \$670,100 and \$881,500 for these alternatives. The present value of benefits to PWC users for Alternatives A and B are estimated to range between \$479,900 and \$4,130,400. Additional beneficiaries include the individuals who use PWCs outside the park where PWC users that are displaced from the park may decide to ride if PWC use within the park were prohibited. These benefit estimates are presented in Table 1. The amortized values per year of these benefits over the ten-year timeframe are presented in Table 2.

TABLE 1.—PRESENT VALUE OF BENEFITS FOR PWC USE IN GULF ISLANDS NATIONAL SEASHORE, 2003–2012
[In thousands]^a

	PWC users	Businesses	Total
Alternative A:			
Discounted at 3% ^b	\$881.5	\$664.6 to \$4,130.4	\$1,546.1 to \$5,011.9.
Discounted at 7% ^b	705.3	511.9 to 3,181.2	1,217.2 to 3,886.5.
Alternative B:			
Discounted at 3% ^b	837.5	623.1 to 3,859.6	1,460.5 to 4,697.0.
Discounted at 7% ^b	670.1	479.9 to 2,972.6	1,149.9 to 3,642.7.

^aBenefits may not sum to the indicated totals due to independent rounding.

^bOffice of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

TABLE 2.—AMORTIZED TOTAL BENEFITS PER YEAR FOR PWC USE IN GULF ISLANDS NATIONAL SEASHORE, 2003–2012
[In thousands]

	Amortized total benefits per year ^a
Alternative A:	
Discounted at 3% ^b	\$181.3 to \$587.5.
Discounted at 7% ^b	173.3 to 553.4.
Alternative B:	
Discounted at 3% ^b	171.2 to 550.6.
Discounted at 7% ^b	163.7 to 518.6.

^aThis is the present value of total benefits reported in Table 1 amortized over the ten-year analysis timeframe at the indicated discount rate.

^bOffice of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

The primary group that would incur costs under Alternatives A and B would be the park visitors who do not use PWCs and whose park experiences would be negatively affected by PWC use within the park. At Gulf Islands National Seashore, non-PWC uses include boating, canoeing, fishing, and hiking. Additionally, the public could incur costs associated with impacts to aesthetics, ecosystem protection, human health and safety, congestion, nonuse values, and enforcement. However, these costs could not be quantified because of a lack of available data. Nevertheless, the magnitude of costs associated with PWC use would likely

be greatest under Alternative A, and lower for Alternative B due to increasingly stringent restrictions on PWC use.

Because the costs of Alternatives A and B could not be quantified, the net benefits associated with those alternatives (benefits minus costs) also could not be quantified. However, from an economic perspective, the selection of Alternative B as the preferred alternative was considered reasonable even though the quantified benefits are somewhat smaller than under Alternative A. That is because the costs associated with non-PWC use, aesthetics, ecosystem protection, human

health and safety, congestion, and nonuse values would likely be greater under Alternative A than under Alternative B. Quantification of those costs could reasonably result in Alternative B having the greatest level of net benefits.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy.

It 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. The National Park Service has completed the report "Economic Analysis of Personal Watercraft Regulations in Gulf Islands National Seashore" (MACTEC Engineering, January 2004).

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies or controls. This rule is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. This rule is one of the special regulations being issued for managing PWC use in National Park Units. The National Park Service published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirement of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on a report entitled "Economic Analysis of Personal Watercraft Regulations in Gulf Islands National Seashore" (MACTEC Engineering, January 2004).

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers,

individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is an agency specific rule and does not impose any other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB Form 83-I is not required.

National Environmental Policy Act

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and has prepared a draft Environmental Assessment (EA). The EA was available for public review and comment from April 19, 2004 to May 18, 2004. Copies of the environmental assessment may be downloaded at <http://www.nps.gov/>

<http://www.nps.gov/pphtml/documents.html> or obtained at park headquarters Monday through Friday, 8 a.m. to 4:30 p.m. Mail inquiries should be directed to park headquarters: Gulf Islands National Seashore, 1801 Gulf Breeze Parkway, Gulf Breeze, FL 32563.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government to Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "\$" and a numbered heading; for example § 7.12, Gulf Islands National Seashore.) (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

Drafting Information: The primary authors of this regulation are: Nina Kelson, Hank Snyder, and J.D. Lee, Gulf Islands National Seashore; Sarah Bransom, Environmental Quality Division; and Kym Hall and Jerry Case, NPS, Washington, DC.

Public Participation

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Gulf Islands National Seashore, 1801 Gulf Breeze Parkway,

Gulf Breeze, FL 32563. You may also comment via the Internet to: guis@den.nps.gov. Please also include "PWC Rule" in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to Gulf Islands National Seashore, 1801 Gulf Breeze Parkway, Gulf Breeze, FL 32563.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); sec. 7.96 also issued under D.C. Code 8-137 (1981) and D.C. Code 40-721 (1981).

2. Add new paragraph (c) to § 7.12 to read as follows:

§ 7.12 Gulf Islands National Seashore.

* * * * *

(c) *Personal Watercraft (PWC)*. (1) PWCs may operate within Gulf Islands National Seashore except in the following closed areas:

(i) The lakes, ponds, lagoons and inlets of Cat Island, East Ship Island, West Ship Island, Horn Island, and Petit Bois Island;

(ii) The lagoons of Perdido Key within Big Lagoon;

(iii) The areas within 200 feet from the remnants of the old fishing pier and within 200 feet from the new fishing pier at Fort Pickens; and

(iv) Within 200 feet of non-motorized vessels and people in the water.

(2) PWC may not be operated at greater than flat wake speed in the following locations:

(i) Within 0.5 miles from the shoreline or either side of the pier at the West Ship Island Pier;

(ii) Within 0.5 miles from the shoreline on the designated wilderness islands of Horn and Petit Bois; and

(iii) Within 300 yards from all other park shorelines.

(3) PWC are allowed to beach at any point along the shore except as follows:

(i) PWC may not beach in any restricted area listed in paragraph (c)(1) of this section; and

(ii) PWC may not beach above the mean high tide line on the designated wilderness islands of Horn and Petit Bois.

(4) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: February 23, 2005.

Paul Hoffman,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 05-4734 Filed 3-16-05; 8:45 am]

BILLING CODE 4312-52-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05-551; MB Docket No. 05-67, RM-11116]

Radio Broadcasting Services; Clinton, Fisher, Indianapolis and Lawrence, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division requests comments on a petition jointly filed by Indy Lico, Inc. and WFMS Lico, Inc., proposing (1) the upgrade from Channel 230A to Channel 230B1 at Fishers, the reallocation of Channel 230B1 from Fishers to Lawrence, Indiana, and the modification of Station WISG(FM)'s license accordingly; (2) the reallocation of Channel 238B from Indianapolis to Fishers, Indiana, and the modification of Station WFMS(FM)'s license accordingly; and (3) the substitution of Channel 229A for Channel 230A at Clinton, Indiana, to accommodate the Lawrence reallocation. Channel 230B1 can be reallocated to Lawrence in compliance with the Commission's minimum distance separation

requirements with a site restriction of 12.6 kilometers (7.8 miles) south at Station WISG(FM)'s requested site. The coordinates for Channel 230B1 at Lawrence are 39-43-37 North Latitude and 86-03-00 West Longitude. *See SUPPLEMENTARY INFORMATION, infra.*

DATES: Comments must be filed on or before April 25, 2005, reply comments on or before May 10, 2005.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark N. Lipp, Esq., Vinson & Elkins, L.L.P., 1455 Pennsylvania Ave., Suite, 600, Washington, DC 2004-1008 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05-67, adopted March 2, 2005, and released March 4, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Additionally, Channel 238B can be reallocated to Fishers at Station WFMS(FM)'s presently licensed site. The coordinates for Channel 238B are 39-46-03 North Latitude and 86-00-12 West Longitude. Channel 229A can be substituted at Clinton at Station WPFM-FM's presently licensed site. The coordinates for Channel 229A at Clinton are 39-33-01 North Latitude and 87-28-32 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Indiana is amended by removing Channel 230A and adding Channel 229A at Clinton; by removing Channel 230A and adding Channel 238B at Fishers; by removing Channel 238B at Indianapolis; and by adding Lawrence, Channel 230B1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-5313 Filed 3-16-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05-575; MB Docket No. 05-82, RM-11170; MB Docket No. 05-83, RM-11171; MB Docket No. 05-84, RM-11172]

Radio Broadcasting Services; Coosada, AL; Livingston, AL; and Rockford, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes three new FM broadcast allotments in Coosada, Alabama; Livingston, Alabama; and Rockford, Alabama. The Audio Division, Media Bureau, requests comment on a petition filed by Tempest Communications, proposing the allotment of Channel 226A at Coosada, Alabama, as the community's first local aural transmission service. Channel 226A can be allotted to Coosada in

compliance with the Commission's minimum distance separation requirements with a site restriction of 4.3 kilometers (2.7 miles) east of the central city coordinates for Coosada. The reference coordinates for Channel 226A at Coosada are 32-30-02 North Latitude and 86-17-09 West Longitude. See **SUPPLEMENTARY INFORMATION, infra.**

DATES: Comments must be filed on or before April 25, 2005, and reply comments on or before May 10, 2005.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Tempest Communications, c/o Howard M. Weiss, Esq., Fletcher, Heald & Hildreth PLC; 1300 North 17th Street, 11th Floor; Arlington, Virginia 22209-3801; Sumter County Broadcasting, c/o John C. Trent, Esq., Putbrese, Hunsaker & Trent, P.C.; 100 Carpenter Drive, Suite 100, P.O. Box 217; Sterling, Virginia 20167-0217; and Christopher W. Johnson, Vice President, Alatron Corporation Inc.; P.O. Box 83; Clanton, Alabama 35046.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 05-82, 05-83, and 05-84, adopted March 2, 2005 and released March 4, 2005. The full text of this Commission document is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20054, telephone 1-800-378-3160 or www.BCPIWEB.com. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

The Audio Division requests comments on a petition filed by Sumter County Broadcasting, proposing the allotment of Channel 242A at Livingston, Alabama, as the

community's first local aural transmission service. Channel 242A can be allotted to Livingston in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.3 kilometers (1.4 miles) northeast of Livingston. The reference coordinates for Channel 242A at Livingston are 32-35-36 North Latitude and 88-09-57 West Longitude.

The Audio Division requests comments on a petition filed by Alatron Corporation proposing the allotment of Channel 286A at Rockford, Alabama, as the community's first local aural transmission service. Channel 286A can be allotted to Rockford in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.3 kilometers (7.0 miles) east of Rockford. The reference coordinates for Channel 286A at Rockford are 32-52-15 North Latitude and 86-06-04 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Coosada, Channel 226A; Livingston, Channel 242A, and Rockford, Channel 286A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-5314 Filed 3-16-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 05-580; MB Docket No. 05-79; RM-10983]

Radio Broadcasting Services; Opelika, AL and Smyrna, GA**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Opelika Broadcasting Company, proposing the allotment of Channel 232A at Opelika, Alabama, as the community's second local FM transmission service. To accommodate the allotment, petitioner also proposed the reclassification of Station WSTR(FM), Smyrna, Georgia, from Channel 231C0 to Channel 231C0 pursuant to the Commission's reclassification procedures. Channel 232A can be allotted at Opelika in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.6 kilometers (4.7 miles) north to avoid a short-spacing to the licensed site of Station WIZB(FM), Channel 232C3, Abbeville, Alabama. The coordinates for Channel 232A at Opelika are 32-42-59 North Latitude and 85-23-22 West Longitude. Additionally, Station WSTR(FM) at Smyrna can also be reclassified to Channel 231C0 at its presently licensed site. The coordinates for Channel 231C0 at Smyrna are 33-45-35 North Latitude and 84-20-07 West Longitude.

DATES: Comments must be filed on or before April 25, 2005, and reply comments on or before May 10, 2005. Any counterproposal filed in this proceeding need only protect Station WSTR(FM) Smyrna, Georgia, as a Class C0 allotment.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Counsel for Petitioner as follows: Scott C. Cinnamon, Esq. 1090 Vermont Avenue, NW., Suite 800, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05-79, adopted March 2, 2005, and released March 4, 2005. The full text of

this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Channel 232A at Opelika.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 231C and adding Channel 231C0 at Smyrna.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-5315 Filed 3-16-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 05-579; MB Docket No. 05-80; RM-11160]

Radio Broadcasting Services; Booneville and Guntown, MS**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Clear Channel Broadcasting Licenses, Inc., licensee of Station WBIP-FM, Channel 257A, Booneville, Mississippi, proposing to substitute Channel 257C3 for Channel 257A at Booneville, reallocate Channel 257C3 to Guntown, Mississippi, and modify Station WBIP-FM's license to reflect those changes. The coordinates for Channel 257C3 at Guntown are 34-21-42 NL and 88-35-34 WL with a site restriction of 11.1 kilometers (6.9 miles) southeast of the community.

DATES: Comments must be filed on or before April 25, 2005, and reply comments on or before May 10, 2005.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Clear Channel Broadcasting Licenses, Inc., c/o Mark N. Lipp, Esq., Vinson & Elkins L.L.P., 1455 Pennsylvania Ave., NW., Suite 600, Washington, DC 20004-1008.

FOR FURTHER INFORMATION CONTACT: Helen McLean, Media Bureau, (202) 418-2738.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 05-80, adopted March 2, 2005, and released March 4, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition,

therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Booneville, Channel 257A, and by adding Guntown, Channel 257C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-5316 Filed 3-16-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05-573; MB Docket No. 05-85, RM-11164; MB Docket No. 05-86, RM-11165; and MB Docket No. 05-87, RM-11166]

Radio Broadcasting Services; Hennessey, OK; Odin, IL; and Spur, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth three proposals to amend the FM Table

of Allotments, section 73.202(b) of the Commission's rules, 47 CFR 73.202(b). The Commission requests comment on a petition filed by Charles Crawford. Petitioner proposes the allotment of Channel 249A at Hennessey, Oklahoma, as a first local service. Channel 249A can be allotted at Hennessey in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.2 km (3.2 miles) west of Hennessey. The proposed coordinates for Channel 249A at Hennessey are 36-06-09 North Latitude and 97-57-18 West Longitude. *See* SUPPLEMENTARY INFORMATION *infra*.

DATES: Comments must be filed on or before April 25, 2005, and reply comments on or before May 10, 2005.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the designated petitioner as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205; Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418-7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 05-85, 05-86, and 05-87, adopted March 2, 2005, and released March 4, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>.

The Commission further requests comment on a petition filed by Charles Crawford. Petitioner proposes the allotment of Channel 288A at Odin, Illinois, as a first local service. Channel 288A can be allotted at Odin in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.5 km (6.5 miles) east of Odin. The proposed coordinates for Channel 288A at Odin are 38-37-17 North Latitude and 88-55-53 West Longitude.

The Commission further requests comment on a petition filed by Jeraldine Anderson. Petitioner proposes the allotment of Channel 260C3 at Spur, Texas, as a second local service. Channel 260C3 can be allotted at Spur

in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.4 km (8.4 miles) west of Spur. The proposed coordinates for Channel 260C3 at Spur are 33-28-30 North Latitude and 101-00-00 West Longitude.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Odin, Channel 288A.

3. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Hennessey, Channel 249A.

4. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 260C3 at Spur.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-5317 Filed 3-16-05; 8:45 am]

BILLING CODE 6712-01-P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 546 and 552

[GSAR ANPR 2005–N01]

General Services Administration Acquisition Regulation; Waiver of Consequential Damages and “Post Award” Audit Provisions (Correction)

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

ACTION: Correction to advance notice of proposed rulemaking and notice of public meeting.

SUMMARY: The General Services Administration (GSA) is requesting comments from both Government and industry on whether the General Services Administration Acquisition Regulation (GSAR) should be revised to include a waiver of consequential damages for contracts awarded for commercial item under the FAR. GSA is also requesting comments on whether “post award” audit provisions should be included its Multiple Award Schedules (MAS) contracts and Governmentwide acquisition contracts (GWACs). The notice published in the *Federal Register* at 70 FR 12167, March 11, 2005, is amended to extend the public comment date to May 10, 2005, and to allow interested parties to submit presentations by April 7, 2005.

DATES: *Comment Date:* Interested parties should submit comments on or before May 10, 2005 to be considered in the formulation of a proposed rulemaking.

Public Meeting Presentation Date: Interested parties may register and submit presentations by April 7, 2005.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: gsaranpr.2005–N01@gsa.gov

Submit electronic presentations via the Internet to: meeting.2005–N01@gsa.gov.

Please submit comments or presentations only and cite GSAR ANPR 2005–N01 in all correspondence related to this case. All comments received will be posted without change to <http://www.acqnet.gov/far/ProposedRules/proposed.htm>, including any personal information provided.

Public Meeting: The public meeting will be conducted at the General Services Administration, National Capital Region, 301 7th and D street, SW., Washington, DC 20407,

Auditorium, starting at 9 a.m. to 4 p.m. EST., on April 14, 2005, to ensure open dialogue between the Government and interested parties on this important topic.

Special Instructions. The submitted presentations will be the only record of the public meeting. If you intend to have your presentation considered as a public comment in the formulation of the proposed rulemaking, the presentation must be submitted separately as a public comment as instructed above.

Special Accommodations: The public meeting is physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Ernest Woodson, at 202–501–3775, at least 5 working days prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, Contract Policy Division, 202–501–3775.

SUPPLEMENTARY INFORMATION:

Background

Currently, FAR Part 12, Acquisition of Commercial Items, prescribes policies and procedures unique to the acquisition of commercial items under FAR Part 12. FAR Part 12 implements the Government’s preference for the acquisition of commercial items as contained in Title VIII of the Federal Acquisition Streamlining Act of 1994 by establishing policies more closely resembling those of the commercial marketplace. The clause, FAR 52.212–4, Contract Terms and Conditions—Commercial Items, that includes terms and conditions applicable to each acquisition procured under FAR Part 12 is, to the maximum extent practicable, consistent with customary commercial practices. The clause includes a provision, FAR 52.212–4(p), Limitation of liability, that provides; “Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.” Also, FAR 12.302(b) allows the contracting officer to tailor the clause at FAR 52.212–4 to adapt to market conditions of reach commercial acquisition. In addition to the limitation of liability clause and the provision at FAR 12.302, Federal contracts typically include a broad range of standard contract clauses such as warranties and liquidated damages that provide exclusive remedies for nonperformance that limit the Government to the specific remedies set forth in the clause.

Likewise, the Contract Disputes Act of 1978 provides for the resolution of any failure on the part of the Government and the contractor to reach agreement on any request for equitable adjustment, claim, appeal, or action arising under or relating to a Government contract to be a dispute to be resolved in accordance with FAR 52.233–1, disputes.

Notwithstanding specific adjustments and other remedies provided in Government contracts for contractor deficiencies or nonperformance, concerns have been raised that—

- FAR clause 52.212–4(p) and the “tailoring” provision at FAR 12.302, do not reach the level of commercial standards and that unlimited consequential or other incidental or special damages are not necessary and are, in fact, counterproductive to efficient procurement, raising costs and establishing barriers to commercial companies considering whether to do business with the Federal Government;
- Although FAR 12.302 permits contracting officers to tailor the limitation of liability clause at FAR 52.212–4(p), some companies assert that contracting officers are unwilling to do so, leaving contractors with a take-it or leave-it option and contracts that deviate from the commercial marketplace, making contractors in general less willing to sign on to such contracts;

- The commercial practice, unlike FAR 52.212–4(p), that waives liability for consequential damages resulting from any defect or deficiencies in accepted items, provides for a complete waiver of consequential damages;

- Contractors would make risk decisions and negotiate Government contracts without having to add an uncertainty premium as to liability protection, if FAR Part 12 were appropriately amended to reflect commercial practices; and

- Contractors also request that we make the waiver of consequential damages for commercial products and services available under other provisions of the FAR.

Similarly, the General Accounting Office and periodically GSA’s IG raise concerns regarding GSA’s right to access and examine contractor records after contract award. GSA’s primary vehicle for conducting post-award audits is GSAR 552.215–70, Examination of Records by GSA, that gives the Administrator of GSA, or any duly authorized representative, typically the GSA Inspector General’s Office of Audits, access to and the right to examine contractor records relating to over billings, billing errors, compliance with the Industrial Funding Fee (IFF)

clause of the contract, and compliance with the Price Reduction Clause under MAS contracts.

In addition to the GSA Examination of Records clause, GSA may use a number of other authorities to conduct a post-award review of a contractor's records. These other authorities include FAR 52.212-5 which authorizes the Comptroller General of the United States to access and examine a contractor's directly pertinent records involving transactions related to the contract; GSAR 515.209-70(b) that permits a contracting officer to modify the GSA Examination of Records Clause to define the specific area of audit (*e.g.*, the use or disposition of Government-furnished property, compliance with price reduction clause, etc.), and the

right of the GSA Inspector General to issue subpoenas for contractor records under the Inspector General Act of 1978.

Contractors' major concerns with GSA's post-award audit authority include complaints that they are too broad and not consistent with commercial contract practices.

In consideration of the above concerns, we have questions as to how the taxpayer may benefit from any revisions to the GSAR to address contractor concerns regarding limitation of liability or post-award audits. We are also interested in learning what, if any, impact the Services Acquisition Reform Act of 2002 and 2003 has on the issue of revising the GSAR to address limitations of liability.

In this advance notice of proposed rulemaking and notice of public meeting, GSA is seeking input from both Government and industry on whether the GSAR should be revised to waive consequential damages in the purchase of commercial items under FAR Parts 12, 13, 14, and 15 and whether GSA should modify its policy and practices with regard to the addition of post award audit clauses into contracts it awards.

Dated: March 11, 2005.

David A. Drabkin,

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

[FR Doc. 05-5273 Filed 3-16-05; 8:45 am]

BILLING CODE 6820-61-M

Notices

Federal Register

Vol. 70, No. 51

Thursday, March 17, 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

Animal and Plant Health Inspection Service

[Docket No. 04-075-2]

Monsanto Co. and KWS SAAT AG; Determination of Nonregulated Status for Sugar Beet Genetically Engineered for Tolerance to the Herbicide Glyphosate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Monsanto and KWS SAAT AG sugar beet designated as event H7-1, which has been genetically engineered for tolerance to the herbicide glyphosate, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Monsanto Company and KWS SAAT AG in its petition for a determination of nonregulated status, our analysis of other scientific data, and comments received from the public in response to a previous notice. This notice also announces the availability of our written determination and our finding of no significant impact.

EFFECTIVE DATE: March 4, 2005.

ADDRESSES: You may read a copy of the determination, the environmental assessment and finding of no significant impact, the petition for a determination of nonregulated status submitted by Monsanto Company and KWS SAAT AG, and all comments received on the petition and the environmental assessment 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.

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: Mr. John Cordts, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5531. To obtain copies of the petition, the environmental assessment (EA), finding of no significant impact (FONSI), or the determination, contact Ms. Ingrid Berlinger at (301) 734-4885; e-mail: Ingrid.E.Berlinger@aphis.usda.gov. The petition, EA, FONSI, and determination are also available on the Internet at http://www.aphis.usda.gov/brs/aphisdocs/03_32301p.pdf and http://www.aphis.usda.gov/brs/aphisdocs/03_32301p_ea.pdf.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason To Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

On November 19, 2003, APHIS received a petition (APHIS Petition Number 03-323-01p) from Monsanto Company of St. Louis, MO, and KWS SAAT AG of Einbeck, Germany

(Monsanto/KWS), requesting a determination of nonregulated status under 7 CFR part 340 for sugar beet (*Beta vulgaris* ssp. *vulgaris*) designated as event H7-1, which has been genetically engineered for tolerance to the herbicide glyphosate. The Monsanto/KWS petition states that the subject sugar beet should not be regulated by APHIS because it does not present a plant pest risk.

On October 19, 2004, APHIS published a notice in the **Federal Register** (69 FR 61466-61467, Docket No. 04-075-1) announcing that the Monsanto/KWS petition and an environmental assessment (EA) were available for public review. That notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject sugar beet and food products developed from it. APHIS received 44 comments on the petition and the EA during the 60-day comment period, which ended December 20, 2004.

The comments were received from growers and grower associations, sugar processing cooperatives, academic researchers, seed companies, two biodynamic farmers, and one consumer organization. Forty-one of the comments supported approval of the petition in full. Three comments opposed the petition. One, a sugar processor, opposed the petition based on potential economic concerns; the biodynamic farmers generally opposed biotechnology, and the consumer group also opposed biotechnology and suggested that the EA is inadequate and an environmental impact statement should be prepared. APHIS disagrees with the suggestion of the consumer group and has provided a response to all of the comments as an attachment to the finding of no significant impact (FONSI). The EA and FONSI are available as indicated under **FOR FURTHER INFORMATION CONTACT**.

Sugar beet event H7-1 has been genetically engineered to express a 5-enolpyruvylshikimate-3-phosphate synthase protein from *Agrobacterium* sp. strain CP4 (CP4 EPSPS), which confers tolerance to the herbicide glyphosate. Expression of the added genes is controlled in part by the 35S promoter derived from the plant pathogen figwort mosaic virus. The *Agrobacterium tumefaciens*

transformation method was used to transfer the added genes into the KWS proprietary sugar beet line 3S0057.

Sugar beet event H7-1 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. In the process of reviewing the notifications for field trials of the subject sugar beet, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical confinement or isolation, would not present a risk of plant pest introduction or dissemination.

Determination

Based on its analysis of the data submitted by Monsanto/KWS, a review of other scientific data, field tests of the subject sugar beet, and comments submitted by the public, APHIS has determined that H7-1 sugar beet: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become weedy than the nontransgenic parental line or other cultivated sugar beet; (3) is unlikely to increase the weediness potential of any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; (5) will not harm threatened or endangered species or organisms that are beneficial to agriculture; and (6) should not reduce the ability to control pests and weeds in sugar beet or other crops. Therefore, APHIS has concluded that the subject sugar beet and any progeny derived from hybrid crosses with other non-transformed sugar beet varieties will be as safe to grow as sugar beets in traditional breeding programs that are not subject to regulation under 7 CFR part 340. The effect of this determination is that Monsanto/KWS' H7-1 sugar beet is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340.

Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the subject sugar beet or its progeny. However, importation of H7-1 sugar beet and seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319 and imported seed regulations in 7 CFR part 361.

National Environmental Policy Act

An EA was prepared to examine any potential environmental impacts associated with the proposed determination of nonregulated status for the subject sugar beet event. The EA was 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). Based on that EA, APHIS has reached a FONSI with regard to the determination that Monsanto/KWS H7-1 sugar beet and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and FONSI are available from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 11th day of March 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05-5302 Filed 3-16-05; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Lassen Resource Advisory Committee, Susanville, California, USDA Forest Service.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Lassen National Forest's Lassen County Resource Advisory Committee will meet Thursday, March 31, 2005 at the Eagle Lake Community Services District Office, 502-905 Mahogany, in Spalding, California for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on March 31st will begin at 9 a.m., at the Spalding Community Services District Office, 502-905 Mahogany Spalding, CA 96130. There will be a field tour of the Pine Creek Fish Trap project as well as discussions regarding monitoring plans; summer field tours schedules; project funding, payments and monitoring processes; and an update on HR2389. Time will also be set aside for public comments at the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Robert Andrews, District Ranger,

Designated Federal Officer, at (530) 257-4188; or Public Affairs Officer, Heidi Perry, at (530) 252-6604.

Laurie Tippin,

Forest Supervisor.

[FR Doc. 05-5281 Filed 3-16-05; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Committee meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Sierra National Forest's Resource Advisory Committee for Madera County will meet on Monday, March 21, 2005. The Madera Resource Advisory Committee will meet at the Bass Lake Ranger District Office, North Fork, CA 93643. The purpose of the meeting is: Review the goals for FY 2005 RAC proposals and presentation of stewardship projects on the Sierra National Forest.

DATES: The Madera Resource Advisory Committee meeting will be held Monday, March 21, 2005. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Bass Lake Ranger District Office, 57003 Road 225, North Fork, CA 93643.

FOR FURTHER INFORMATION CONTACT:

Dave Martin, U.S.D.A., Sierra National Forest, Bass Lake Ranger District, 57003 Road 225, North Fork, CA 93643, (559) 877-2218 ext. 3100; e-mail: dmartin05@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review of goals for FY 2005 RAC proposals; (2) presentation of potential stewardship projects on the forest.

Dated: March 11, 2005.

David W. Martin,

District Ranger, Bass Lake Ranger District.

[FR Doc. 05-5286 Filed 3-16-05; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE**Submission for OMB Review;
Comment Request**

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Vessel Monitoring System Requirement for American Samoa Pelagic Longline Fishery.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 167.

Number of Respondents: 34.

Average Hours Per Response: 0.03 minutes.

Needs and Uses: Under Amendment 11 to the Fishery Management Plan for Pelagic Fisheries of Western Pacific Region, owners of large vessels (>50 ft in length) registered for use with American Samoa longline limited access permits must allow NMFS to install vessel monitoring (VMS) units on their vessels when directed to do so by NMFS enforcement personnel. VMS units automatically send periodic reports on the position of the vessel. NMFS uses the reports to monitor the vessel's location and activities while enforcing area closures. NMFS pays for the units and messaging.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and hourly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or David_Rostker@omb.eop.gov.

Dated: March 10, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-5240 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-475-824]

Stainless Steel Sheet and Strip in Coils From Italy: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 14, 2005, the U.S. Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Italy for the period July 1, 2002, through June 30, 2003. See *Stainless Steel Sheet and Strip in Coils from Italy: Final Results of Antidumping Duty Administrative Review*, 70 FR 7472 (February 14, 2005) (Final Results) and accompanying Issues and Decision Memorandum. We are amending our Final Results to correct a ministerial error alleged by Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., North American Stainless, United Steelworkers of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization (collectively, petitioners) pursuant to section 751(h) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: March 17, 2005.

FOR FURTHER INFORMATION CONTACT:

Angelica Mendoza at (202) 482-3019, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**Amendment of Final Results**

On February 14, 2005, the Department published the Final Results of the administrative review of the antidumping duty order on stainless steel sheet and strip (SSSS) in coils from Italy for the period July 1, 2002, through June 30, 2003. See *Final Results and accompanying Issues and Decision Memorandum*. In accordance with section 751(h) of the Act and 19 CFR 351.224(c)(2), on February 14, 2005, petitioners timely filed an allegation that the Department made a ministerial error in the final results. Pursuant to our review of the ministerial error alleged by petitioners, the Department is amending the Final Results to correct this error, as detailed below.

Petitioners state that the Department expressed its intention to perform the

margin calculations as described in its Prelim Analysis Memo, at section IX, page 7. See Memorandum to the File through Abdelali Elouaradia, Program Manager, Office 6, AD/CVD Operations, Analysis Memorandum for the Preliminary Results, dated July 29, 2004 (Prelim Analysis Memo).¹ According to petitioners, however, the Department neglected to incorporate this programming language into the actual margin calculations in both the preliminary and final margin programs. Petitioners argue that the Department erroneously introduced programming language contrary to its standard practice and to its description of the steps required to perform the margin calculations outlined in the Prelim Analysis Memo. See Prelim Analysis Memo at 7 and the Memorandum to the File through Abdelali Elouaradia, Program Manager, Office 7, AD/CVD Operations, Analysis Memorandum for the Final Results, dated February 7, 2005 (Final Analysis Memo) at Attachment 3 (Final Margin Program, lines 3673-3688). Therefore, petitioners assert that the Department should amend its Final Results by implementing the correct programming language that was clearly expressed in the Prelim Analysis Memo and replace lines 3673-3687 of the final margin program with the standard programming language. ThyssenKrupp Acciai Speciali Terni S.p.A. (TKAST), respondent in this review, did not file comments in response to petitioners' ministerial error allegation.

The Act, and the Department's regulations, define a ministerial error as one involving "addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication or the like, and any other similar type of unintentional error which the Secretary considers ministerial." See section 751(h) of the Act and 19 CFR 351.224(f).

After reviewing petitioners' allegation, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224, that the allegation constitutes a ministerial error. We agree with petitioners that the Department inadvertently used programming language that did not correspond to the intended programming language described in its Prelim Analysis Memo in its preliminary and final margin calculation. Accordingly, we have revised the programming language to

¹ A public version of the analysis memorandum is on file in the Central Records Unit (CRU), room B-099 of the Herbert C. Hoover Department of Commerce building, 1401 Constitution Avenue, NW., Washington, DC.

reflect the corrected language described in both our Prelim Analysis Memo at 7 and petitioners' February 14, 2005, Ministerial Error Allegation at 4 in the U.S. sales program, which can be found in the analysis memorandum for the amended final results. See Memorandum to the File through Abdelali Elouaradia, Program Manager, Office 7, Analysis for ThyssenKrupp Acciai Speciali Terni S.p.A. (TKAST) for the Amended Final Results of the Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from Italy, dated March 9, 2005 (Amended Final Analysis Memo). As a result of the correction of a ministerial error in the Final Results, the revised weight-averaged dumping margin is as follows:

Manufacturer/exporter	Weighted-average margin (percent)
ThyssenKrupp Acciai Speciali Terni S.p.A.	² 3.73

See Amended Final Analysis Memo at Attachment 4 for programming details.

With respect to TKAST, the Department will issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP) within 15 days of publication of the amended final results of review. Accordingly, the Department will determine, and CBP will assess, antidumping duties on all entries of subject merchandise from TKAST during the period July 1, 2002, through June 30, 2003, in accordance with these amended final results. The revised cash deposit rate for TKAST shown above is effective on all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and will remain in effect until publication of the final results of the next administrative review.

Consequently, we are issuing and publishing these amended final results and notice in accordance with sections 751(a)(1), 751(h), and 777(i) of the Act, and 19 CFR 351.224(f).

Dated: March 11, 2005.

Barbara E. Tillman,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5-1167 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-DS-P

² The weighted-average dumping margin previously calculated for TKAST was 3.72 percent. See Final Results, 70 FR at 7474.

DEPARTMENT OF COMMERCE

International Trade Administration

California Department of Food and Agriculture, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 05-001.

Applicant: California Department of Food and Agriculture, Sacramento, CA 95832.

Instrument: Electron Microscope, Model H-7500-1 TEM.

Manufacturer: Hitachi High-Technologies Corp., Japan.

Intended Use: See notice at 70 FR 6838, February 9, 2005. Order Date: March 29, 2004.

Docket Number: 05-003.

Applicant: Brigham Young University, Provo, UT 84602.

Instrument: Electron Microscope, Model Technai G² F20 U-TWIN STEM.

Manufacturer: FEI Company, The Netherlands.

Intended Use: See notice at 70 FR 9046, February 24, 2005.

Order Date: March 28, 2003.

Docket Number: 05-004.

Applicant: University of Delaware, Newark, DE 19716.

Instrument: Electron Microscope, Model Technai G² 12 Twin.

Manufacturer: FEI Company, Czech Republic.

Intended Use: See notice at 70 FR 9046, February 24, 2005.

Order Date: May 6, 2004.

Docket Number: 05-006.

Applicant: University of Pittsburgh, Pittsburgh, PA 15261.

Instrument: Electron Microscope, Model JEM-1011.

Manufacturer: JEOL Ltd., Japan.

Intended Use: See notice at 70 FR 10357, March 3, 2005.

Order Date: March 4, 1904.

Docket Number: 05-007.

Applicant: Clemson University, Clemson, SC 29634.

Instrument: Electron Microscope, Model H-7600.

Manufacturer: Hitachi High-Technologies Corp., Japan.

Intended Use: See notice at 70 FR 10357, March 3, 2005.

Order Date: May 4, 2004.

Docket Number: 05-008.

Applicant: Rice University, Houston, TX 77005.

Instrument: Electron Microscope, Model JEM-1230.

Manufacturer: JEOL Ltd., Japan.

Intended Use: See notice at 70 FR 10357, March 3, 2005.

Order Date: June 25, 2004.

Docket Number: 05-009.

Applicant: Rice University, Houston, TX 77005.

Instrument: Electron Microscope, Model JEM-2100F.

Manufacturer: JEOL Ltd., Japan.

Intended Use: See notice at 70 FR 10357, March 3, 2005.

Order Date: June 25, 2004.

Docket Number: 05-010.

Applicant: Tuskegee University, Tuskegee, AL 36008.

Instrument: Electron Microscope, Model JEM-2010.

Manufacturer: JEOL Ltd., Japan.

Intended Use: See notice at 70 FR 10357, March 3, 2005.

Order Date: May 19, 2004.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument OR at the time of receipt of application by U.S. Customs and Border Protection.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E5-1171 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-P

DEPARTMENT OF COMMERCE

International Trade Administration

Cornell University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301).

Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 05-002.

Applicant: Cornell University, Ithaca, NY 14853.

Instrument: KB Mirror System.

Manufacturer: Khozu Precision Co., Ltd., Japan.

Intended Use: See notice at 70 FR February 7, 2005.

Comments: None received.

Decision: Approved. No apparatus of equivalent scientific value to the foreign apparatus, for such purposes as it is intended to be used, is being manufactured in the United States.

Reason: This is a compatible accessory for an existing instrument purchased for the use of the applicant. The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted for use with the existing instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E5-1173 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 00-011.

Applicant: Johns Hopkins University, School of Medicine, Microscope Facility, 725 N. Wolfe Street, Physiology Building, Room G-4, Baltimore, MD 21205.

Instrument: Electron microscope, Model H-7600-I.

Manufacturer: Hitachi High-Technologies Corporation, Japan.

Intended Use: The instrument is intended to be used to investigate:

(1) The mechanical properties of intermediate filaments composed of keratin;

(2) The structure and replication mechanism of kinoplast DNA;

(3) The basis of bacterial gliding motility by means of slime expulsion in certain prokaryotic cells;

(4) The mechanism of membrane protein delivery to the plasma membrane in mammalian cells;

(5) Identification of novel genes that play critical roles in the development of the retina.

Application accepted by Commissioner of Customs: February 25, 2005.

Docket Number: 05-012.

Applicant: University of Chicago, 933 East 56th Street, Chicago, IL 60637.

Instrument: Pattern Selection Trigger.

Manufacturer: Hytec Electronics, Ltd., United Kingdom.

Intended Use: The instrument is intended to be used, in conjunction with a digital computer system, for a telescope to study high-energy gamma-rays of astronomical origin.

Application accepted by Commissioner of Customs: February 28, 2005.

Docket Number: 05-013.

Applicant: National Institute of Standards and Technology.

Instrument: Focused Ion Beam Field Emission Scanning Electron Microscope, Model Nova 600 NanoLab.

Manufacturer: FEI Company, The Netherlands.

Intended Use: The instrument is intended to allow complex, chemically heterogeneous materials to be both synthesized using materials deposition from gas injection systems, and to be sectioned and ion milled using a Gallium ion beam for removal of material for study of the gross morphology, crystal structure and microstructure, chemical composition, electronic structure, and transport properties of materials to be measured on nanometer length scales. The phenomena of electron scattering, x-ray generation, beam transport, absorption and internal fluorescence will be studied to perform quantitative analyses of nanoscale materials for numerous ongoing research projects.

Application accepted by Commissioner of Customs: March 2, 2005.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E5-1172 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southwest Region Permit Family of Forms—Pacific.

Form Number(s): None.

OMB Approval Number: 0648-0490.

Type of Request: Regular submission.

Burden Hours: 85.

Number of Respondents: 200.

Average Hours per Response: 23 minutes.

Needs and Uses: The permits are required for persons to participate in federally-managed fisheries in the western Pacific region and off the U.S. West Coast. The Western Pacific Fishery Management Council has recommended the National Marine Fisheries Service's (NMFS) approval and implementation of Amendment 11 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region. Amendment 11 would establish a limited access permit program for the American Samoa-based pelagic longline fishery which necessitates a revised collection of information. The program requires information from potential initial participants and subsequent new entrants (via permit transfers) in the fishery. NMFS will use the information to determine who is eligible for issuance of American Samoa longline limited access permits. The fishermen will be required to use appropriate permit application forms/supplementary information sheets provided by NMFS.

Affected Public: Business or other for-profit organizations; Individuals or households.

Frequency: Variable.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek,

Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, fax number (202) 395-7285, or David_Rostker@omb.eop.gov.

Dated: March 10, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-5238 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

**Submission for OMB Review;
Comment Request**

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Pacific Islands Logbook Family of Forms.

Form Number(s): None.

OMB Approval Number: 0648-0214.

Type of Request: Regular submission.

Burden Hours: 2,483.

Number of Respondents: 207.

Average Hours Per Response: 14 minutes.

Needs and Uses: The fishermen in Federally-managed fisheries in the western Pacific region are required to provide certain information about their fishing activities. Amendment 11 to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region now necessitates a revised collection of information. The owners of large (>40 ft. in length) fishing vessels registered for use with American Samoa limited access longline permits would be required to notify NMFS of their vessels' intent to depart from port on a fishing trip. The pre-trip information enables NMFS to determine if that vessel must carry an observer.

Affected Public: Business or other for-profit organizations; Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by

calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or David_Rostker@omb.eop.gov.

Dated: March 10, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-5239 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

**Proposed Information Collection;
Comment Request; Southwest Region
Seabird-Fisheries Interaction Recovery
Reporting**

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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.

DATES: Written comments must be submitted on or before May 16, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Alvin Katekaru, 808-973-2935 ext. 207 or Alvin.Katekaru@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

In implementing mitigation measures to reduce interactions between seabirds and the Hawaii-based pelagic longline fishery, the National Marine Fisheries

Service (NMFS) is also requiring longline vessel operators to notify NMFS in the event an endangered short-tailed albatross is hooked or entangled during fishing operations. Following the retrieval of the seabird from the ocean, as required by Federal regulations, the vessel captain must record the conditions of the injured short-tailed albatross on a recovery data form. The information will be used by a veterinarian in providing advice to the captain caring for the short-tailed albatross. If the albatross is dead, the vessel captain must attach an identification/information tag to the carcass, as well as the specimen bag, to assist the U.S. Fish and Wildlife Service (FWS) biologists in follow-up studies on the specimen. This collection is one of the terms and conditions contained in a biological opinion issued by FWS and is intended to maximize the probability of the long-term survival of short-tailed albatross incidentally taken by longline gear.

II. Method of Collection

Paper data forms, sea to shore contact via vessel monitoring system unit (VMS), telephone or single side-band radio are required from participants, and methods of submittal include mail and facsimile transmission of paper forms.

III. Data

OMB Number: 0648-0456.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; and business or other for-profit organizations.

Estimated Number of Respondents: 2.

Estimated Time Per Response: 1 hour for notification; 1 hour for the report; and 30 minutes to attach specimen identification tags.

Estimated Total Annual Burden Hours: 5.

Estimated Total Annual Cost to Public: \$100.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 10, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-5241 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Northeast Region Sea Scallop Framework 16 Adjustment

AGENCY: National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice.

SUMMARY: The Department of Commerce, 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.

DATES: Written comments must be submitted on or before May 16, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Don Frei, 978-281-9221 or don.Frei@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Recent Atlantic sea scallop fishery management actions included a controlled Area Access Program as a key part of scallop management. To ensure compliance with the Area Access Program, participating vessels are required to use a Vessel Monitoring System (VMS) to enroll in the program and to report catch. On November 2, 2004, Framework 16 to the Atlantic Sea Scallop Fishery Management Plan

(FMP) and Framework 39 to the Northeast Multispecies FMP (Joint Frameworks) were implemented and included these same provisions for a new Area Access Program. In addition, the Joint Frameworks extended the Area Access Program, and VMS reporting requirements to include the general category scallop vessels, which were not previously eligible to fish in the Area Access Program. The reporting requirements for the general category scallop vessels are currently approved through June 30, 2005, and would be extended for 3 years through this action.

II. Method of Collection

General category scallop vessels fishing in the Area Access Program are required to install and operate VMS units, and report catch and related information through the VMS e-mail messaging system. The vessels must send notification of intent to fish in the Area Access Program through the VMS e-mail system at least 72 hours prior to the opening of an access area. All Area Access Program vessels must also notify the National Marine Fisheries Service (NMFS), via VMS message, of their intent to fish in the Area Access Program for any given month (5 days prior to the beginning of the month). These notifications to NMFS are necessary in order to allow for the assignment of at-sea observers on some trips. The VMS is polled every 30 minutes consistent with the requirement for other vessels participating in the Area Access Program.

III. Data

OMB Number: 0648-0509.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 274.

Estimated Time Per Response:

Installation of VMS, 1 hour; verification requirement of VMS unit, 5 minutes (0.083 hour); daily reporting requirements with observer on board, 10 minutes (0.17 hour); daily reporting requirements without observer on board, 10 minutes (0.17 hour); VMS/5-day notification before month of fishing, 2 minutes (0.033 hour); VMS/72-hour departure notification to a controlled access area, 2 minutes (0.033 hour); notification for the day vessel leaves on the area access trip, 2 minutes (0.033 hour); VMS polling-daily, twice per hour, 6 seconds (0.0014 hour).

Estimated Total Annual Burden Hours: 13,152.

Estimated Total Annual Cost to Public: \$491,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 10, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-5242 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Characterization of the U.S. Recreational Fishery for Atlantic White Marlin

AGENCY: National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice.

SUMMARY: The Department of Commerce, 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.

DATES: Written comments must be submitted on or before May 16, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection

instrument and instructions should be directed to: Eric D. Prince, (305) 361-4248, eric.prince@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

According to the International Commission for the Conservation of Atlantic Tunas (ICCAT), Atlantic white marlin has been severely overfished for several decades and the stock continues to decline. These unfortunate circumstances have prompted several conservation groups to petition NOAA Fisheries to list white marlin under the Endangered Species Act (ESA). One of the main objectives of the Atlantic Billfish Research Plan (http://www.sefsc.noaa.gov/PDFdocs/ABRP_01_30_04.pdf) is to develop better information for management and rebuilding of the stocks. This project is designed to investigate characteristics of the offshore recreational white marlin fishery, including identification of specific fishing techniques and potential variables that might be included in post-release survival experiments. Specific in-depth knowledge of fishing techniques is essential to evaluate recreational fishing impacts and to develop relevant research and management approaches to reduce mortality for this sector of the fishery.

Information will be obtained through a survey and complemented and confirmed by on-board observers in the Ocean City, Maryland area, which is known as the "White Marlin Capital of the World." The project will serve as a pilot program to develop and hone survey techniques and gain general acceptance for the survey through meetings, face-to-face dialogue and word of mouth. It is important to develop rapport with the boat captains and mates to obtain information on the methods and specific techniques used to catch white marlin, which might be closely guarded information. This work attempts to form a current and knowledgeable information source on which to base appropriate research and conservation measures relative to the U.S. recreational fishery for Atlantic white marlin.

II. Method of Collection

Paper applications, electronic reports, and telephone calls are required from participants, and methods of submittal include Internet and facsimile transmission of paper forms.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions and business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 85.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 10, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-5243 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Application for Commercial Fisheries Authorization Under Section 118 of the Marine Mammal Protection Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice.

SUMMARY: The Department of Commerce, 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.

DATES: Written comments must be submitted on or before May 16, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia Lawson, (301) 713-2322 or Patricia.Lawson@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Marine Mammal Protection Act (MMPA) requires any commercial fisher operating in Category I and II fisheries to register for a certificate of authorization that will allow the fisher to take marine mammals incidental to commercial fishing operations. Category I and II fisheries are those identified by NOAA as having either frequent or occasional takings of marine mammals.

Some States have integrated the NMFS registration process into the existing State fishery registration process and fishers in those fisheries do not need to file a separate Federal registration. If applicable, vessel owners will be notified of this simplified registration process when they apply for their State or Federal permit or license.

II. Method of Collection

Most fishers have their information imported directly into the MMAP from their State. Otherwise they can fill out the forms on NMFS' Web page or mail in application for exemption made available to them in the NMFS regions.

III. Data

OMB Number: 0648-0293.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 12,000.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 3,000 hours.

Estimated Total Annual Cost to Public: \$304,550.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 10, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05-5244 Filed 3-16-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031005C]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to issue an EFP that would allow vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for

exemptions from the NE multispecies year-round closure area restrictions and the NE multispecies Gulf of Maine (GOM) and Georges Bank (GB) hook gear restrictions. The applicant proposes to conduct a haddock tagging study to assess the movement of haddock between the GOM and GB stocks, western and eastern GB substocks, and across closure area boundaries. The EFP would allow these exemptions for up to 20 commercial vessels for a combined total of 30 trips. All experimental work would be monitored by Cape Cod Commercial Hook Fishermen's Association (CCCHFA) personnel. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Written comments must be received on or before March 31, 2005.

ADDRESSES: Written comments on this notice may be submitted by e-mail to: DA736@noaa.gov. Include in the subject line the following document identifier: "Comments on CCCHFA EFP Proposal for Haddock Tagging Study (DA-736)."

Written comments may also be mailed to: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on CCCHFA EFP Proposal for Haddock Tagging Study (DA-736)."

Comments may also be sent via fax to: (978) 281-9135.

Copies of the Environmental Assessment (EA) are available from the NE Regional Office at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Peter Cooper, Fishery Management Specialist, phone: 978-281-9122, fax: 978-281-9135.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted by CCCHFA, in collaboration with the Gulf of Maine Research Institute and the Northeast Fisheries Science Center (NEFSC), on November 22, 2004. Modifications to the initial EFP application were received on February 25, 2005. The EFP would exempt 20 federally permitted commercial fishing vessels from the following requirements in the FMP: NE multispecies closed area restrictions specified at §§ 648.81(a), (b), (d), and (e) for the purpose of providing access to haddock stocks within GB Closed Area (CA) I, GB CA II, Cashes Ledge Closure Area (Cashes), and the Western Gulf of Maine Closure Area (WGOM); and the NE multispecies GOM hook gear restrictions specified at

§ 648.80(a)(3)(v) and GB hook gear restrictions specified at § 648.80(a)(4)(v), in order to allow fishing for the purposes of tagging viable fish without hook gear restrictions.

Researchers request that the study would be conducted from March 2005 through February 2006. Fishing would take place aboard a maximum of 20 different fishing vessels totaling 30 trips fishing under NE multispecies Category A days-at-sea (DAS). Only the most vigorous haddock caught would be tagged and released to maximize their chance of survival. It is estimated that 250 haddock would be tagged and released each trip. All legal catch not tagged would be landed and sold, consistent with the current daily and trip possession landing limits. NEFSC personnel would accompany researchers on trips and sample the ovaries of landed haddock for fecundity research. The NEFSC fecundity research is not included in the EFP because it would be conducted only on landed catch. NEFSC fecundity research began February 2005, within CA I under a separate scientific research permit (SRP) that also allows haddock tagging in CA I. The EFP would not provide exemptions from the Eastern U.S./Canada Management Area, should this area or portion of this area be closed due to attainment of the U.S./Canada total allowable catches of GB cod, haddock, or yellowtail flounder. Undersized fish would be returned to the sea as quickly as possible. The participating vessels would be required to report all landings in their Vessel Trip Reports.

The goal of this study is to assess haddock movement between stock areas and across closure area boundaries. The proposed project would test existing assumptions about haddock movement rates between the GOM and GB, haddock movement rates between the eastern and western GB regulated areas, and haddock movement rates in and out of the closure areas. Researchers propose to use benthic longline gear consisting of hooks with fabricated baits (Norbait or Trident) that target haddock and reduce cod bycatch. An estimated total of 7,500 Hallmark T-bar tags would be deployed in the closure areas as follows: CA I (53.3 percent of tags); CA II (13.3 percent of tags); WGOM (26.7 percent of tags); and Cashes (6.7 percent of tags). Researchers under this tagging study, would be allowed to catch a maximum of 94,470 lb (42,851 kg) of haddock and 3,149 lb (1,429 kg) of cod within the closure areas. Catch limits would reflect tagging effort in closure areas within GB (62,980 lb (28,568 kg) haddock; 1,575 lb (715 kg) cod) and within the GOM (31,490 lb (14,284 kg)

haddock; 1,575 lb (715 kg) cod). A total of 35 percent of haddock caught is estimated to be viable for tagging. Thus, vessels would not be allowed to land more 65 percent of their overall haddock catch from the GB (40,937 lb, 18,569 kg) and GOM (20,469 lb, 9,285 kg) closure areas. If any of the maximum limits (haddock caught, haddock landed, or cod caught) is reached within GB or the GOM, vessels would not be allowed to continue fishing in the corresponding closure areas.

The target fishery is the groundfish mixed-species fishery. The main species expected to be caught under this EFP are haddock and Atlantic cod. Other commercially important fish commonly found in the groundfish mixed-species fishery are expected to be caught incidentally. The incidental catch is expected to be comprised of yellowtail flounder, pollack, American plaice, monkfish, skates, spiny dogfish, white hake, winter flounder, and witch flounder.

The applicant may place requests for minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impact of the initially approved EFP request. The applicant has prepared a draft Environmental Assessment (EA) that analyzes the impacts of the proposed experimental fishery on the human environment. The draft EA examines whether the proposed activities are consistent with the goals and objectives of the FMP, whether they would be detrimental to the well-being of any stocks of fish harvested, and whether they would have any significant environmental impacts. The draft EA also examines whether the proposed experimental fishery would be detrimental to essential fish habitat, marine mammals, or protected species. After publication in the **Federal Register** the EFP may become effective following a 15 day public comment period.

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

Dated: March 14, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E5-1162 Filed 3-15-05; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE

Department of the Army

Inland Waterways Users Board; Request for Nominations

AGENCY: Department of the Army, DOD.
ACTION: Notice.

SUMMARY: Section 302 of Pub. L. 99-662 established the Inland Waterways Users Board. The Board is an independent Federal advisory committee. The Secretary of the Army appoints its 11 members. This notice is to solicit nominations for six (6) appointments or reappointments to two-year terms that will begin after June 14, 2005.

ADDRESSES: Office of the Assistant Secretary of the Army (Civil Works), Attention: Inland Waterways Users Board Nominations Committee, 103 Army Pentagon, Washington, DC 20310-0103.

FOR FURTHER INFORMATION CONTACT: Office of the Assistant Secretary of the Army (Civil Works), (703) 697-8986.

SUPPLEMENTARY INFORMATION: The selection, service, and appointment of Board members are covered by provisions of section 302 of Public Law 99-662. The substance of those provisions is as follows:

a. *Selection.* Members are to be selected from the spectrum of commercial carriers and shippers using the inland and intracoastal waterways, to represent geographical regions, and to be representative of waterborne commerce as determined by commodity ton-miles statistics.

b. *Service.* The Board is required to meet at least semi-annually to develop and make recommendations to the Secretary of the Army on waterways construction and rehabilitation priorities and spending levels for commercial navigation improvements, and report its recommendations annually to the Secretary and Congress.

c. *Appointment.* The operation of the board and appointment of its members are subject to the Federal Advisory Committee Act (Pub. L. 92-463, as amended) and departmental implementing regulations. Members serve without compensation but their expenses due to Board activities are reimbursable. The considerations specified in Section 302 for the selection of the Board members, and certain terms used therein, have been interpreted, supplemented, or otherwise clarified as follows:

(1) *Carriers and Shippers.* The law uses the terms "primary users and shippers." Primary users have been interpreted to mean the providers of

transportation services on inland waterways such as barge or towboat operators. Shippers have been interpreted to mean the purchasers of such services for the movement of commodities they own or control. Individuals are appointed to the Board, but they must be either a carrier or shipper, or represent a firm that is a carrier or shipper. For that purpose a trade or regional association is neither a shipper or primary user.

(2) *Geographical Representation.* The law specifies "various" regions. For the purpose of selecting Board members, the waterways subjected to fuel taxes and described in Public Law 95-502, as amended, have been aggregated into six regions. They are: (1) The Upper Mississippi River and its tributaries above the mouth of the Ohio; (2) the Lower Mississippi River and its tributaries below the mouth of the Ohio and above Baton Rouge; (3) the Ohio River and its tributaries; (4) the Gulf Intracoastal Waterway in Louisiana and Texas; (5) the Gulf Intracoastal Waterway east of New Orleans and associated fuel-taxed waterways including the Tennessee-Tombigbee, plus the Atlantic Intracoastal Waterway below Norfolk; and (6) the Columbia-Snake Rivers System and Upper Willamette. The intent is that each region shall be represented by at least one Board member, with that representation determined by the regional concentration of the individual's traffic on the waterways.

(3) *Commodity Representation.* Waterway commerce has been aggregated into six commodity categories based on "inland" ton-miles shown in Waterborne Commerce of the United States. These categories are: (1) Farm and Food Products; (2) Coal and Coke; (3) Petroleum, Crude and Products; (4) Minerals, Ores, and Primary Metals and Mineral Products; (5) Chemicals and Allied Products; and (6) All other. A consideration in the selection of Board members will be that the commodities carried or shipped by those individuals or their firms will be reasonably representative of the above commodity categories.

d. *Nomination.* Reflecting preceding selection criteria, the current representation by the six (6) Board members whose terms will expire is one member each representing regions 1, 2, 4, and 5, and two members representing region 3. Also, four of these Board members represent carriers, one represents a shipper and one represents a carrier/shipper.

Five of the six members whose terms will expire are eligible for reappointment. Nominations to replace

Board members whose terms expire may be made by individuals, firms or associations. Nominations will:

- (1) State the region to be represented.
- (2) State whether the nominee is representing carriers, shippers or both.
- (3) Provide information on the nominee's personal qualifications.
- (4) Include the commercial operations of the carrier and/or shipper with whom the nominee is affiliated. This commercial operations information will show the actual or estimated ton-miles of each commodity carried or shipped on the inland waterways system in a recent year (or years) using the waterway regions and commodity categories previously listed.

Nominations received in response to **Federal Register** notice published on January 14, 2004 (69 FR 2122) have been retained for consideration. Renomination is not required but may be desirable.

e. Deadline for Nominations. All nominations must be received at the address shown above no later than April 22, 2005.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05-5327 Filed 3-16-05; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision for the Proposed Leasing of Lands at Fort Bliss, Texas for the Proposed Siting, Construction, and Operation by the City of El Paso of a Brackish Water Desalination Plant and Support Facilities

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army announces the execution of a Record of Decision (ROD) to grant an easement to the City of El Paso, El Paso Water Utilities (EPWU), for land in the South Training Areas of Fort Bliss for construction and operation of a desalination plant and support facilities, including wells, pipelines, and disposal sites for the residual brine, referred to as concentrate, resulting from the desalination process. The ROD was signed on March 7, 2005, pursuant to the completion of a Final Environmental Impact Statement (FEIS) dated December 2004.

ADDRESSES: To obtain copies of the ROD, contact John F. Barrera (915) 568-3908 or write to: Fort Bliss Directorate of the Environment, ATTN: IMSW-

BLS-Z, Building 624, Pleasanton Road, Fort Bliss, TX 79916-6812.

FOR FURTHER INFORMATION CONTACT: John F. Barrera, (915) 568-3908.

SUPPLEMENTARY INFORMATION: The desalination plant is needed to provide an additional reliable source of potable water for the City of El Paso and Fort Bliss. Currently, both EPWU and Fort Bliss pump fresh groundwater from the Hueco Bolson Aquifer. Ongoing withdrawals of fresh groundwater from the bolson exceed the aquifer's recharge rate. Pumping of fresh groundwater by EPWU, the Army, Ciudad Juarez, and others has resulted in declining groundwater levels in the bolson. Brackish groundwater is intruding into the aquifer's freshwater area and has the potential to affect existing water wells on Fort Bliss and in other areas of El Paso. The desalination plant will treat brackish (salty) water from the Hueco Bolson Aquifer to provide potable water for use by the city and Fort Bliss.

The FEIS addressed the potential environmental effects of the proposed project and analyzed seven alternatives in detail; six action alternatives and the No Action Alternative. The six action alternatives comprised alternative combinations of three candidate sites for the desalination plant itself—Sites 1, 2, and 3—and two alternatives for disposing of the concentrate, deep-well injection and evaporation ponds. The Army has decided to grant an easement to EPWU to implement Alternative 3, consisting of desalination plant Site 3, an undeveloped site near Montana Avenue east of El Paso International Airport, and disposal of the concentrate through deep-well injection at a location in the northeast corner of the South Training Areas of Fort Bliss near the Texas-New Mexico border.

In reaching this decision, the Army considered its own needs for a reliable source of potable water, compatibility with its training mission, and the environmental consequences associated with each alternative. The Army decided not to select the No Action Alternative because it fails to address the issues of declining freshwater supplies and impending brackish groundwater intrusion on Fort Bliss wells. Among the action alternatives, the Army selected deep-well injection as the preferred concentrate disposal method because it is the preferred method of EPWU and, with the protection provided by the Texas Commission on Environmental Quality permitting process, appears to have less potential for adverse environmental impacts than the evaporation ponds. The three desalination plant sites do not

differ materially in their compatibility with the Army's mission or their environmental effects; therefore, the Army selected Site 3 because it is EPWU's preferred site due to its proximity to roads and utilities, as well as to EPWU's water distribution system.

All practicable means of avoiding or minimizing environmental harm have been adopted through site selection and mitigation measures. The desalination plant site does not contain sensitive cultural or biological resources, and a desalination plant is compatible with near-by land uses. Mitigation measures to be implemented by EPWU to further reduce the potential for adverse environmental impact include the following:

1. Using dust suppression measures during ground disturbance to prevent erosion and wind-blown dust.
2. Installing pressure monitors in the concentrate pipeline to detect leaks or catastrophic failures and developing an emergency action plan to minimize the release of concentrate during an accident or equipment failure.
3. Designing the access road to the desalination plant site to minimize impact to traffic flow on Montana Avenue.
4. Establishing a procedure for EPWU to coordinate access to the injection wells and concentrate pipelines with Fort Bliss to ensure required maintenance can be performed with minimal interference with the Army's mission at Fort Bliss.

These mitigation measures will be included as conditions of the easement to be granted by the Army to EPWU.

Hugh M. Exton, Jr.,

Director, SWRO, Installation Management Agency.

[FR Doc. 05-5326 Filed 3-16-05; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date: Wednesday, April 13, 2005.

Place of Meeting: Veterans Affairs Conference room, Room 418, Senate Russell Building, Washington, DC.

Start Time of Meeting: Approximately 9 a.m.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Colonel Shaun T. Wurzbach, United States Military Academy, West Point, NY 10996-5000, (845) 938-4200.

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* Spring Meeting of the Board of Visitors. Review of the Academic, Military and Physical Programs at the USMA. Sub Committee meeting on Academics, Military/Physical and Quality of Life to be held prior to Spring meeting. All proceedings are open.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05-5329 Filed 3-16-05; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The following invention is assigned to the U.S. Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy.

U.S. Patent Number 6,562,160 B2 entitled "Airbag Propellant."

ADDRESSES: Requests for copies of the Patent cited should be directed to the Naval Surface Warfare Center, Code CAB, 101 Strauss Avenue, Indian Head, MD 20640-5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code CAB, 101 Strauss Avenue, Indian Head, MD 20640-5035, telephone 301-744-6111.

Dated: March 10, 2005.

I.C. Le Moyne Jr.,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 05-5291 Filed 3-16-05; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 18, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 11, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Individual Student Performance Report for the Jacob K. Javits Fellowship Program.

Frequency: Annually.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 190.

Burden Hours: 570.

Abstract: This information collection provides the U.S. Department of Education with information needed to determine if fellows have made substantial progress toward meeting the program's objectives and allows program staff to monitor and evaluate time-to-degree completion. The Congress has mandated (through the Government Performance Results Act of 1993) that the U.S. Department of Education provide documentation about the progress being made by the program.

Requests for copies of the submission for OMB review; comment request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2655. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to the Internet address OCIO_RIMG@ed.gov or faxed to (202) 245-6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 05-5257 Filed 3-16-05; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 16, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of

1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 11, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Department of Education

Type of Review: Extension.

Title: Master Plan for Customer Surveys and Focus Groups.

Frequency: One time.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, local, or tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 50,000.

Burden Hours: 25,000.

Abstract: Customer satisfaction surveys and focus group discussions

will be conducted by the Principal Offices of the Department of Education to measure customer satisfaction and establish and improve customer service standards as required by Executive Order 12862.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2717. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to the Internet address OCIO_RIMG@ed.gov or faxed to (202) 245-6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 05-5259 Filed 3-16-05; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 18, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested

Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: March 14, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.

Title: Fiscal Operations Report for 2004-2005 and Application to Participate for 2006-2007 (FISAP) and Reallocation Form E40-4P.

Frequency: Annually.

Affected Public: Not-for-profit institutions; businesses or other for-profit; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 5,872.

Burden Hours: 26,339.

Abstract: This application data will be used to compute the amount of funds needed by each school for the 2006-2007 award year. The Fiscal Operations Report data will be used to assess program effectiveness, account for funds expended during the 2003-2004 award year, and as part of the school funding process. The Reallocation form is part of the FISAP on the Web. Schools will use it in the summer to return unexpended funds for 2003-2004 and request supplemental Federal Work-Study (FWS) funds for 2004-2005.

Requests for copies of the submission for OMB review; comment request may be accessed from <http://edicsweb.ed.gov>, by selecting the

“Browse Pending Collections” link and by clicking on link number 2658. When you access the information collection, click on “Download Attachments” to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to the Internet address OCIO_RIMG@ed.gov or faxed to 202-245-6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 05-5307 Filed 3-16-05; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 16, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection,

grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 14, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.
Title: Private School Participation Study.

Frequency: Annually.
Affected Public: Not-for-profit institutions; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 900.
Burden Hours: 450.

Abstract: This review asks for clearance for an evaluation of the participation of private school students in Federal education programs.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the “Browse Pending Collections” link and by clicking on link number 2714. When you access the information collection, click on “Download Attachments” to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to the Internet address OCIO_RIMG@ed.gov or faxed to 202-245-6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at

her e-mail address Katrina.Ingalls@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 05-5308 Filed 3-16-05; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On March 10, 2005, the Department of Education published a notice in the **Federal Register** (Page 11947, Column 3) for the information collection, “State Library Agencies Survey, 2005-2007.” The link number to access this collection is hereby corrected to 2709. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: March 11, 2005.

Angela C. Arrington,

Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

[FR Doc. 05-5258 Filed 3-16-05; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[Dockets Nos. EA-247-B & EA-248-B]

Applications to Export Electric Energy; Constellation NewEnergy, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of applications.

SUMMARY: Under two separate applications, Constellation NewEnergy, Inc., (Constellation) has applied to renew, for a period of five years, its authority to transmit electric energy from the United States to Mexico and from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before April 1, 2005.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Fossil Energy, (FE-27) U.S. Department of Energy, 1000 Independence Avenue,

SW., Washington, DC 20585-0350 (FAX 202-287-5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202-586-4708 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On November 13, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued Order No. EA-247 which authorized Constellation (formerly AES NewEnergy, Inc.) to transmit electric energy from the United States to Mexico as a power marketer. On April 10, 2003, FE issued Order No. EA-247-A in which it renewed that authorization for a two-year term which expires on April 10, 2005. On March 9, 2005, Constellation applied to FE to renew the authorization contained in Order No. EA-247-A for a five-year term. In its application, Constellation requested expedited processing of its application so that it may undertake significant new sales into the Mexican market beginning in the Spring/Summer of 2005. DOE has decided to grant Constellation's request and has shortened the public comment period in this proceeding to 15 days.

On November 26, 2001, FE issued Order No. EA-248 which authorized Constellation to transmit electric energy from the United States to Canada as a power marketer. On April 8, 2003, FE issued Order No. EA-248-A which renewed that authorization for a two-year term which expires on April 8, 2005. On March 9, 2005, Constellation applied to FE to renew the authorization contained in Order No. EA-248-B for a five-year term. In its application, Constellation requested expedited processing of its application so that it can continue deliveries of electric energy ranging between 3,000 and 6,000 megawatt-hours per month to Canada. DOE has decided to grant Constellation's request and has shortened the public comment period to 15 days.

In the application filed in Docket No. EA-247-B, Constellation proposes to export electric energy to Mexico over the international transmission facilities owned by San Diego Gas and Electric Company, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electricidad, the national utility of Mexico.

In the application filed in Docket No. EA-248-B, Constellation proposes to export electric energy to Canada over

the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Boise Cascade, Citizens Utilities Company, Eastern Maine Electric Cooperative, International Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by Constellation NewEnergy, as more fully described in the applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters. Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the dates listed above.

Comments on the Constellation application to export electric energy to Mexico should be clearly marked with Docket EA-247-B. Comments on the Constellation application to export electric energy to Canada should be clearly marked with Docket EA-248-B. Additional copies are to be filed directly with Cathy Barron, Esq. Counsel, Constellation NewEnergy, Inc., 800 Boylston St., 28th Floor, Boston, MA 02199 AND Jeffrey D. Watkiss, Esq., William S. Lavarco, Esq., Bracewell & Patterson, LLP, 2000 K Street, NW., 5th Floor, Washington, DC 20006.

A final decision will be made on each of these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the DOE address provided above or by accessing the Fossil Energy Home Page at <http://www.fe.doe.gov>. Upon reaching the Fossil Energy Home page, select "Electricity Regulation," and then

"Pending Proceedings" from the options menus.

Issued in Washington, DC, on March 11, 2005.

Anthony J. Como,
*Deputy Director, Electric Power Regulation,
Office of Fossil Energy.*

[FR Doc. 05-5310 Filed 3-16-05; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[FE Docket No. PP-300]

Application for Presidential Permit; Maine Public Service Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Maine Public Service Company (MPSCo) has applied for a Presidential permit for the construction, operation, maintenance, and connection of a 138,000-volt (138-kV) electric transmission line across the U.S. border with Canada.

DATES: Comments, protests, or requests to intervene must be submitted on or before April 18, 2005.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Fossil Energy (FE-27), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (FAX 202-287-5736).

FOR FURTHER INFORMATION CONTACT: Dr. Jerry Pell (Program Office) at 202-586-3362 or Jerry.Pell@hq.doe.gov, or Michael T. Skinker (Program Attorney) at 202-586-2793.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On January 21, 2005, MPSCo filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit for the construction of a 138-kV electric transmission line that would cross the U.S.-Canadian border. MPSCo is a wholly-owned subsidiary of Maine and Maritimes Corporation, both of which are headquartered in Presque Isle, Maine.

The proposed 138-kV transmission line would originate at MPSCo's existing substation located in Limestone, Maine, and extend approximately 10.5 miles to the U.S.-

Canadian border in the vicinity of Hamlin, Maine. At the border, the proposed facilities would connect with an existing 138-kV transmission line owned and operated by New Brunswick Power Corporation, the electric utility in the Province of New Brunswick, Canada. MPSCo claims that the proposed international transmission line is required to increase the reliability of the electrical grid in northern Maine.

Since the restructuring of the electric power industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorization granted to entities requesting authority to export over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities constructed pursuant to Presidential permits to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the FPA and articulated in Federal Energy Regulation Commission Order No. 888, as amended (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities). In furtherance of this policy, DOE intends to condition any Presidential permit issued in this proceeding on compliance with these open access principles.

Procedural Matters. Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with § 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Additional copies of such petitions to intervene or protest also should be filed directly with Thomas F. Osgood, Director of Engineering, System Operations, Asset Management, Maine Public Service Company, P.O. Box 1209, Presque Isle ME 04769-1209.

Before a Presidential permit may be issued or amended, the DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply

system. In addition, DOE must consider the environmental impacts of the proposed action (*i.e.*, granting the Presidential permit, with any conditions and limitations, or denying it) pursuant to the National Environmental Policy Act of 1969 (NEPA). DOE also must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

The NEPA compliance process is a cooperative non-adversarial process involving members of the public, State governments, tribal governments, and the Federal Government. The process affords all persons interested in or potentially affected by the environmental consequences of a proposed action an opportunity to present their views, which will be considered in the preparation of the environmental documentation for the proposed action. Intervening and becoming a party to this proceeding will not create any special status for the petitioner with regard to the NEPA process. Notices of forthcoming NEPA activities and information on how to participate in those activities will appear in the **Federal Register**.

Copies of this application will be made available, upon request, for public inspection and copying at the DOE address provided above. In addition, the application may be viewed on, or downloaded from, the Office of Fossil Energy Web site at <http://www.fe.doe.gov/programs/electricityregulation/index.html>. Select "Pending Proceedings" from the options menu.

Issued in Washington, DC, on March 11, 2005.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Fossil Energy.

[FR Doc. 05-5309 Filed 3-16-05; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG05-52-000, et al.]

Basin Creek Equity Partners, L.L.C., et al.; Electric Rate and Corporate Filings

March 10, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Basin Creek Equity Partners, L.L.C.

[Docket No. EG05-52-000]

Take notice that on March 7, 2005, Basin Creek Equity Partners, L.L.C., a Delaware limited liability company (Basin Creek) with its principal executive office at 65 East Broadway, Fourth Floor, Butte, Montana 59701, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations and section 32 of the Public Utility Holding Company Act of 1935, as amended.

Basin Creek states that it is constructing and intends to own and operate an approximately 51.8 MW simple-cycle natural gas-fired generating facility located in Silver Bow County, Montana (Facility). Applicant states that the Facility will be interconnected with the transmission system of NorthWestern Energy, a division of NorthWestern Corporation, which will also purchase the entire electrical output of the Facility at wholesale. Basin Creek further states that it will be engaged directly and exclusively in the business of owning and operating eligible facilities.

Comment Date: 5 p.m. eastern time on March 28, 2005.

2. PJM Interconnection, L.L.C.

[Docket No. EL03-236-006]

Take notice that on March 4, 2005, PJM Interconnection, L.L.C. submitted a compliance filing pursuant to the Commission's order issued January 25, 2005 in Docket No. EL03-236-001, *et al.*, FERC ¶ 61,053 (2005).

Comment Date: 5 p.m. eastern time on April 4, 2005.

3. Puget Sound Energy, Inc.

[Docket Nos. EL05-37-001, ER99-845-008]

Take notice that on February 1, 2005, Puget Sound Energy, Inc. (Puget Sound) tendered for filing additional information pursuant to Ordering Paragraph (F) of the Commission's "Order on Updated Market Power Analysis, Instituting Section 206 Proceeding and Establishing Refund Effective Date" issued December 20, 2004 in Docket No. ER99-485-004, *et al.*, 109 FERC ¶ 61,293 (2004).

Comment Date: 5 p.m. eastern time on March 21, 2005.

4. Southern Company Energy Marketing L.P. and Southern Company Services, Inc.

[Docket Nos. ER97-4166-019, ER96-780-009, EL04-124-002]

Take notice that on February 15, 2005, Southern Company Services, Inc., acting

as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company, and Southern Power Company, submitted testimony and exhibits addressing the matters at issue in the Commission's order issued December 17, 2004 in Docket No. ER97-4166-015, *et al.*, 109 FERC ¶ 61,275 (2004).

Comment Date: 5 p.m. eastern time on March 23, 2005.

5. FPL Energy MH50, L.P.

[Docket No. ER99-2917-005]

Take notice that on March 7, 2005, FPL Energy MH50, L.P. (FPLE MH50) submitted revised tariff sheets in compliance with *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,277 (2003) and Order No. 652, *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority* issued February 10, 2005, 110 FERC ¶ 61,097 (2005).

FPLE MF50 states that copies of the filing were served on the parties on the official service lists in the above-captioned proceeding and the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on March 28, 2005.

6. Doswell Limited Partnership

[Docket No. ER00-2391-004]

Take notice that on March 7, 2005, Doswell Limited Partnership (Doswell) submitted an errata to its compliance filing made February 28, 2005. Doswell states the errata filing is for the purpose of including the revised tariff sheets in compliance with Order No. 614, Designation of Electric Rate Schedule Sheets, issued March 31, 2000, which were inadvertently omitted from the original filing.

Doswell states that copies of the filing were served on parties on the official service list and the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on March 28, 2005.

7. UBS AG

[Docket No. ER02-973-002]

Take notice that on March 7, 2005, UBS AG (UBS) submitted a triennial updated market power analysis. In addition, UBS submitted a revised market-based rate tariff in compliance with Order No. 652, *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority* issued February 10, 2005, 110 FERC ¶ 61,097 (2005).

Comment Date: 5 p.m. eastern time on March 28, 2005.

8. California Independent System Operator Corporation

[Docket No. ER04-632-002]

Take notice that on March 7, 2005, as corrected on March 8, 2005, the California Independent System Operator Corporation submitted a compliance filing pursuant to the Commission's February 18, 2005 Order in Docket No. ER04-632-001, 110 FERC ¶ 61,173.

CAISO states that the filing has been served on all parties on the official service list for this proceeding and has been posted on the CAISO Web site.

Comment Date: 5 p.m. eastern time on March 28, 2005.

9. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER04-691-028, EL04-104-027]

Take notice that on March 7, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted a compliance filing pursuant to the Commission's orders issued August 6, 2004, *Midwest Independent Transmission Operator, Inc.*, 108 FERC ¶ 61,163 (2004) and January 24, 2005, *Midwest Independent Transmission System Operator, Inc., et al.*, 110 FERC ¶ 61,049 (2005). Midwest ISO has requested a March 24, 2005 effective date.

The Midwest ISO states that it has electronically served a copy of the filing on all Midwest ISO members, member representatives of transmission owners and non-transmission owners, the Midwest ISO advisory committee participants, as well as all State commissions within the region. In addition, Midwest ISO states that the filing has been electronically posted on the Midwest ISO's Web site at <http://www.midwestiso.org> under the heading "Filings to FERC" and that it will provide hard copies to any interested parties upon request.

Comment Date: 5 p.m. eastern time on March 28, 2005.

10. Old Dominion Electric Cooperative

[Docket No. ER05-360-001]

Take notice that on March 3, 2005, Old Dominion Electric Cooperative submitted a compliance filing pursuant to the Commission's letter order issued February 16, 2005 in Docket No. ER05-360-000, 110 FERC ¶ 61,165 (2005).

Comment Date: 5 p.m. eastern time on March 24, 2005.

11. Kentucky Utilities Company

[Docket No. ER05-465-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing

of an amendment to the contract between KU and the City of Madisonville, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 306. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

12. Kentucky Utilities Company

[Docket No. ER05-466-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Providence, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 305. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

13. Kentucky Utilities Company

[Docket No. ER05-467-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Barbourville, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 304. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

14. Kentucky Utilities Company

[Docket No. ER05-468-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Paris, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 301. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

15. Kentucky Utilities Company

[Docket No. ER05-469-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Bardstown, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 302. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

16. Kentucky Utilities Company

[Docket No. ER05-470-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Nicholasville, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 303. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

17. Kentucky Utilities Company

[Docket No. ER05-474-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Falmouth, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 310. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

18. Kentucky Utilities Company

[Docket No. ER05-475-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Frankfort, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 311. KU states that the revisions were made to better

conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

19. Kentucky Utilities Company

[Docket No. ER05-476-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Corbin, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 309. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

20. Kentucky Utilities Company

[Docket No. ER05-477-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Benham, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 308. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

21. Kentucky Utilities Company

[Docket No. ER05-478-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its January 19, 2005 filing of an amendment to the contract between KU and the City of Bardwell, Kentucky dealing with the pricing of power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 307. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

22. Kentucky Utilities Company

[Docket No. ER05-586-001]

Take notice that on March 3, 2005, Kentucky Utilities (KU) (a subsidiary of LG&E Energy LLC) submitted an amendment to its February 16, 2005 filing of an amendment to the contract between KU and the City of Owensboro, Kentucky dealing with the pricing of

power received from the Southeastern Power Administration, designated as Rate Schedule FERC No. 300. KU states that the revisions were made to better conform to Order No. 614 formatting requirements.

Comment Date: 5 p.m. eastern time on March 24, 2005.

23. The Narragansett Electric Company

[Docket No. ER05-675-000]

Take notice that on March 3, 2005, The Narragansett Electric Company (Narragansett) tendered for filing a revised tariff for borderline sales designated as The Narragansett Electric Company, FERC Electric Tariff, First Revised Volume No. 1. Narragansett requests an effective date of November 1, 2004.

Narragansett states that copies of the filing were served on the regulators in the State of Rhode Island.

Comment Date: eastern time on March 24, 2005.

24. Virginia Electric and Power Company

[Docket No. ER05-676-000]

Take notice that on March 3, 2005, Virginia Electric and Power Company (Virginia Power) submitted a revised generator interconnection and operating agreement with Tenaska Virginia Partners, L.P. (Tenaska) to reflect the reclassification of certain direct assignment facilities as network upgrades. Virginia Power has requested an effective date of March 1, 2005.

Virginia Power states that copies of the filing were served on Tenaska and the Virginia State Corporation Commission.

Comment Date: eastern time on March 24, 2005.

25. Calpine Construction Finance Company, L.P.

[Docket No. ER05-677-000]

Take notice that on March 3, 2005, Calpine Construction Finance Company, L.P. (CCFC) submitted for filing a rate schedule for reactive power from the Osprey Energy Center. CCFC requests an effective date of March 15, 2005.

Comment Date: eastern time on March 24, 2005.

26. Pacific Gas and Electric Company

[Docket No. ER05-678-000]

Take notice that on March 4, 2005, Pacific Gas and Electric Company (PG&E) tendered for filing a notice of cancellation of Service Agreement No. 19 under PG&E's FERC Electric Tariff, Sixth Revised Volume No. 5, the generator special facilities agreement with Three Mountain Power, LLC. PG&E

requests an effective date of May 4, 2005.

PG&E states that copies of the filing have been served on the California Public Utilities Commission, the California Independent System Operator Corporation and Three Mountain Power, LLC.

Comment Date: eastern time on March 25, 2005.

27. American Electric Power Service Corporation

[Docket No. ER05-683-000]

Take notice that on March 7, 2005, American Electric Power Service Corporation (AEPSC), on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company and Ohio Power Company (AEP Eastern Operating Companies) tendered for filing a restated and amended PJM services agreement between AEP Eastern Operating Companies and Buckeye Power, Inc.

AEPSC states that a copy of the filing has been served on Buckeye Power, Inc.

Comment Date: eastern time on March 28, 2005.

28. WPS Power Development, LLC

[Docket Nos. ER05-684-000, ER02-1059-001]

Take notice that on March 7, 2005, WPS Power Development, LLC (WPS Power) tendered for filing a Notice of Succession and a revised market-based rate tariff which reflects an internal corporate restructuring and a name change from WPS Power Development, Inc. to WPC Power Development, LLC. WPS Power requests an effective date of March 1, 2005.

Comment Date: eastern time on March 28, 2005.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5-1174 Filed 3-16-05; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[OW-2004-0038, FRL-7885-2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Survey of Airport Deicing Operations, EPA ICR Number 2171.01

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 EPA is planning to submit a proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request for a new collection. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection (Airline Questionnaire) as described below. EPA is also extending the comment period on a related, previously-announced collection (Airport Questionnaire).

DATES: For both the Airline and Airport Questionnaires, comments must be submitted on or before May 16, 2005. (The Airport Questionnaire was previously announced on January 28, 2005.)

ADDRESSES: Submit your comments, referencing docket ID number OW-

2004-0038, to EPA online using EDocket (our preferred method), by e-mail to ow-docket@epa.gov, or by mail to: Water Docket, 4101T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, EPA Office of Water, telephone 202-566-1026, e-mail strassler.eric@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OW-2004-0038, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Water Docket is 202-566-2422. An electronic version of the public docket is available through EPA Dockets (EDocket) at <http://www.epa.gov/edocket>. Use EDocket to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "Search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDocket as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDocket. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDocket. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

Affected Entities: Entities potentially affected by this action are airport owners/operators.

Title: Survey of Airport Deicing Operations (Airline Questionnaire).

Abstract: EPA is developing wastewater discharge standards, called "effluent guidelines," for airports pursuant to the Agency's 2004 Effluent Guidelines Plan (69 FR 53719, September 2, 2004). The focus of the rulemaking is on wastewater discharges from aircraft and runway deicing operations. EPA will send survey questionnaires to a sample of air carriers to help the Agency compile a national assessment of deicing operations. The survey will include questions on the deicing technologies employed, amount of deicing chemicals used, pollution prevention techniques, and economic and financial information. Each air carrier receiving a questionnaire package would be asked to provide responses for a specified sample of locations at which the airline operates. Completion of this one-time survey will be mandatory pursuant to sec. 308 of the Clean Water Act.

EPA has prepared a separate draft questionnaire for airports. This questionnaire was announced at 70 FR 4117, January 28, 2005, with a comment deadline of March 29, 2005. EPA is hereby extending the comment deadline for the Airport Questionnaire to match the deadline for the Airline Questionnaire, namely May 16, 2005.

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.

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 estimated burden for this survey is 24 hours per air carrier site (*i.e.* an air carrier's operational facility at a specific airport). The total number of air carrier sites is 300, producing an approximate total burden of 7,200 hours. 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: March 10, 2005.

Mary T. Smith,

Acting Director, Office of Science and Technology.

[FR Doc. 05-5324 Filed 3-16-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. R10-OAR-2005-OR-0003; FRL-7885-1]

Adequacy Status of the Medford-Ashland PM₁₀ Attainment and Maintenance Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found the Medford-Ashland PM₁₀ Attainment and Maintenance Plan adequate for transportation conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has found them adequate. This affects future transportation conformity determinations prepared, reviewed and approved by the Rogue Valley Council of Governments, Oregon Department of Transportation, Federal Highway Administration and the Federal Transit Administration.

DATES: This finding is effective April 1, 2005.

FOR FURTHER INFORMATION CONTACT: The finding is available at EPA's conformity Web site: <http://www.epa.gov/otaq/transp.htm>, (once there, click on the "Transportation Conformity" button, then look for "Adequacy Review of SIP Submissions"). You may also contact Wayne Elson, U.S. EPA, Region 10, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Ave, Seattle WA 98101; (206) 553-1463 or elson.wayne@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that we have already made. EPA Region 10 sent a letter to the Oregon Department of Environmental Quality on March 8, 2005, stating that the SIP is adequate for transportation conformity purposes.

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP is adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review and it also should not be used to prejudge our ultimate approval of the SIP. Even if we find a SIP adequate for conformity, the SIP could later be disapproved. For the reader's ease, the motor vehicle emissions budget is 3,754 tons per year. This was the only budget included in the Plan.

We have described our process for determining the adequacy in SIPs in guidance dated May 14, 1999. This guidance in now is reflected in the amended transportation conformity rule, July 1, 2004 (69 FR 40004). We followed this process in making our adequacy determination.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 9, 2005.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 05-5325 Filed 3-16-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7885-5]

Clean Air Act Advisory Committee (CAAAC)/Clean Air Excellence Awards Program; Notice of Meeting**AGENCY:** Environmental Protection Agency.**ACTION:** Notice.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

DATES: Open meeting notice: Pursuant to 5 U.S.C. App. 2 Section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Friday, April 8, 2005, from approximately 8:30 a.m. to 3:30 p.m. at the Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC. Seating will be available on a first come, first served basis. Subcommittee meetings will be held on April 7, 2005 from approximately 8:30 a.m. to 4:30 p.m. at the Renaissance Mayflower Hotel, the same location as the full Committee. The Mobile Source Technical Review subcommittee and the Linking Land Use, Transportation and Air Quality subcommittee will not meet at this time. The 2004 Clean Air Excellence Awards Program will follow the subcommittee meetings on April 7 at the same location. EPA established this annual awards program to recognize outstanding and innovative efforts that support progress in achieving clean air. The agenda for the full committee meeting will be posted on the CAAAC Web site: <http://www.epa.gov/oar/caaac/>.

Inspection of Committee Documents: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket OAR-2004-0075. The Docket office can be reached by telephoning 202-260-7548; FAX 202-260-4400.

FOR FURTHER INFORMATION CONTACT: Concerning the CAAAC, please contact Pat Childers, Office of Air and

Radiation, U.S. EPA (202) 564-1082, FAX (202) 564-1352 or by mail at U.S. EPA, Office of Air and Radiation (Mail code 6102 A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. For information on the Subcommittee meetings, please contact the following individuals: (1) Permits/NSR/Toxics Integration—Debbie Stackhouse, 919-541-5354; and (2) Air Quality Management—Jeff Whitlow 919-541-5523 (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, 202-564-1667. Additional Information on these meetings, CAAAC, its Subcommittees and the Clean Air Excellence Awards Program can be found on the CAAAC Web site: <http://www.epa.gov/oar/caaac/>.

Dated March 10, 2005.

Robert D. Brenner,*Principal Deputy Assistant Administrator, for Air and Radiation.*

[FR Doc. 05-5321 Filed 3-16-05; 8:45 am]

BILLING CODE 6560-50-P**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7885-4]

Science Advisory Board Staff Office; Notification of a Teleconference Meeting of the Superfund Benefits Analysis Advisory Panel of the Science Advisory Board**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Superfund Benefits Analysis Advisory Panel.

DATES: April 29, 2005. A public teleconference of the SAB Superfund Benefits Analysis Advisory Panel will be held from 2:30 PM to 4:30 PM Eastern time on April 29, 2005.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code to participate in the teleconference may contact Dr. Holly Stallworth, Designated Federal Officer, at telephone: (202) 343-9867 or via e-mail at: stallworth.holly@epa.gov. An agenda and any other background materials for this teleconference will be posted on the SAB Web site at http://www.epa.gov/sab/panels/sba_adv_panel.htm prior to the teleconference.

Technical Contact: The technical contact in EPA's Office of Solid Waste and Emergency Response for the *Superfund Benefits Analysis* is Ms.

Melissa Friedland who can be reached at (703) 603-8864 or friedland.melissa@epa.gov.

SUPPLEMENTARY INFORMATION:

Background: EPA's Office of Solid Waste and Emergency Response (OSWER) has issued a draft study of the benefits of the Superfund program. This draft study is entitled *Superfund Benefits Analysis* and may be found at: <http://www.epa.gov/superfund/news/benefits.htm>. In response to OSWER's request for advice on this draft study, the Science Advisory Board Superfund Benefits Analysis Advisory Panel held a teleconference on February 11, 2005 and a face-to-face public meeting on February 24-25, 2005 for discussion of this draft study. The original "widecast" soliciting expertise for the Superfund Benefits Analysis Advisory Panel was published in a Notice on July 30, 2004 (69 FR 45706-45706), and a Notice announcing both the teleconference and face-to-face meetings was published on February 7, 2005 (70 FR 6436).

On April 29, 2005, the SAB Panel will discuss its draft advisory report that responds to the charge questions to the Panel. This draft advisory will be posted at the SAB Web site at http://www.epa.gov/sab/panels/sba_adv_panel.htm prior to the meeting. An agenda for the April 29, 2005 teleconference will also be posted on the SAB Web site prior to the teleconference.

Procedures for Providing Public Comment. It is the policy of the EPA Science Advisory Board (SAB) Staff Office to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA SAB Staff Office expects that public statements presented at the Superfund Benefits Analysis Advisory Panel's meetings will not be repetitive of previously submitted oral or written statements. **Oral Comments:** Requests to provide oral comments must be in writing (e-mail, fax or mail) and received by Dr. Stallworth no later than five business days prior to the teleconference in order to reserve time on the meeting agenda. For teleconferences, opportunities for oral comment will usually be limited to no more than five minutes per speaker and no more than fifteen minutes total. **Written Comments:** Although written comments are accepted until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least five business days prior to the meeting date so that the comments may be made available to the committee for their

consideration. Comments should be supplied to the DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 98/2000/XP format).

Dated: March 4, 2005.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 05-5322 Filed 3-16-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7885-3]

Science Advisory Board Staff Office; Notification of an Upcoming Science Advisory Board Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference meeting of the SAB Quality Review Committee (QRC) to discuss the review of the draft SAB report, *Review of EPA Region 5 Critical Ecosystem Assessment Model*.

DATES: April 4, 2005. A public telephone conference meeting to discuss the draft SAB report will be held on April 4, 2005 from 3:30 p.m. to 5 p.m. (Eastern Time).

ADDRESSES: The meeting for this review will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding this teleconference meeting may contact Mr. Thomas O. Miller, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board via phone (202-343-9982) or e-mail at miller.tom@epa.gov.

The SAB mailing address is: U.S. EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web site at: <http://www.epa.gov/sab>.

SUPPLEMENTARY INFORMATION:

Background: EPA Region V requested that the SAB conduct a review of the Critical Ecosystem Assessment Model (CrEAM). The CrEAM is a spatially explicit model developed by EPA Region V for predicting the ecological significance of undeveloped land using

ecological theory, existing data sets, and geographic information system (GIS) technology. The model identifies ecologically significant areas by integrating three important conditions: (1) Ecosystem diversity, (2) ecological self sustainability, and (3) species and land cover rarity. The CrEAM was developed to assess the ecological significance of land areas across the states of EPA Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin). EPA Region V asked the SAB to comment on the scientific validity of the conceptual framework and methodology used in the CrEAM to identify ecologically significant ecosystems, and on the scientific defensibility of the results generated from the CrEAM. To conduct this review, the SAB Staff Office formed the Critical Ecosystem Assessment Review Panel. The Panel was formed by augmenting the SAB's Ecological Processes and Effects Committee with experts in ecology and the use of geographic information system technology to conduct landscape scale analyses. The Panel has completed a draft report that is now being submitted to a Quality Review Committee (QRC) of the chartered Science Advisory Board for review. The review was conducted as part of the SAB's mission, established by 42 U.S.C. 4365, to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical bases for EPA policies and regulations. Background information on SAB's review of the CrEAM was provided in **Federal Register** Notices published on June 7, 2004 (69 FR 31819-31820) and April 21, 2004 (69 FR 21524-21525).

The purpose of an SAB QRC meeting is to conduct a public review and discussion of the SAB draft report. The focus of the discussion will be on whether: (i) The original charge questions to the SAB review panel have been adequately addressed, (ii) the report is clear and logical, and (iii) any conclusions drawn, or recommendations provided, are supported by the body of information in the review report. The outcome of the QRC review will be one, or a combination of one or more, of the following: (i) recommend SAB approval of the report without substantive change, (ii) return the report to the review panel for further work, or (iii) reject the work of the review panel and request a reconsideration and a revised report in the future.

Availability of Review Material for the Board Meeting: Documents that are the subject of this meeting are available on

the SAB Web site at: <http://www.epa.gov/sab/>.

Procedures for Providing Public Comment: The SAB Staff Office accepts written public comments of any length, and accommodates oral public comments whenever possible. The SAB Staff Office expects that public statements presented at SAB meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a teleconference meeting will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Interested parties should contact the DFO noted above in writing via e-mail at least one week prior to the meeting in order to be placed on the public speaker list for the meeting. Speakers should provide an electronic copy of their comments for distribution to interested parties and participants in the meeting. *Written Comments:* Although written comments are accepted until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the DFO at the address/contact information above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 98/2000/XP format).

Meeting Accommodations: Individuals requiring special accommodation to access these meetings, should contact the DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 11, 2005.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 05-5323 Filed 3-16-05; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 9, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden

invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 18, 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, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments regarding this Paperwork Reduction Act submission to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., DC 20554 or via the Internet to Judith-B.Herman@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202-418-0214 or via the Internet at Judith-B.Herman@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0816.

Title: Local Telephone Competition and Broadband Reporting, WC Docket No. 04-141, FCC 04-266 (Report and Order).

Form No: FCC Form 477.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 1,400 respondents; 2,800 responses.

Estimated Time Per Response: 21.9 hours.

Frequency of Response: Semi-annual reporting requirement.

Total Annual Burden: 61,320 hours.
Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: With this submission to OMB, the Commission revised this information collection by taking the following steps to reduce burdens: (1) We declined to adopt certain modifications to FCC Form 477 proposed in the Data Collection NPRM, including the proposed requirement that filers categorize broadband connections according to the information transfer rate ("speed") actually observed by the end user; (2) we eliminated various questions from the wireline local telephone section of the form; (3) we eliminated the requirements that filers seeking confidential treatment of FCC Form 477 data prepare and submit a separate, redacted Form 477; (4) responded to comments submitted by the Office of Advocacy of the Small Business Administration (SBA), we will publish a Small Entity Compliance Guide to provide a set of user-friendly explanations to direct small entities to those sections of the Form 477 relevant to their operations.

The information will be used by the Commission to prepare reports that help inform consumers and policy makers at the federal and state level of the deployment of competition in the local telephone service market and the deployment of broadband services. We will continue to use the information to better inform our understanding of broadband deployment in conjunction with our congressionally-mandated section 706 reports.

OMB Control No.: 3060-0767.

Title: Auction Forms and License Transfer Disclosure Requirements—Supplement for the Second Order on Reconsideration of the Fifth Report and Order in WT Docket No. 97-82.

Form No: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and State, local or tribal government.

Number of Respondents: 22,000.

Estimated Time Per Response: .25-5.25 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 770,250 hours.

Total Annual Cost: \$47,333,500.

Privacy Act Impact Assessment: N/A.

Needs and Uses: With this submission to OMB, the Commission adopted the Second Order on Reconsideration of the Fifth Report and Order, WT Docket No. 97-82, which revised this information collection because one of the eligibility

factors pertaining to a limited exemption from the attribution rules that are part of the Commission's Part 1 competitive bidding rules. Specifically, based on petitions for reconsideration of the Reconsideration of the Part 1 Fifth Report and Order, the Commission revised the third element of the exemption, by permitting a rural telephone cooperative applicant (or its controlling interest) to demonstrate that the rural telephone cooperatives in question is eligible for tax-exempt status pursuant to Section 501(c)(12) of the Internal Revenue Code or that it (or its controlling interests) adheres to the cooperative principles articulated in the Puget Sound.

OMB Control No.: 3060-1046.

Title: Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration.

Form No: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,023 respondents; 4,854 responses.

Estimated Time Per Response: 100 hours.

Frequency of Response: Quarterly and annual reporting requirements, recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 485,400 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Commission adopted an Order on Reconsideration, CC Docket No. 96-128, which increased the time carriers must retain certain data and adds burden in that regard, it also removes potentially burdensome paperwork requirements by encouraging carriers to comply with the reporting requirements through electronic means. We believe that the clarifications contained in this submission will also significantly decrease the paperwork burden on carriers. Specifically, the Commission did the following: (1) Clarified alternative arrangements for small businesses. A Completing Carrier must give the Public Service Provider (PSP) adequate notice of an alternative compensation arrangement (ACA) prior to its effective date with sufficient time for the PSP to object to an ACA, and also prior to the termination of an ACA; (2) clarified any paperwork burdens imposed on carriers. A Completing Carrier must give PSPs adequate notice of ACAs by placing a notice on a clearinghouse Web site; (3) requiring Completing Carrier and Intermediate Carriers to report only completed calls

in their quarterly reports; and (4) extended the time period from 18 to 27 months for Completing Carriers and Intermediate Carriers to retain certain payphone records.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05-5311 Filed 3-16-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

March 9, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments May 16, 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, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, 445 12th Street, SW., Room 1-C804, Washington,

DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith B. Herman at 202-418-0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0290.

Title: Section 90.517, Report of Operation.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit and state, local or tribal government.

Number of Respondents: 100.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 200 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: Section 90.517 provides developmental authorizations that are usually employed licensees who wish to test and develop new use of radio communications facilities.

Each such developmental licensee must report upon termination of development, or application for license renewal, specific information evaluating the usefulness of previous or desired continued operation of such a system. Commission personnel use the data to evaluate the need for renewal of the applicant's authorization. This information is also used by policy-making personnel to decide the desirability of instituting rulemaking proceedings involving new technologies or new uses of the radio spectrum.

OMB Control No.: 3060-0434.

Title: Section 90.20(e)(6), Stolen Vehicle Recovery System Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 20.

Estimated Time Per Response: 4 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 80 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: Applications for base stations operating on the 173.075 MHz frequency band shall require coordination with the Federal Government. Applicants shall perform an analysis for each base station located within 169 km (105 miles) of a TV

channel 7 transmitter of potential interference to TV channel 7 viewers. Applicants will have to certify to certain requirements set forth in rule section 90.20(e)(6). Commission personnel use the data to determine the interference potential of the proposed operation.

OMB Control No.: 3060-0537.

Title: Section 13.217, Records.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 15.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Total Annual Burden: 15 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: Section 13.217 requires each Commercial Operator License Examination Manager (COLEM) to recover fees from examinees who took the Commercial Operator Examination to maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. Records must cover the period from January 1 through December 31 of the preceding year and must be submitted as directed by the FCC. These records must be maintained for one year and made available to the Commission upon request. The FCC requires these records to be kept so that the Commission can detect any wrongdoing in the program.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05-5312 Filed 3-16-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their

views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 31, 2005.

A. Federal Reserve Bank of Atlanta
(Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. *Olivia Lawrence Bennett as executor and beneficiary of the Estate of Valene Bennett; Bennett Family Limited Partnership, Olivia L. Bennett, general partner; Lawrence R. Bennett; Paul Thomas Bennett; Olivia Louise Bennett; Thomas Valene Bennett; Holly Jones Bennett; John V. Bennett; Harry Keith Bennett, Jr.; Lillian Purcell Johnson; Holly Bennett Porter; Carolyn Joyce Bennett*, all of Alma, Georgia; to retain voting shares of South Banking Company, Alma, Georgia, and thereby indirectly retain voting shares of Alma Exchange Bank, Alma, Georgia; Peoples State Bank and Trust Company, Baxley, Georgia; Citizens State Bank, Kingsland, Georgia; and Pineland State Bank, Metter, Georgia.

Board of Governors of the Federal Reserve System, March 11, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05-5272 Filed 3-16-05; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the

standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 11, 2005.

A. Federal Reserve Bank of Atlanta
(Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. *Jones County Bancshares, Inc.*, Laurel, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Jones County, Laurel, Mississippi.

B. Federal Reserve Bank of Chicago
(Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *iTeam Companies, Inc.*, Brookfield, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Kenney, Kenney, Illinois.

In addition, Applicant also has applied to acquire iStream Companies, Inc., Brookfield, Wisconsin, and thereby engage in data processing activities, pursuant to section 225.28(b)(14)(i) of Regulation Y.

C. Federal Reserve Bank of St. Louis
(Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *Fayette Bancorp, Inc.*, Hickory Valley, Tennessee; to become a bank holding company by acquiring at least 50 percent of Mason Bancorp, Inc., Hickory Valley, Tennessee, and thereby indirectly acquire The Bank of Mason, Mason, Tennessee.

2. *Mason Bancorp, Inc.*, Hickory Valley, Tennessee; to become a bank holding company by acquiring 100 percent of the Bank of Mason, Mason, Tennessee.

3. *Home Bancshares, Inc.*, Conway, Arkansas; to merge with Marine Bancorp, Inc., Marathon, Florida, and thereby indirectly acquire voting shares of Marine Bank of the Florida Keys, Marathon, Florida.

Board of Governors of the Federal Reserve System, March 11, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05-5271 Filed 3-16-05; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at <http://www.ffiec.gov/nic/>. Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 12, 2005.

A. Federal Reserve Bank of Chicago
(Patrick Wilder, Managing Examiner, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Capitol Bancorp, Ltd.*, Lansing, Michigan; to acquire 51 percent of the voting shares of Capitol Development Bancorp Limited II, Lansing, Michigan, and thereby indirectly acquire Bank of Bellevue (in organization), Bellevue, Washington, and by Capitol Development Bancorp Limited II, Lansing Michigan, to become a bank holding company by acquiring 51 percent of the voting shares of Bank of Bellevue (in organization), Bellevue, Washington.

Board of Governors of the Federal Reserve System, March 14, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05-5333 Filed 3-16-05; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM**Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities**

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 31, 2005.

A. Federal Reserve Bank of New York (Jay Bernstein, Bank Supervision Officer) 33 Liberty Street, New York, New York 10045-0001:

1. *HSH Nordbank*, AG, Hamburg, Germany; to engage *de novo* through NY Credit Real Estate Fund, L.P., and New York Credit Advisors LLC, a joint venture investment, in extending credit and servicing loans and acting as an investment or financial advisor, pursuant to sections 225.28(b)(1) and (b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, March 11, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05-5270 Filed 3-17-05; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Agency for Healthcare Research and Quality****Notice of Meeting**

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for Partnerships in Implementing Patient Safety (RFA-HS-05-012) are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: Partnerships in Implementing Patient Safety.

Date: April 6-8, 2005 (Open on April 6 from 2 p.m. to 3 p.m. and closed for the remainder of the meeting).

Place: John M. Eisenberg Building, AHRQ Conference Center, 540 Gaither Road, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427-1554.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: March 10, 2005.

Carolyn M. Clancy,
Director.

[FR Doc. 05-5334 Filed 3-16-05; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****Cooperative Agreement With the Kenya Medical Research Institute (KEMRI); Notice of Intent To Fund Single Eligibility Award****A. Purpose**

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2005 funds for a cooperative agreement program to:

1. To conduct field and laboratory research and implement public health programs on important human infectious diseases, with an emphasis on HIV/AIDS, malaria, emerging and other emerging and re-emerging infectious diseases as well as other identifiable public health problems.
2. To provide training for students and public health professionals in basic and applied public health research, public health program planning, implementation and evaluation and other related issues such as data collection, financial planning and management.
3. To strengthen the Kenya Medical Research Institute (KEMRI) institutional capacity to conduct research, plan, implement and evaluate public health programs, provide surveillance, and develop interventions as well as support national and regional infectious disease identification and control efforts.
4. To incorporate the results of research into operational disease prevention and control programs in the Republic of Kenya and ensure sharing of expertise and research findings with other nations.

The Catalog of Federal Domestic Assistance number for this program is 93.283.

B. Eligible Applicant

Assistance will be provided only to KEMRI. No other applications are solicited. KEMRI is the most appropriate and qualified agency to conduct the activities specified under this cooperative agreement because:

1. KEMRI is the only research organization in Kenya that possesses the requisite scientific and technical expertise, the infrastructure capacity and who has conducted malaria and

HIV research in areas of high morbidity (20 years for malaria and 10 years for HIV/AIDS). These combined attributes make them uniquely qualified as the only organization in Kenya capable of effectively conducting the research and public health program activities proposed for this cooperative agreement.

2. A major operational unit of KEMRI is located in an area of western Kenya with intense and perennial malaria transmission and where incidence and prevalence is very high, and thus is ideally located to evaluate approaches to preventing and controlling these public health problems.

3. KEMRI was established through the Science and Technology Act of the Republic of Kenya and has a Board of Management appointed by the Minister of Health which is responsible for overseeing all research and which has a well-developed secretariat to provide administrative and technical support to research services.

4. KEMRI has been collaborating with health agencies on priority infectious disease research for over 20 years on the grounds of KEMRI facilities in Nairobi, Kisumu and other locations in Kenya. KEMRI has experienced staff, equipment, and facilities to support the collaboration.

C. Funding

Approximately \$5,000,000 is available in FY 2005 to fund this award. It is expected that the award will begin on or before August 15, 2005, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341-4146. Telephone: 770-488-2700.

For program issues, contact: Ron Stoddard, Division of Parasitic Diseases, 4770 Buford Highway, Atlanta, GA 30341. Telephone: (770) 488-7707. E-mail: RStoddard@cdc.gov.

Dated: March 11, 2005.

William P. Nichols,

*Director, Procurement and Grants Office,
Centers for Disease Control and Prevention.*
[FR Doc. 05-5287 Filed 3-16-05; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Building Comprehensive Prevention Program Planning and Evaluation Capacity for Rape Prevention and Education Funded Programs

Announcement Type: New.

Funding Opportunity Number: RFA 05037.
Catalog of Federal Domestic Assistance Number: 93.136.

Key Dates:

Letter of Intent Deadline: April 18, 2005.

Application Deadline: May 16, 2005.

I. Funding Opportunity Description

Authority: This program is authorized under section 393B of the Public Health Service Act (42 U.S.C. section 280b).

Purpose: The Centers for Disease Control and Prevention (CDC) announces the availability of a fiscal year 2005 cooperative agreement to build comprehensive prevention program planning and evaluation capacity among selected Rape Prevention and Education (RPE) funded sexual violence prevention programs and to assess short-term and intermediate capacity building outcomes for each program. Prevention program planning and evaluation will be focused on the national Rape Prevention and Education Program logic model as well as comprehensive primary prevention strategies. In May 2004 CDC completed an evaluability assessment of the national RPE program. One of the key recommendations of the evaluability assessment is to build capacity for prevention program planning and evaluation among funded recipients.

Specific purposes of this funding are to:

1. Increase the capacity of selected Rape Prevention and Education funded programs to engage in comprehensive prevention program planning for their state Rape Prevention and Education Program.
2. Increase the capacity of selected Rape Prevention and Education funded programs to develop and implement an evaluation of their state Rape Prevention and Education Program.
3. Increase the capacity of selected Rape Prevention and Education funded programs to sustain program planning and evaluation efforts after this cooperative agreement has ended.
4. Assess short-term and intermediate program planning and evaluation capacity building outcomes for each program.

5. Disseminate lessons learned to assist sexual violence prevention practitioners in programmatic decision making and evaluation.

For the purposes of this program announcement the following definition applies:

Sexual Violence: Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home or work (Jewkes, R., Sen, P. and Garcia-Moreno, C., 2002).

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 the 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 project are as follows:

- a. Maintain current or increased level of program activities and staffing.
- b. Convene a state prevention team that includes agencies, organizations and individuals who can inform the program planning and evaluation process.
- c. Collaborate with CDC, CDC identified consultant(s) and the state prevention team in developing a comprehensive prevention program and evaluation plan for their state Rape Prevention and Education Program.
- d. Contract with an in-state evaluator to assist the state prevention team in comprehensive program planning and evaluation efforts. The evaluator should operate from an empowerment evaluation framework to increase state capacity regarding comprehensive program planning and evaluation. The evaluator is expected to attend program planning and evaluation trainings provided by CDC and CDC identified consultant(s). The evaluator should be hired, or an internal evaluator identified, by March 2006.
- e. Collaborate with CDC, the CDC identified consultant(s), the in-state

evaluator, and the state prevention team on developing and/or implementing planning and evaluation tools.

f. Participate in routine program planning and evaluation training provided by CDC and CDC identified consultant(s) with other funded programs in a centralized location. The evaluation contractor, the health department grantee and at least one person from the state prevention team should attend these trainings.

g. Participate in training and technical assistance site visits with CDC and CDC identified consultant(s).

h. Participate in ongoing technical assistance and consultation with CDC and CDC identified consultant(s).

i. Participate with other grantees, CDC, and CDC identified consultant(s) in monthly conference calls.

j. Participate in a baseline and follow-up assessment of grantee program planning and evaluation capacity with CDC and CDC identified consultant(s).

k. Collaborate with CDC and other grantees on an ongoing basis by sharing lessons learned, tools and progress.

l. Disseminate lessons learned to local, state and national partners via multiple mechanisms such as conferences, meetings and reports.

m. Dedicate at least a .50 FTE to coordinate and support the state prevention team through planning and evaluation efforts, supervise and coordinate with staff and the evaluation contractor, collaborate with CDC and the CDC identified consultant(s), participate in monthly conference calls, travel to meetings, etc.

n. Submit reports to CDC as required. 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. Contract with relevant expert consultant(s) to provide funded programs with intensive comprehensive prevention program planning and evaluation training and technical assistance, which may include any of the following:

i. Making site visits to each program for the purpose of ongoing technical assistance.

ii. Training program staff in the use of logic models, evidence-based program planning, building comprehensive prevention programs, evaluation planning and implementation, etc.

iii. Assisting program staff with planning and evaluation activities.

iv. Conducting baseline and follow-up assessments of grantee program planning and evaluation capacity.

b. Assist the CDC identified consultant(s) in providing funded

programs with intensive training and technical assistance as noted above.

c. Provide guidance on how to hire an evaluation contractor and approve the hire of applicant's evaluation contractor.

d. Coordinate information sharing among relevant CDC grantees and partners via multiple settings such as in-person meetings and regular conference calls.

e. Disseminate lessons learned to local, state and national partners via multiple mechanisms such as conferences, meetings and reports.

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: \$400,000.

Approximate Number of Awards: 4.

Approximate Average Award: \$100,000.

Floor of Award Range: \$100,000.

Ceiling of Award Range: \$100,000 (This ceiling is for the first 12-month budget period.)

Anticipated Award Date: September 1, 2005.

Budget Period Length: 12 months.

Project Period Length: three years.

Throughout the project period, CDC's commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by the health departments of states and territories who are current recipients of Rape Prevention and Education funding.

III.2. Cost Sharing or Matching

Matching funds are not required for this program.

III.3. Other

CDC will accept and review applications with budgets greater than the ceiling of the award range.

Special Requirements

If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

• Late applications will be considered non-responsive. See section "IV.3.

Submission Dates and Times" for more information on deadlines.

• **Note:** Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161-1.

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 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.

Pre-Application Conference Call:

For interested applicants, one pre-application technical assistance call will be conducted on March 31, 2005 from 2-3 pm EST. Please e-mail Karen Lang at klang@cdc.gov by March 24, 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

Letter of Intent (LOI)

Electronic Submission

You may submit your LOI electronically at: <http://www.grants.gov> by filling out the required Grants.gov information and attach a word document.

Your LOI must be written in the following format:

- Maximum number of pages: one
- Font size: 12-point un-reduced
- Single spaced
- Paper size: 8.5 by 11 inches
- Page margin size: One inch
- Printed only on one side of page

- Written in plain language, avoid jargon

Your LOI must contain the following information:

- Name of Organization

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 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 to 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 program narrative with your application forms. The narrative must be submitted in the following format:

- Maximum number of pages: 15. If your narrative exceeds the page limit, only the first pages, which are within the page limit, will be reviewed. Budget

justification does not count towards page limit.

- Font size: 12 point unreduced
- Double spaced
- Paper size: 8.5 by 11 inches
- Page margin size: One inch
- Printed only on one side of page
- Held together only by rubber bands or metal clips; not bound in any other way.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

- Background and need for planning and evaluation assistance
- Program Description
- Capacity and Staffing
- Collaboration
- Measures of effectiveness
- Proposed budget and justification (does not count towards page limit)

Additional information may be included in the application appendices. The appendices will not be counted toward the narrative page limit. This additional information includes:

- Logic model of program
- Relevant planning documents
- Curriculum Vitae or Resumes
- Organizational Charts
- Memorandum of Understanding from state prevention team members

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/pgofunding/pubcomm.htm>.

If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that may require you to submit additional documentation with your application are listed in section "VI.2. Administrative and National Policy Requirements."

IV.3. Submission Dates and Times

LOI Deadline Date: April 18, 2005.

CDC requests that you send a LOI if you intend to apply for this program. Although the LOI is not required, not binding, and does not enter into the review of your subsequent application, the LOI will be used to gauge the level

of interest in this program, and to allow CDC to plan the application review.

Application Deadline Date: May 16, 2005.

Explanation of Deadlines: LOI's and applications must be received in the CDC Procurement and Grants Office by 4 p.m. eastern time on the deadline date. If you submit your LOI and 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 LOI and application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

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 the first period should include travel costs for the health department grantee, one person from the state prevention team and the evaluation contractor to attend up to three 2-day training meetings in Atlanta, Georgia with CDC staff, other cooperative agreement grantees, and the CDC identified consultant(s).

- Budgets for the first period should include an evaluation contractor to be identified (internal staff) and hired (contractor) by March 2006.

- Funds for this project cannot be used for construction.

- Funds for this project cannot be used for renovation.

- Funds for this project cannot be used for the lease of passenger vehicles.

- Funds for this project cannot be used for the development of major software applications.

- Funds for this project cannot be used for supplanting current applicant expenditures.

If you are requesting indirect costs in your budget, you must include a copy of your indirect cost rate agreement.

If your indirect cost rate is a provisional rate, the agreement should be less than 12 months of age.

Guidance for completing your budget can be found on the CDC Web site, at the following Internet address: <http://www.cdc.gov/od/pgo/funding/budgetguide.htm>.

IV.6. Other Submission Requirements

LOI Submission Address: Submit your LOI by express mail, delivery service, fax, or E-mail to: Karen Lang, National Center for Injury Prevention and Control, 4770 Buford Hwy, NE., Mailstop K-60, Atlanta, GA 30341; Phone: 770/488-1118; FAX: 770/488-1360; klang@cdc.gov.

Electronic Submission

LOIs may be submitted electronically at this time to <http://www.Grants.gov>. Fill out the required Grants.gov information and attach a word document with the necessary information from IV.2. Content and Form of Submission.

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 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 05037, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the "Purpose" section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

Your application will be evaluated against the following criteria:

1. Program Description (35 Points)

a. Does the applicant provide a description of their state Rape Prevention and Education Program that includes coordinated state-level initiatives and partnerships, local program components; program goals, objectives and desired outcomes; and staff capacity?

b. Does the applicant describe the training and technical assistance provided to RPE grantees and other partners?

c. Does the applicant provide a description of their RPE program planning efforts to date? Are the applicant's planning efforts intended to advance comprehensive prevention programs in the state?

d. Does the applicant describe current program evaluation activities (including methods and tools) and any findings that are available?

e. Does the applicant include relevant supporting documents such as a logic

model or other graphic depiction of their program's intended purpose and projected outcomes, a state plan for the RPE program, meeting summaries or minutes from recent planning meetings, or evaluation findings?

2. Collaboration (30 Points)

a. Does the applicant describe the roles and responsibilities of all members of the state prevention team and provide memoranda of understanding from all team members?

b. Do the memoranda of understanding indicate a commitment to and understanding of the mission and vision of the national RPE program?

c. Does the state prevention team include the state sexual assault coalition and other individuals, agencies and organizations that can inform the comprehensive program planning and evaluation process for the state RPE Program?

d. Does the applicant demonstrate a successful history of collaborating effectively with organizations at the local and state levels?

3. Capacity and Staffing (25 Points)

a. Does the applicant dedicate at least a .50 FTE to the prevention program planning and evaluation project?

b. Does the applicant demonstrate an existing capacity and infrastructure, including the involvement of management level staff, to carry out the required activities in the cooperative agreement?

c. Does the applicant describe the relevant skills/expertise and responsibilities of individual staff members, levels of effort and allocation of time?

d. Does the applicant indicate they will be able to identify an internal evaluator or contract with an in-state evaluator within the specified timeframe (March 2006)?

4. Background and Need for Planning and Evaluation Assistance (10 Points)

a. Does the applicant describe resident planning and evaluation capacity and how this capacity building project will develop program staff and partner's prevention program planning and evaluation capacity and skills?

b. Does the applicant describe how this program planning and evaluation capacity building project will improve their state Rape Prevention and Education program?

5. Measures of Effectiveness (Not Scored)

Does the applicant provide objective/quantifiable measures regarding the intended outcomes that will

demonstrate the accomplishment of the various identified objectives of the cooperative agreement?

6. Budget (Not Scored)

Does the applicant provide a detailed budget with complete line-item justification of all proposed costs consistent with the stated activities in the program announcement? Details must include a breakdown in the categories of personnel (with time allocations for each), staff travel, communications and postage, equipment, supplies, and any other costs? Does the budget projection include a narrative justification for all requested costs? Any sources of additional funding beyond the amount stipulated in this cooperative agreement should be indicated, including donated time or services. For each expense category, the budget should indicate CDC share, the applicant share and any other support. These funds should not be used to supplant existing efforts.

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 (NCIPC). Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the "V.1. Criteria" section above. The objective review panel will be comprised of CDC employees from inside and outside the National Center for Injury Prevention and Control.

Applications will be funded in order by score and rank determined by the review panel. 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: September 1, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NOA) from the CDC Procurement and Grants Office. The NOA shall be the only binding, authorizing document between the recipient and CDC. The NOA will be signed by an authorized Grants

Management Officer, and mailed to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR part 74 and part 92.

For more information on the Code of Federal Regulations, 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

Additional information on these requirements can be found on the CDC Web site at the following Internet address: <http://www.cdc.gov/od/pgo/funding/ARs.htm>.

VI.3. Reporting Requirements

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:
 - a. Current Budget Period Activities Objectives.
 - b. Current Budget Period Financial Progress.
 - c. New Budget Period Program Proposed Activity Objectives.
 - d. Budget.
 - e. Measures of Effectiveness.
 - f. Additional Requested Information.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management or Contract Specialist listed in the "Agency Contacts" section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341; Telephone: 770/488-2700.

For program technical assistance, contact: Karen Lang, Project Officer, National Center for Injury Prevention and Control, 4770 Buford Hwy, NE., Mailstop K-60, Atlanta, GA 30341; Telephone: 770-488-1118; E-mail: klang@cdc.gov.

For financial, grants management, or budget assistance, contact: Brenda Hayes, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341; Telephone: 770-488-2741; Fax: 770/488-2670; E-mail: BHayes@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: March 11, 2005.

William P. Nichols,

Director, Procurement and Grants Office,
Centers for Disease Control and Prevention.
[FR Doc. 05-5283 Filed 3-16-05; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Occupational Health and Safety Research and Education

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) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Occupational Health and Safety Research and Education.

Times and Dates: 11 a.m.-12:30 p.m., April 7, 2005 (closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in

response to Occupational Health and Safety Research and Education.

Contact Person for More Information: Bernadine B. Kuchinski, Ph.D., Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 4676 Columbia Parkway, MS-C7, Cincinnati, OH 45226, telephone 513-533-8511.

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: March 11, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05-5284 Filed 3-16-05; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health Advisory Board on Radiation and Worker Health

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) announces the following committee meeting:

Name: Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH), Subcommittee for Dose Reconstruction and Site Profile Reviews.

Subcommittee Meeting Times and Dates: 12 p.m.-4:30 p.m., March 24, 2005. 8:30 a.m.-11:30 a.m., March 25, 2005.

Place: Hilton Cincinnati Netherlands Plaza, 35 West Fifth Street, Cincinnati, Ohio 45202-2899, telephone 513/421-9100, fax 513/651-3195.

Status: Open to the public, limited only by the space available. The meeting space accommodates approximately 35 people.

Background: The ABRWH was established under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000 the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, and renewed on August 3, 2003. The Subcommittee for Dose Reconstruction and Site Profile Reviews was established on June 21, 2004, to facilitate the work of the Board by assisting in the performance of the Board's statutory requirements, and does so by advising and reporting to the Board according to the requirements of HHS and the establishment memo.

Purpose: This board is charged with: (a) Providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Discussed: The agenda for this meeting will focus on Scoring Methodology, Wrap Up of the First 20 Dose Reconstructions, the Upcoming Set of 18 Dose Reconstruction Reviews Status, and the Bethlehem Steel Site Profile.

The agenda is subject to change as priorities dictate.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

In the event an individual cannot attend, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Contact Person for More Information: Lewis V. Wade, Ph.D., Executive Secretary, ABRWH, NIOSH, CDC, 200 Independence Avenue, SW., Room 715-H, Hubert Humphrey Building, P12 Washington, DC 20201-0004, telephone 202/401-2192, fax 202/260-4464.

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: March 7, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05-5282 Filed 3-16-05; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on Nurse Education and Practice; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following meeting:

Name: National Advisory Council on Nurse Education and Practice (NACNEP).

Dates and Times: April 7, 2005, 8:30 a.m.-5 p.m., April 8, 2005, 8:30 a.m.-3 p.m.

Place: DoubleTree Hotel and Executive Center, 1750 Rockville Pike, Rockville, Maryland 20852.

Status: The meeting will be open to the public.

Agenda: Agency and Bureau administrative updates will be provided. The purpose of the meeting will be to address issues related to the impact of violence on the nursing workforce. An international expert in security will present the state of the art in terms of improved safety across the healthcare continuum. An educator with expertise in curricular issues and violence will present content specific to interpersonal violence, including the significance of the relevant Institute of Medicine report and resulting education and practice considerations. Finally, a practice expert will present on institutional security from the perspective of the Emergency Department. Council workgroups will deliberate on content presented and formulate recommendations to the Secretary of Health and Human Services and the Congress about improved safety in nursing education and practice and its influence in registered nurse recruitment and retention. This meeting will form the basis for NACNEP's mandated Fifth Annual Report. In addition, the Council will hear a presentation on a contract underway to define key factors in defining health care facilities with a critical shortage of nurses and about exemplary projects that promote effective recruitment of minority and disadvantaged individuals into nursing.

For Further Information Contact: Anyone interested in obtaining a roster of members, minutes of the meeting, or other relevant information should write or contact Ms. Donna English, M.P.H., R.N., Acting Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9-35, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-5688.

Dated: March 11, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05-5300 Filed 3-16-05; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of the Federal Advisory Committee Act (Pub. L. 92-463), the Health Resources and Services Administration (HRSA) has filed with the Library of Congress a fiscal year 2004 annual report of the Maternal and Child Health Research Grants Review Committee.

Copies are available for public inspection and use at the Library of Congress, Newspaper and Current Periodical Reading Room in the James Madison Memorial Building, Room LM-133 (entrance on Independence Avenue, between First and Second Streets, SE., Washington, DC), telephone 202-707-5690.

Copies may be obtained from the Division of Research, Training and Education, Maternal and Child Health Bureau, HRSA, Parklawn Building, Room 18A-55, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone 301-443-2340.

Dated: March 11, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05-5301 Filed 3-16-05; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Lay Order Period—General Order Merchandise

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Lay Order Period—General Order Merchandise. This is a proposed extension of an information collection

that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76953-769354) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Lay Order Period—General Order Merchandise Cost Submissions.
OMB Number: 1651-0079.
Form Number: N/A.

Abstract: This collection is required to ensure that the operator of an arriving carrier, or transfer agent shall notify a

bonded warehouse proprietor of the presence of merchandise that has remained at the place of arrival or unloading without entry beyond the time period provided for by regulation.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, institutions.

Estimated Number of Respondents: 390.

Estimated Time Per Respondent: 32.5 hours.

Estimated Total Annual Burden Hours: 12,675.

Estimated Total Annualized Cost on the Public: \$190,125.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202-344-1429.

Dated: March 8, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05-5260 Filed 3-16-05; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Record of Foreign Vessel Repair

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Record of Foreign Vessel Repair. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in

the **Federal Register** (69 FR 76953) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Record of Vessel Foreign Repair or Equipment Purchase.

OMB Number: 1651-0027.

Form Number: Form CBP-226.

Abstract: This collection is required to ensure the collection of revenue (duty) required on all equipment, parts, or materials purchased, and repairs made to U.S. Flag vessels outside the United States.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 1,500.

Estimated Total Annualized Cost on the Public: \$30,000.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202-344-1429.

Dated: March 8, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05-5261 Filed 3-16-05; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Entry of Articles for Exhibition

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Entry of Articles for Exhibition. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76955) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Entry of Articles for Exhibition.

OMB Number: 1651-0037.

Form Number: N/A.

Abstract: This information is used by CBP to substantiate that the goods imported for exhibit have been approved for entry by the Department of Commerce.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 40.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 530.

Estimated Total Annualized Cost on the Public: \$14,792.

If additional information is required contact: Tracey Denning, Bureau of

Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202-344-1429.

Dated: March 8, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05-5262 Filed 3-16-05; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Request for Information

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Request for Information. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76951-76952) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border

Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Request for Information.

OMB Number: 1651-0023.

Form Number: CBP Form-28.

Abstract: Form CBP-28 is used by CBP personnel to request additional information from importers when the invoice or other documentation provide insufficient information for CBP to carry out its responsibilities to protect revenues.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 60,000.

Estimated Total Annualized Cost on the Public: \$1,782,000.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202-344-1429.

Dated: March 8, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05-5263 Filed 3-16-05; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Certificate of Compliance for Turbine Fuel Withdrawals

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Certificate of Compliance for Turbine Fuel Withdrawals. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76950) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimates of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden on the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Certificate of Compliance for Turbine Fuel Withdrawals.

OMB Number: 1651-0072.

Form Number: N/A.

Abstract: This information is collected to ensure regulatory compliance for Turbine Fuel Withdrawals to protect revenue collections.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Time Per Respondent: 12 hours.

Estimated Total Annual Burden Hours: 360.

Estimated Total Annualized Cost on the Public: \$14,916.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at (202) 344-1429.

Dated: March 8, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05-5264 Filed 3-16-05; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Establishment of a Container Station

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Establishment of a Container Station. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76951) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who

are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Establishment of a Container Station.

OMB Number: 1651-0040.

Form Number: N/A.

Abstract: This collection is an application to establish a container station for the vaning and devaning of cargo.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 205.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 615.

Estimated Total Annualized Cost on the Public: \$8917.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202-344-1429.

Dated: March 8, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05-5265 Filed 3-16-05; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Ship's Stores Declaration

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Ship's Stores Declaration. This is a proposed extension of an information

collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 76952) on December 23, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 18, 2005.

ADDRESSES: 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 Homeland Security Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Ship's Stores Declaration.

OMB Number: 1651-0018.

Form Number: Customs Form 1303.

Abstract: This collection is required for audit purposes to ensure that goods used for Ship's Stores can be easily distinguished from other cargo and retain duty free status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 8,000.

Estimated Time Per Respondent: 3.35 hours.

Estimated Total Annual Burden Hours: 26,000.

Estimated Total Annualized Cost on the Public: \$567,840.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202-344-1429.

Dated: March 8, 2005.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 05-5266 Filed 3-16-05; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Conduct Restoration Planning for Natural Resources Injured by the Release of Oil From the MV Kure Oil Spill, Humboldt County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The U.S. Fish and Wildlife Service (Department of the Interior), the California Department of Fish and Game, and the California State Lands Commission are joint trustees (Trustees) for natural resources and are authorized to assess injuries to Federal and State resources caused by the MV Kure Oil Spill and to plan and implement restoration actions to address those injuries. The Trustees announce their intent to conduct restoration planning for the MV Kure Oil Spill. The purpose of this restoration planning effort is to complete an assessment of the natural resource injuries and damages caused by the oil spill, and to prepare a plan for the restoration of the injured resources.

DATES: To ensure consideration, we must receive written comments on or before April 18, 2005.

ADDRESSES:

Review of Administrative Record

The Administrative Record will be available for public inspection, by appointment, during normal business hours at these locations:

- U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Suite W-2605, Sacramento, California 95825.

- California Department of Fish and Game, 619 2nd Street, Eureka, California 95501.

You may schedule a time to review the Administrative Record by contacting the Sacramento Fish and Wildlife Office or the California Department of Fish and Game's Eureka office (*see FOR FURTHER INFORMATION CONTACT*).

Submission of Comments

You may submit your written comments on this Notice, Administrative Record materials, and all upcoming restoration planning documents by any of the following methods:

1. Send written comments and information by mail to Charlene Andrade, Sacramento Fish and Wildlife Office, at the above address.

2. Hand-deliver written comments to the Sacramento Fish and Wildlife Office, at the above address.

3. Fax comments to (916) 414-6713 (Attn.: Charlene Andrade).

4. Send comments by electronic mail (e-mail) to Charlene_Andrade@fws.gov. For directions on how to submit electronic comments, see the "Public Comments Solicited" section.

FOR FURTHER INFORMATION CONTACT: Charlene Andrade, Sacramento Fish and Wildlife Office, telephone (916) 414-6590; Kris Weise, California Department of Fish and Game, Eureka, (707) 441-5752. To receive public notices about future Restoration Planning activities, contact Charlene Andrade by telephone.

SUPPLEMENTARY INFORMATION:

Background

On the morning of November 5, 1997, the vessel M/V Kure spilled oil into Humboldt Bay after colliding with a dock at the Louisiana Pacific wood chip facility during loading operations. Oil was spread by tide, currents and winds through much of the bay and into the Pacific Ocean. The oil affected a number of natural resources, including seabirds, shorebirds, marine and estuarine waters, marshes, mudflats, beaches and other shoreline habitats. This oil spill is hereafter referred to as the "Incident."

Pursuant to section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. 2701 *et seq.*, Federal and State trustees (Trustees) for natural resources are

authorized to assess natural resource damages resulting from oil spills into navigable waters and to develop and implement a plan for restoration of such injured resources. The Trustees for this Incident are the U.S. Fish and Wildlife Service (Department of the Interior), the California Department of Fish and Game, and the California State Lands Commission. The Natural Resource Damage Assessment Regulations under OPA, 15 CFR part 990 (the "NRDA regulations"), provide that the Trustees are to prepare a Notice of Intent to Conduct Restoration Planning (Notice) if they determine certain conditions have been met and if they decide to quantify the injuries to natural resources and to develop a restoration plan.

This Notice is to announce, pursuant to Section 990.44 of the NRDA regulations, that the Trustees, having collected and analyzed data, intend to proceed with restoration planning actions to address injuries to natural resources resulting from the Incident. The purpose of this restoration planning effort is to further evaluate injuries to natural resources and services and to use that information to determine the need for, type of, and scale of restoration actions.

Determination of Jurisdiction

The Trustees have made the following determinations pursuant to 15 CFR 990.41 and 990.42:

(1) On November 5, 1997, the vessel MV Kure spilled a quantity of intermediate fuel oil, estimated to be approximately 4,500 gallons, in Humboldt Bay, near Eureka, California. This occurrence constituted an "Incident" within the meaning of 15 CFR 990.30. The Incident is also a "spill" or "discharge" as defined at California Government Code 8670.3(aa).

(2) The Incident was not permitted under a permit issued under Federal, State, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. 1651 *et seq.*

(3) Oil discharged during the Incident affected marine and shoreline habitats, wildlife, and human uses of natural resources in the area. Consequently, natural resources under the trusteeship of the Trustees have been injured as a result of the Incident.

(4) As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under the Federal Oil Pollution Act (OPA), 33 U.S.C. 2701–2761, and California's Lempert-Keene-Seastrand Oil Spill Prevention and Response Act,

Government Code Sections 8670.1 *et seq.*

Determination To Conduct Restoration Planning

The Trustees have determined, pursuant to 15 CFR 990.42(a), that:

(1) Data collected pursuant to 15 CFR 990.43 demonstrate that injuries to natural resources have resulted from the Incident, including but not limited to the following:

(i) Injury to a wide variety and number of seabirds, shorebirds, and waterfowl, among them marbled murrelets and California brown pelicans (species listed as threatened or endangered under the Endangered Species Act, 16 U.S.C. 1531–1544);

(ii) Impacts to marshes, mudflats, beaches, and other shoreline habitats such that the ecological services provided by these habitats were reduced for varying periods of time;

(iii) Impacts to water quality in marine and estuarine waters affected by the spill such that the ecological services provided by these habitats were reduced for some period of time; and

(iv) Lost public recreational uses, including lost or diminished opportunities for sea kayaking, surfing and camping.

(2) The cleanup actions taken to respond to the Incident have not adequately addressed the injuries resulting from the Incident to the extent where restoration would not be necessary. Response efforts included collection and removal of oil and oiled debris along shorelines and rehabilitation of oiled birds. These efforts reduced the magnitude and duration of impacts to shoreline habitats and wildlife, but did not eliminate all injuries or make restoration unnecessary.

(3) Potential assessment procedures to be used to evaluate injuries and to design and implement the appropriate type and scale of restoration for these injured natural resources and services consist of, but are not limited to:

(i) Compilation of data on numbers, species, and collection locations of dead or debilitated birds found during the spill response;

(ii) Compilation of demographic data for key bird species;

(iii) Field studies and/or literature searches to estimate rates of removal of carcasses from beaches by scavengers and effectiveness of wildlife operations personnel and techniques at finding oiled birds stranded on beaches;

(iv) Analysis of field studies and/or literature searches (iii above), collection information (i above), bird distribution and abundance data, and/or oil

trajectory data to evaluate spill-related avian mortality;

(v) Resource Equivalency Analysis or other techniques to scale bird restoration projects to bird injuries;

(vi) Habitat Equivalency Analysis or other techniques to scale habitat restoration projects to habitat injuries;

(vii) Field studies to ascertain restoration suitability of various tracts of land; and

(viii) Analysis of habitat quality information to properly scale restoration projects.

(4) Feasible primary and compensatory restoration actions exist to address injuries from the Incident. Restoration activities are expected to focus on marbled murrelets and other seabirds, shorebirds, waterfowl, aquatic and shoreline habitats, and lost recreation. Restoration actions for the injured resources may include, but are not necessarily limited to:

(i) Acquisition of marbled murrelet nesting habitat from willing sellers, purchase of conservation easements on marbled murrelet nesting habitat, and enhancement of the quality of marbled murrelet nesting habitat through management actions;

(ii) Enhancement and/or protection of nesting and roosting locations of seabirds along the California coast;

(iii) Enhancement and/or protection of marshes, mudflats and other habitats that were affected by the Incident or are used by bird species that were affected by the Incident; and

(iv) Enhancement of trails or other facilities used for public recreation at beaches or parks where public access was lost or diminished during the Incident.

Administrative Record

The Trustees have opened an Administrative Record (Record) in compliance with 15 CFR 990.45. The Record includes documents relied upon by the Trustees during the assessment and restoration planning performed thus far in connection with the Incident, including data supporting the above determinations. The Record is on file and available to the public at the locations specified in the **ADDRESSES** section.

Public Comments Solicited

Pursuant to 15 CFR 990.14(d), the Trustees seek public involvement in restoration planning for this Incident, through public review of, and comment on, this Notice and the documents contained in the Administrative Record.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption.

Please also include "Attn: Kure NOI" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact us directly by calling Charlene Andrade at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Our practice is to make all 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 addresses from the record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Author

The primary author of this notice is Daniel Welsh (Sacramento Fish and Wildlife Office; see **ADDRESSES** section).

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*).

Dated: February 2, 2005.

D. Kenneth McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 05-5290 Filed 3-16-05; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-130-1020-PH; GP5-0085]

Notice of April 15, 2005, Eastern Washington Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern

Washington Resource Advisory Council (RAC), will meet as indicated below.

DATES: The Eastern Washington Resource Advisory Council (EWRAC) meeting for April 15, 2005 at the Spokane District Office, Bureau of Land Management, 1103 North Fancher Rd., Spokane, Washington 99212-1275.

SUPPLEMENTARY INFORMATION: The rescheduled meeting on April 15, 2005 will start at 9 a.m. and adjourn about 4 p.m. Topics on the meeting agenda include:

- Juniper Dunes Access.
- Update on Land Exchanges.
- District Budget and Workload.
- Recreation Fee Demonstration.
- Future Meetings.

The RAC meeting is open to the public, and there will be an opportunity for public comments at 11 a.m. Information to be distributed to Council members for their review is requested in written format 10 days prior to the Council meeting date.

FOR FURTHER INFORMATION CONTACT:

Sandra Gourdin or Kathy Helm, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington 99212, or call (509) 536-1200.

Dated: March 11, 2005.

Roberta B. Estes,

Acting District Manager.

[FR Doc. 05-5293 Filed 3-16-05; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8 a.m. to 4 p.m. on Monday, April 4, 2005, 8 a.m. to 12 p.m. on Tuesday, April 5, 2005.

Place: The Renaissance Worthington Hotel, 200 Main Street, Fort Worth, Texas 76102.

Status: Open.

Matters to be Considered: Mentally Ill Offender; Faith-Based Programs Prison Rape Elimination Act (PREA); Quarterly Report by Office of Justice Programs.

For Further Information Contact:

Larry Solomon, Deputy Director, 202-307-3106, ext. 44254.

Morris L. Thigpen,

Director.

[FR Doc. 05-5234 Filed 3-16-05; 8:45 am]

BILLING CODE 4410-36-M

DEPARTMENT OF JUSTICE

Parole Commission

Record of Vote of Meeting Closure (Public Law 94-409) (5 U.S.C. Sec. 552b)

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 12 noon on Tuesday, March 9, 2005, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide one petition for reconsideration pursuant to 28 CFR Section 2.27. Five Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Cranston J. Mitchell, Deborah A. Spagnoli, Isaac Fulwood, Jr., and Patricia Cushwa.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: March 7, 2005.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 05-5379 Filed 3-15-05; 10:14 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05-050]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The invention listed below is assigned to the National Aeronautics and Space Administration, is the subject of a patent application that has been filed in the United States Patent and Trademark Office, and is available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT: John Kusmiss, Patent Counsel, NASA Management Office—JPL, 4800 Oak Grove Drive, Mail Stop 180–200, Pasadena, CA 91109; telephone (818) 354–7770.

NASA Case No. NPO–40756–1: Analysis-Resistant Ciphers Method and Apparatus.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05–5246 Filed 3–16–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05–051]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The invention listed below is assigned to the National Aeronautics and Space Administration, has been filed in the United States Patent and Trademark Office, and is available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT: Edward K. Fein, Patent Counsel, Johnson Space Center, Mail Code HA, Houston, TX 77058–8452; telephone (281) 483–4871; fax (281) 244–8452.

NASA Case No. MSC–23563–1: Method for Nanoencapsulation of Aerogels and Nanoencapsulated Aerogels Produced by Such Method.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05–5247 Filed 3–16–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05–052]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics

and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT:

Randy Heald, Patent Counsel, Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899; telephone (321) 867–7214; fax (321) 867–1817.

NASA Case No. KSC–12697: A New Approach for Achieving Fire Retardancy and Improving Physical Properties in a Compatible Polymer Matrix;

NASA Case No. KSC–12637: Removal of PCB and Other Halogenated Organic Contaminants Found in Ex Situ Structures;

NASA Case No. KSC–12630: Image Processing for Binarization Enhancement via Fuzzy Reasoning.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05–5248 Filed 3–16–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05–053]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT:

Linda B. Blackburn, Patent Counsel, Langley Research Center, Mail Code 141, Hampton, VA 23681–2199; telephone (757) 864–9260; fax (757) 864–9190.

NASA Case No. LAR–16001–1: Catalyst for Treatment and Control of Post-Combustion Emissions;

NASA Case No. LAR–16566–1: Method and Apparatus for Loss of Control Inhibitor Systems;

NASA Case No. LAR 16176–2: Space Environmentally Durable Polyimides and Copolyimides;

NASA Case No. LAR–16532–1: Low-Noise Fan Exit Guide Vanes;

NASA Case No. LAR–16543–1: Electrospun Electroactive Polymers;

NASA Case No. LAR–16323–1: System and Method for Determining Gas Optical Density Changes in a Non-Linear Measurement Regime.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05–5249 Filed 3–16–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05–046]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT:

Robert M. Padilla, Patent Counsel, Ames Research Center, Code 202A–4, Moffett Field, CA 94035–1000; telephone (650) 604–5104; fax (650) 604–2767.

NASA Case No. ARC–15177–1:

Simplified Microarray Procedure;

NASA Case No. ARC–ARC 15198–1:

Coupled Self-Assembly of Polymers and Proteins To Form Novel Hybrid Materials;

NASA Case No. ARC–15314–1: Control of Carbon Nanotube Density and Tower Height in an Array;

NASA Case No. ARC–15404–1:

Increased Alignment in Carbon Nanotube Growth;

NASA Case No. ARC–15062–1: Carbon Nanostructure-Based Electrodes for Electrical Stimulation and Recording.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05–5250 Filed 3–16–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05–047]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT: Jerry L. Seemann, Patent Counsel, Marshall Space Flight Center, Mail Code LS01, Huntsville, AL 35812; telephone (256) 544-6580; fax (256) 544-0258.

NASA Case No. MFS-31789-1: MEMS-Micro-Translation State With Indefinite Linear Travel Capability;
NASA Case No. MFS-31817-1: Short-Range/Long-Range Integrated Target (SLIT) For Video Guidance Sensor Rendezvous And Docking.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05-5251 Filed 3-16-05; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05-048]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Patent Counsel, Glenn Research Center at Lewis Field, Code 500-118, Cleveland, OH 44135; telephone (216) 433-8855; fax (216) 433-6790.

NASA Case No. LEW-17605-1: Skin Modified Aerogel Monoliths For Improved Ruggedness And Lower Hydrophyllicity;

NASA Case No. LEW-17483-1: Hand Held Device For Wireless Powering And Interrogation Of BioMEMS Sensors And Actuators;

NASA Case No. LEW-17236-2: Mouse Cleaning Apparatus;

NASA Case No. LEW-17704-1: Cathode Luminescence Light Source For Broad Band Application In The Visible Spectrum.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05-5252 Filed 3-16-05; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05-049]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: March 17, 2005.

FOR FURTHER INFORMATION CONTACT: David Walker, Patent Counsel, Goddard Space Flight Center, Mail Code 503, Greenbelt, MD 20771-0001; telephone (301) 286-7351; fax (301) 286-9502.

NASA Case No. GSC-14807-1: Analyzing Nonstationary Financial Time Series via Hilbert-Huang Transform (HHT);

NASA Case No. GSC-14775-1: Integrated Analysis and Test Systems and Methods.

Dated: March 10, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05-5253 Filed 3-16-05; 8:45 am]

BILLING CODE 7510-13-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 May 2, 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 the Interior, Office of the Secretary (N1-48-05-2, 10 items, 10 temporary items). Files relating to the coordination and enactment of regulations promulgated by the Department as well as files relating to the Department's compliance with the Regulatory Flexibility Act of 1980. Also included are electronic copies of documents created using electronic mail and word processing.

2. Department of Justice, Drug Enforcement Administration (N1-170-04-7, 15 items, 15 temporary items). System inputs, outputs, master files, and documentation relating to the agency's public key infrastructure that supports the secure electronic transmission of business transactions and prescriptions for controlled substances. Also included are electronic copies of records created using electronic mail and word processing.

3. Department of the Navy, Naval Criminal Investigative Service (N1-NU-04-1, 5 items, 5 temporary items). Class curricula, rosters of participants, and individual and instructor training records accumulated by the Naval Criminal Investigative Service Academy. Also included are electronic copies of records created using electronic mail and word processing.

4. Department of the Navy, Naval Criminal Investigative Service (N1-NU-04-2, 3 items, 3 temporary items). Psychological autopsy records prepared to assist investigators in determining cause of death. Also included are electronic copies of records created using electronic mail and word processing.

5. Department of State, Bureau of Educational and Cultural Affairs (N1-59-05-2, 5 items, 3 temporary items). Schedules of daily activities of the Deputy Assistant Secretary for Academic Programs. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of subject files and program files.

6. Department of State, Bureau of Educational and Cultural Affairs (N1-59-05-3, 6 items, 3 temporary items). American and foreign grantee files of the Office of Academic Exchange Programs. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of subject/project files and program files of the office director and general country files of the program branches.

7. Department of State, Bureau of Educational and Cultural Affairs (N1-59-05-4, 5 items, 3 temporary items). Schedules of daily activities of the Deputy Assistant Secretary for Professional and Cultural Exchanges. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of subject files and program files.

8. Department of State, Bureau of Educational and Cultural Affairs (N1-59-05-5, 10 items, 7 temporary items). Congressional correspondence, grantee files, project working files, and photograph files of the Office of Citizen Exchanges. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of subject files and program files of the office director and general country files of the program divisions.

9. Department of State, Bureau of Educational and Cultural Affairs (N1-59-05-7, 10 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that are accumulated by the Cultural Property Advisory Committee. Proposed for permanent retention are recordkeeping copies of meeting files, request files, country files, subject files, program files, and report files.

10. Department of Transportation, Federal Aviation Administration (N1-237-05-1, 1 item, 1 temporary item). Files relating to applications for passports for crewmembers.

11. Department of Transportation, Bureau of Transportation Statistics (N1-570-05-1, 3 items, 3 temporary items). Correspondence and related records pertaining to the award, administration, and payment of contracts. Records are maintained and used by Contracting Officer Technical Representatives for contract documentation and oversight activities. 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 records regardless of recordkeeping medium.

12. Department of Transportation, Federal Motor Carrier Safety Administration (N1-557-05-9, 10 items, 10 temporary items). Records accumulated by the Office of Human Capital Assets, including annual award files, chronological files, reference files, and management survey files. 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.

13. Department of the Treasury, Internal Revenue Service (N1-58-05-4, 1 item, 1 temporary item). Inadvertent Taxpayer Data Access Forms used to document access to taxpayer information by agency employees when access is not supported by direct case assignment.

14. Department of the Treasury, Internal Revenue Service (N1-58-05-5, 1 item, 1 temporary item). Calendars, appointment books, schedules, logs, and diaries of the Director of the Equal Employment Opportunity and Diversity Field Services. This schedule applies to records in any recordkeeping medium.

15. Department of the Treasury, Internal Revenue Service (N1-58-05-6, 3 items, 3 temporary items). Correction input and output files and logs for Notice Registers, which contain taxpayer information used to send notices to taxpayers. This schedule also

increases the retention period for the Notice Registers, which were previously approved for disposal.

16. Court Services and Offender Supervision Agency for the District of Columbia, Pretrial Services Agency (N1-562-05-1, 3 items, 3 temporary items). Supervision and treatment case files for defendants charged with criminal offenses and awaiting case disposition in Washington, DC. Also included are electronic copies of documents created using electronic mail and word processing.

17. Federal Energy Regulatory Commission, Agency-wide, (N1-138-05-1, 2 items, 2 temporary items). Annual reports of personal and professional information from persons holding interlocking positions in public utilities. Also included are electronic copies of records created using electronic mail and word processing.

Dated: March 10, 2005.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 05-5245 Filed 3-16-05; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Determination of the Chairperson of the National Endowment for the Arts Regarding Potential Closure of Portions of Meetings of the National Council on the Arts

Section 6(f) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*) authorizes the National Council on the Arts to review applications for financial assistance to the National Endowment for the Arts and make recommendations to the Chairperson.

The Federal Advisory Committee Act (FACA), as amended (Pub. L. 92-463) governs the formation, use, conduct, management, and accessibility to the public of committees formed to advise the Federal Government. Section 10 of that Act directs meetings of advisory committees to be open to the public, except where the head of the agency to which the advisory committee reports determines in writing that a portion of a meeting may be closed to the public consistent with subsection (c) of section 552b of title 5, United States Code (the Government in the Sunshine Act).

It is the policy of the National Endowment for the Arts that meetings of the National Council on the Arts be

conducted in open session, including those parts during which applications are reviewed. However, in recognition that the Endowment is required to consider the artistic excellence and artistic merit of applications for financial assistance and that consideration of individual applications may require a discussion of matters such as an individual artist's abilities, reputation among colleagues, or professional background and performance, I have determined to reserve the right to close limited portions of Council meetings if such information is to be discussed. The purpose of the closure is to protect information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. Closure for this purpose is authorized by subsection (c)(6) of section 552b of title 5 United States Code.

Additionally, the Council will consider prospective nominees for the National Medal of Arts award in order to advise the President of the United States in his final selection of National Medal of Arts recipients. During these sessions, similar information of a personal nature will be discussed. As with applications for financial assistance, disclosure of this information about individuals who are under consideration for the award would constitute a clearly unwarranted invasion of personal privacy.

Therefore, in light of the above, I have determined that those portions of Council meetings devoted to consideration of prospective nominees for the National Medal of Arts award, may be closed to the public. Closure for these purposes is authorized by subsections (c)(6) of section 552b of title 5, United States Code. A record shall be maintained of any closed portion of the Council meeting. Further, in accordance with the FACA, a notice of any intent to close any portion of the Council meeting will be published in the **Federal Register**.

Dated: March 10, 2005.

Dana Gioia,

Chairman, National Endowment for the Arts.

[FR Doc. 05-5361 Filed 3-16-05; 8:45 am]

BILLING CODE 7535-01-P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 154th Meeting—Notice of Change

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that the meeting of the National Council on the Arts previously announced for March 24, 2005 from 9 a.m.–12 p.m. will now also include a closed session on March 23, 2005, from 12 p.m. to 2 p.m. (times are approximate). In accordance with the determination of the Chairman of March 11, 2005, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY-TDD 202/682-5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682-5570.

Dated: March 11, 2005.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 05-5269 Filed 3-16-05; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond

to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:*

DOE/NRC Form 741, Nuclear Material Transaction Report; DOE/NRC Form 740M, Concise Note; and NUREG/BR-0006, Revision 6, Instructions for Completing Nuclear Material Transaction Reports (DOE/NRC Forms 741 and 740M).

3. *The form number if applicable:*

DOE/NRC Form 741: 3150-0003.

DOE/NRC Form 740M: 3150-0057.

4. *How often the collection is required:*

DOE/NRC Form 741: As occasioned by special nuclear material or source material transfers, receipts, or inventory changes that meet certain criteria. Licensees range from not submitting any forms to submitting over 5,000 forms annually.

DOE/NRC Form 740M: As necessary to inform the U.S. or the International Atomic Energy Agency (IAEA) of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement. On average, 15 licensees submit about 10 forms each per year—150 forms annually.

5. *Who will be required or asked to report:* Persons licensed to possess specified quantities of special nuclear material or source material, and licensees of facilities on the U.S. eligible list who have been notified in writing by the Commission that they are subject to part 75.

6. *An estimate of the number of responses:*

DOE/NRC Forms 741: 36,650.

DOE/NRC Form 740M: 150.

7. *An estimate of the number of annual respondents:*

DOE/NRC Forms 741: 400.

DOE/NRC Form 740M: 15.

8. *The number of hours needed annually to complete the requirement or request:*

DOE/NRC Form 741: 45,813 hours for NRC and Agreement State licensees (or an average of 1.25 hours per response); DOE/NRC Form 740M: 113 hours (or an average of .75 hours per response).

9. *An indication of whether section 3507(d), Pub. L. 104-13 applies:* NA.

10. *Abstract:* NRC and Agreement State licensees are required to make inventory and accounting reports on DOE/NRC Forms 741 for certain source or special nuclear material, or for transfer or receipt of 1 kilogram or more of source material. Licensees affected by

part 75 and related sections of parts 40, 50, 70, and 150 are required to submit DOE/NRC Form 740M to inform the U.S. or the IAEA of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement. The use of Forms 740M and 741, together with NUREG/BR-0006, Revision 6, the instructions for completing the forms, enables NRC to collect, retrieve, analyze as necessary, and submit the data to IAEA to fulfill its reporting responsibilities.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 18, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

John Asalone, Office of Information and Regulatory Affairs (3150-0003; -0057), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to John_A._Asalone@ombeop.gov or submitted by telephone at (202) 395-3087.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415-7233.

Dated in Rockville, Maryland, this 10th day of March, 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 05-5278 Filed 3-16-05; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Company; Brunswick Steam Electric Plant, Units 1 and 2 Exemption

1.0 Background

The Carolina Power & Light Company (CP&L, the licensee) is the holder of

Facility Operating Licenses Nos. DPR-71 and DPR-62, which authorize operation of the Brunswick Steam Electric Plant (BSEP), Units 1 and 2. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors located in Brunswick County in North Carolina.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), Section 50.54(o) requires that primary reactor containments for water-cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J specifies the leakage test requirements, schedules, and acceptance criteria for tests of the leaktight integrity of the primary reactor containment and systems and components that penetrate the containment. Appendix J, Option B, Section III.A requires that the overall integrated leak rate must not exceed the allowable leakage (La) with margin, as specified in the Technical Specifications (TS). The overall integrated leak rate, as specified in the 10 CFR Part 50, Appendix J definitions, includes the contribution from main steam isolation valve (MSIV) leakage. By letter dated October 6, 2004, the licensee has requested exemption from Option B, Section III.A requirements to permit exclusion of MSIV leakage from the overall integrated leak rate test measurement.

Option B, Section III.B of 10 CFR Part 50, Appendix J requires that the sum of the leakage rates of all Type B and Type C local leak rate tests be less than the performance criterion (La) with margin, as specified in the TS.

On May 30, 2002, the NRC issued Amendment Nos. 221 and 246 to the Facility Operating Licenses for BSEP, Units 1 and 2, respectively. These amendments revised the TS to replace the accident source term used in loss-of-coolant accident (LOCA), main steamline break (MSLB) accident, and control rod drop accident (CRDA) design-basis analyses with an alternate source term (AST) in accordance with 10 CFR 50.67, "Accident Source Term." On March 14, 2002, the NRC issued Amendment Nos. 218 and 244 for BSEP, Units 1 and 2, respectively, revising the facility TS to replace the accident source term used in the fuel handling accident (FHA) design-basis accident analyses with an AST in accordance with 10 CFR 50.67. In the previous

design-basis accident radiological consequence analyses, MSIV leakage was added to the overall containment integrated leakage rate, as measured by the Type A test specified in 10 CFR 50, Appendix J, Option B. By Amendment Nos. 181 and 213 issued on February 1, 1996, for BSEP Units 1 and 2, respectively, the licensee was authorized to use the Option B provisions of 10 CFR Part 50, Appendix J.

Based on the Safety Evaluation supporting Amendment Nos. 221 and 246 issued on May 30, 2002, the NRC has accepted that MSIV leakage for design-basis accident analyses has been accounted for separately from the overall leakage associated with the primary containment boundary and overall doses meet appropriate regulatory limits. As such, the requirement of 10 CFR 50, Appendix J, Option B, Section III.A that MSIV leakage be included as part of the Type A test results is not necessary to achieve the underlying purpose of the rule; that is, ensuring the actual radiological consequences of design-basis accidents remain below those analyzed as demonstrated through the measured containment leakage test.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security, and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR Part 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. * * *"

The underlying purpose of the rule that implements Appendix J (*i.e.*, 10 CFR 50.54(o)) is to assure that containment leaktight integrity is maintained (a) as tight as reasonably achievable, and (b) sufficiently tight so as to limit effluent release to values bounded by the analyses of radiological consequences of design-basis accidents. The revised design-basis radiological consequences analyses address these pathways as individual factors, exclusive of the primary containment leakage. The staff has determined that the intent of the rule is not compromised by the proposed action, and that 10 CFR 50.12(a)(2)(ii) applies.

4.0 Conclusion

Accordingly, the Commission has determined that pursuant to 10 CFR Part 50.12(a)(1), an exemption is authorized by law and will not present an undue risk to the public health and safety, is consistent with the common defense and security, and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2). An exemption is hereby granted to CP&L, BSEP Units 1 and 2 from the requirements of Sections III.A and III.B of Option B of Appendix J to 10 CFR Part 50. The exemption allows exclusion of MSIV leakage from the overall integrated leak rate test measurement.

Based on the foregoing, the separation of the main steam pathways from the other containment leakage pathways is warranted because a separate radiological consequence term has been provided for these pathways. The revised design-basis radiological consequences analyses address these pathways as individual factors, exclusive of the primary containment leakage. Therefore, the NRC staff finds the proposed exemption from Appendix J, to separate MSIV leakage from other containment leakage, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (70 FR 11034).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 9th day of March 2005.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05-5276 Filed 3-16-05; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271; License No. DPR-28]

Entergy Nuclear Operations, Inc. Vermont Yankee Nuclear Power Station; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC) has issued a Director's Decision on an April 23, 2004, petition by the New England Coalition, hereinafter referred to as the "Petitioner." The petition was supplemented on September 10, 2004.

The petition concerns the operation of the Vermont Yankee Nuclear Power Station (Vermont Yankee).

The basis for the April 23, 2004, petition, was the absence of two pieces of fuel rods in the spent fuel pool (SFP) at Vermont Yankee from their documented location. The Petitioner stated that Entergy Nuclear Operations, Inc. (Entergy or the licensee) had lost control of the spent fuel inventory at Vermont Yankee. The Petitioner would have no confidence that Entergy did not put leaking fuel rods or suspected leaking fuel assemblies back into the reactor core during the April 2004 refueling outage until Entergy accounted for all special nuclear material (SNM). The New England Coalition contends that operation with leaking fuel in the reactor core would be potentially unsafe and in violation of Federal regulations.

On May 5 and September 22, 2004, the Petitioner and the licensee met with the staff's Petition Review Board (PRB). These meetings gave the Petitioner and the licensee an opportunity to provide additional information and to clarify issues raised in the petition.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to the licensee for comment on December 27, 2004. The Petitioner responded with comments on January 25, 2005. The comments and the NRC staff's responses are included in the Director's Decision. The staff did not receive any comments from the licensee.

The Director of the Office of Nuclear Reactor Regulation denies the Petitioner's request that the NRC make Entergy do an accurate and NRC-verified inventory of the location, disposition, and condition of all irradiated fuel, including fuel currently loaded in the reactor, and order Entergy to halt all fuel movement at Vermont Yankee until the inventory is completed. The reasons for this decision are explained in the Director's Decision pursuant to Title 10 of Code of Federal Regulations (10 CFR), Section 2.206 (DD-05-01), the complete text of which is available in ADAMS for inspection at the Commission's Public Document Room at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component of the NRC's Web site, <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room).

The Petitioner's request that all fuel movement be stopped is moot. All fuel movement for the April 2004 refueling outage had been completed before the NRC received the petition. The licensee has completed a documented inventory to confirm the total number of fuel

assemblies and their locations and the locations of the individual rods. The licensee successfully located the two fuel rod pieces in the SFP and did core verifications. The NRC therefore concludes that as of July 13, 2004, Entergy has been in full compliance with regulatory requirements to account for all SNM in its possession. Therefore the Petitioner's request has in effect been granted. The licensee took the requested actions voluntarily obviating the need for an order. Furthermore, the licensee has updated its inventory of SNM, so there is no need for the NRC to prohibit fuel movement.

The Petitioner claimed to have no confidence that Entergy did not put leaking fuel or suspected leaking fuel assemblies back into the reactor core during the last refueling outage. The NRC inspectors verified that no leaking fuel assemblies were reloaded in the reactor core. The NRC has concluded that Entergy is now in compliance with regulatory requirements to account for all SNM. However in the special inspection report issued on December 2, 2004, the inspectors identified an apparent violation of 10 CFR 74.19, "Material Control and Accounting of Special Nuclear Material-Recordkeeping," related to the two spent fuel rod pieces. The NRC is considering escalated enforcement action for this finding.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 10th day of March 2005.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 05-5277 Filed 3-16-05; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-17]

Notice of Issuance of Environmental Assessment and Finding of No Significant Impact Regarding a Proposed Exemption; Portland General Electric Company; Trojan Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of environmental assessment and finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Regan, Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-8500; fax number: (301) 415-8555; e-mail: cmr1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Portland General Electric Company (PGE) is the licensee and holder of License No. SNM-2509 for the Trojan Independent Spent Fuel Storage Installation (Trojan ISFSI). In addition, PGE holds License No. NPF-1, pursuant to 10 CFR part 50, for the Trojan Nuclear Plant (TNP). The licensee will complete decommissioning of the Trojan Nuclear Plant and intends to terminate its part 50 license for the Trojan Nuclear Plant. The Trojan ISFSI contains the spent fuel removed from the Trojan Nuclear Plant.

Currently, the licensee provides financial assurance for the Trojan ISFSI pursuant to 10 CFR 72.30(c)(5), which allows a part 50 license holder to use the financial assurance provisions of part 50 to provide financial assurance for an ISFSI. The licensee maintains an external sinking fund for decommissioning funds pursuant to 10 CFR 50.75(e). However, when its part 50 license is terminated, it will no longer meet the condition of 10 CFR 72.30(c)(5) that allows it to use its existing external sinking fund to provide financial assurance for its ISFSI.

On April 29, 2004, PGE filed a request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5) that requires an ISFSI licensee to additionally hold a part 50 license in order to use an external sinking fund as the exclusive means of financial assurance for decommissioning costs of an ISFSI.

II. Environmental Assessment

Identification of Proposed Action: Pursuant to the requirements of 10 CFR 72.7, PGE requested a partial exemption from the financial assurance requirements of 10 CFR 72.30(c)(5). The exemption request was "partial" because it would apply only to the requirement that the ISFSI licensee also hold a part 50 license to use an external sinking fund as its exclusive method of providing financial assurance for its ISFSI. The licensee will continue to provide financial assurance conforming to the requirements of 10 CFR 50.75(e) and (h), although it reserved the right to change to another method as provided in other sections of 10 CFR 72.30(c). The licensee pointed out that the wording of 10 CFR 72.30(c)(5) allowed an "electric utility" to use an external sinking fund as the exclusive method of providing financial assurance when its part 72 ISFSI license was first issued. However, the rule was amended effective on December 24, 2003, which resulted in the change of the condition from "electric utility" to "a Part 50 licensee." PGE stated that it will remain an electric utility after the termination of its part 50 license, hence it will continue to meet the intent of the rule as originally issued.

The proposed action before the Commission is whether to grant this exemption pursuant to 10 CFR 72.7.

Need for the Proposed Action: The applicant is undertaking decommissioning activities associated with the Trojan Nuclear Plant and has informed the NRC of its intent to terminate the TNP operating license (License No. NPF-1), issued pursuant to 10 CFR part 50. PGE's 2003 Annual Financial Statement (Form 10-K, submitted to the U.S. Securities and Exchange Commission (SEC) on March 19, 2004) stated that PGE will collect \$14 million annually, until 2011, from its customers to pay for decommissioning. Those collections will occur whether or not the exemption is granted. However, if the exemption is not granted, PGE will incur higher costs due to the expense of providing a second independent financial assurance instrument, which would lead to unnecessary additional costs. Therefore, the exemption is in the public interest. If PGE were to adhere to the financial assurance requirements of 10 CFR 72.30, without the granting of the partial exemption, an unnecessary financial burden and associated increased overall operating costs would be borne by the applicant. In addition, granting of the partial exemption to the requirements of 10 CFR 72.30(c)(5) will facilitate

completion of the decommissioning of the TNP site and eventual termination of the 10 CFR part 50 license.

Environmental Impacts of the Proposed Action: In 1999 the NRC issued a license to PGE to construct and operate the Trojan ISFSI. Prior to this action the NRC examined the environmental impacts of constructing, operating, and decommissioning of the Trojan ISFSI and determined that such impacts would be acceptably small. The staff's conclusions were documented in an environmental assessment and finding of no significant impact and published in the **Federal Register** (61 FR 64378) on December 4, 1996. On the basis that the proposed exemption deals with financial matters that will not affect the physical design or operation of the Trojan ISFSI, the staff finds that the proposed exemption will not have any significant environmental impact.

Alternative to the Proposed Action: As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Approval or denial of the exemption request would result in no change in the environmental impacts described in the staff's final EA. Therefore, the environmental impacts of the proposed action and the alternative action are similar.

Agencies and Persons Consulted: On March 3, 2005, Mr. Adam Bless of the Oregon Office of Energy, Energy Resources Division, was contacted regarding the environmental assessment for the proposed exemption and had no concerns. The NRC staff previously evaluated the environmental impacts of the Trojan ISFSI in the environmental assessment and finding of no significant impact published in the **Federal Register** (61 FR 64378) on December 4, 1996, and has determined that additional consultation under Section 7 of the Endangered Species Act is not required for this specific exemption which involves financial assurance mechanisms and will not affect listed species or critical habitat. The NRC staff has similarly determined that the proposed exemption is not a type of activity having the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting the partial exemption from 10 CFR

72.30(c)(5) that requires an ISFSI licensee to additionally hold a part 50 license in order to use an external sinking fund as the exclusive means of financial assurance for decommissioning costs of an ISFSI, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that a Finding of No Significant Impact is appropriate, and that an environmental impact statement for the proposed exemption is not necessary.

Supporting documentation, with respect to this exemption request, is available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/ADAMS.html>. A copy of the PGE request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5), dated April 29, 2004, can be found at this site using the Agencywide Documents Access and Management System (ADAMS) accession number ML041260470. Any questions should be referred to Christopher M. Regan, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555, Mailstop O 13D13, telephone (301) 415-8500, fax (301) 415-8555.

Dated in Rockville, Maryland, this 10th day of March, 2005.

For the Nuclear Regulatory Commission.

Christopher M. Regan,

Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 05-5280 Filed 3-16-05; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-03]

Progress Energy Carolinas, Incorporated; Notice of Issuance of an Environmental Assessment and Finding of No Significant Impact for License Renewal of the H.B. Robinson Steam Electric Plant, Unit 2 Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment.

FOR FURTHER INFORMATION CONTACT: Christopher M. Regan, Senior Project Manager, Mail Stop O 13D13, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone:

(301) 415-1179; fax number: (301) 415-1179; e-mail: cmr1@nrc.gov.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering renewing Carolina Power and Light Company (CP&L) now doing business as Progress Energy Carolinas, Inc. (PEC's) (the applicant's) License No. SNM-2502 under the requirements of title 10 of the Code of Federal Regulations, part 72 (10 CFR part 72) authorizing the continued operation of the H.B. Robinson Steam Electric Plant, Unit 2 (HBRSEP) Independent Spent Fuel Storage Installation (ISFSI) located at the HBRSEP in Darlington County, South Carolina. The Commission's Office of Nuclear Material Safety and Safeguards has completed its review of the environmental report submitted by the applicant on February 27, 2004, in support of its application for a renewed materials license. The staff's "Environmental Assessment related to the renewal of the H.B. Robinson Independent Spent Fuel Storage Installation" has been issued in accordance with 10 CFR part 51.

I. Summary of Environmental Assessment (EA)

Description of the Proposed Action: The proposed licensing action would authorize the applicant to continue operating a dry storage ISFSI at the HBRSEP site. The purpose of the ISFSI is to allow for interim spent fuel storage and, indirectly, power generation capability, beyond the term of the current ISFSI license to meet future power generation needs. The current license will expire August 31, 2006. The renewed ISFSI license would permit 40 additional years of storage beyond the current license period. The current ISFSI employs the NUHOMS® system for horizontal, dry storage of irradiated fuel assemblies in concrete modules licensed for use at the HBRSEP ISFSI. Currently, the facility is licensed to store 56 spent fuel assemblies contained in 8 steel dry shielded canisters, 7 fuel assemblies to a canister, housed in 8 horizontal storage modules.

Need for the Proposed Action: The HBRSEP ISFSI is needed to provide continued spent fuel storage capacity so that the HBRSEP can continue to generate electricity. This renewal is needed to provide an option that allows for interim spent fuel storage and, indirectly, power generation capability, beyond the term of the current ISFSI license to meet future system generating needs. The renewed ISFSI license would permit 40 additional years of storage beyond the current license

period and transfer to a Federal repository for permanent disposal of the waste. An exemption would allow an additional 20 years of storage beyond the renewal period for a total of 40 years beyond the original licensed period.

Environmental Impacts of the Proposed Action: The NRC staff has concluded that the license renewal of the HBRSEP ISFSI will not result in a significant impact to the environment. The prior NRC Environmental Assessment associated with the issuance of Materials License SNM-2502 continues to form the basis for assessing the potential environmental impacts of the proposed license renewal action. The environmental impacts associated with the proposed action concentrate on only those impacts projected to occur during the requested 40 year license renewal time period. Environmental impacts include the potential direct effects on the ambient environment and its resources. These potential impacts can be categorized as non-radiological and radiological impacts.

There will be no significant radiological or non-radiological environmental impacts from routine operation of the HBRSEP ISFSI during the extended period of operation. The ISFSI is essentially a passive facility with no liquid and gaseous effluents released from the ISFSI that exceed Federal regulatory limits. The continued operation of the HBRSEP ISFSI will result in no change to the current impact on land use, water resources, air quality, generation of wastewater, geology, biota, cultural resources, and area demographics and socio-economics. The HBRSEP ISFSI is in its completed configuration and as such there will be no environmental impacts from construction activities. The staff does not expect operation of the HBRSEP ISFSI for an additional period of 40 years to impact any threatened or endangered species. The radiological dose rates from the ISFSI will be limited by the design of the horizontal storage module. The total occupational dose to workers at the HBRSEP site resulting from continued ISFSI operation will have a small impact on workers or the public, but all occupational doses must be maintained below the limits specified in 10 CFR part 20. The annual dose to the nearest resident from HBRSEP ISFSI activities remains significantly below the annual dose limits specified in 10 CFR 72.104 and 10 CFR 20.1301. The cumulative dose to an individual offsite from all site activities will be less than the limits specified in 10 CFR 72.104 and 10 CFR 20.1301. These doses are also a small fraction of

the doses resulting from naturally-occurring terrestrial and cosmic radiation of about 300 mrem/yr in the vicinity of the HBRSEP ISFSI. Additionally, occupational doses received by facility workers will not exceed the limits specified in 10 CFR 20.1201. For hypothetical accidents, the calculated dose to an individual at the nearest site boundary is well below the 5 rem limit for accidents set forth in 10 CFR 72.106(b) and in the U.S. Environmental Protection Agency's protective action guidelines.

Radiological decommissioning of the ISFSI would be complete when the last dry shielded canister is removed from the site. Small occupational exposures to workers could occur during decontamination activities, but these exposures would be much less than those associated with cask loading and transfer operations. Due to the containment design of the sealed surface storage casks, no residual contamination is expected to be left behind on the horizontal storage module and concrete base pad. The horizontal storage modules, base pad, fence, and peripheral utility structures are defacto decommissioned when the last cask is removed.

Alternatives to the Proposed Action: The applicant's Environmental Report and the staff's EA discuss several alternatives to the proposed ISFSI license renewal. These alternatives include shipment of spent fuel to a permanent Federal Repository, ship the spent fuel off-site, construct a new spent fuel storage pool at the site, and construct another on-site ISFSI, as well as the no action alternative. In the first category, the alternatives of shipping spent fuel from HBRSEP to a permanent Federal Repository or to another spent fuel storage facility were determined to be non-viable alternatives, as no such facilities are currently licensed in the United States, and shipping the spent fuel to other power stations is not common practice because the receiving utility would have to be licensed to store the HBRSEP spent fuel, and it is unlikely that another utility would be willing to accept it, in light of their own limitations on spent fuel storage capacity. Other alternatives include the construction of additional on-site storage capabilities. These options were considered less favorable because of the increased costs involved and the additional worker exposures from transfer of the spent fuel.

Renewal of the HBRSEP ISFSI license for a term of 20 years would result in the ISFSI license expiring 4 years prior to expiration of the proposed HBRSEP operating license. Based on the expected

limits on the amounts of fuel that can be shipped annually to a potential Federal Repository and the anticipated opening of such a facility, PEC estimates it would not be able to ship all the spent fuel before expiration of the HBRSEP ISFSI license. As a result, a third renewal of the HBRSEP ISFSI license would be required, thereby adding cost.

The no action alternative could result in the expiration of the HBRSEP ISFSI license. The fuel currently stored would then have to be removed. Storage capacity limitations would require PEC to ship fuel to an available offsite storage facility. Transfer of fuel from the existing HBRSEP ISFSI to another facility would increase worker exposure. Following removal of the fuel the HBRSEP ISFSI would be decommissioned. Since the HBRSEP ISFSI would eventually be decommissioned, the impacts of the "no action" alternative are considered similar to the other alternatives.

As discussed in the EA, the Commission has concluded that there are no significant environmental impacts associated with renewing the license of the HBRSEP ISFSI, and other alternatives were not pursued because of significantly higher costs, additional occupational exposures, and the unavailability of offsite storage options.

Agencies and Persons Contacted: Officials from the U.S. Fish and Wildlife Service, the South Carolina State Historic Preservation Office, and the South Carolina Department of Natural Resources were contacted in preparing the staff's environmental assessment. The conclusions by all agencies consulted were consistent with the staff's conclusions.

II. Finding of No Significant Impact

The staff has reviewed the environmental impacts of renewing the HBRSEP ISFSI license relative to the requirements set forth in 10 CFR part 51, and has prepared an Environmental Assessment. Based on the Environmental Assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that issuance of renewal of the license for the interim storage of spent nuclear fuel at the HBRSEP ISFSI will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31 and 51.32, a finding of no significant impact is appropriate and an environmental impact statement need not be prepared for the renewal of the materials license for the HBRSEP ISFSI.

In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," final NRC

records and documents regarding this proposed action, including the application for license renewal dated February 27, 2004, and supporting documentation, and the staff's EA, dated March 2005, are publically available in the records component of NRC's Agencywide Documents Access and Management System (ADAMS). These documents may be inspected at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html> under Accession No. ML040690774 and ML050700137. These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or (301) 415-4737, or by e-mail to pdrc@nrc.gov.

Dated in Rockville, Maryland, this 10th day of March, 2005.

For the U.S. Nuclear Regulatory Commission.

Christopher M. Regan,

Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 05-5279 Filed 3-16-05; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on April 7-9, 2005, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, November 24, 2004 (69 FR 68412).

Thursday, April 7, 2005, Conference Room T-2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.-8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.-10 a.m.: Final Review of the License Renewal Application for Joseph M. Farley Nuclear Plant, Units 1 and 2 (Open)—The Committee will

hear presentations by and hold discussions with representatives of the Southern Nuclear Operating Company and the NRC staff regarding the license renewal application for Joseph M. Farley Nuclear Plant, Units 1 and 2 and the associated final Safety Evaluation Report prepared by the NRC staff.

10:15 a.m.-11:15 a.m.: NUREG-1792, "Good Practices for Implementing Human Reliability Analysis" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding NUREG-1792 and the NRC staff's resolution of the comments and recommendations included in the May 13, 2004 ACRS letter.

11:15 a.m.-12:15 p.m.: Preparation for Meeting with the NRC Commissioners (Open)—The Committee will discuss the following topics scheduled for the ACRS meeting with the NRC Commissioners: (a) Sump Performance; (b) Risk-Informing 10 CFR 50.46; (c) Technical Basis for Potential Revision to the Pressurized Thermal Shock Screening Criteria; (d) License Renewal/Power Uprates; (e) Differences in Regulatory Approaches Between U.S. and Other Countries.

1:30 p.m.-3:30 p.m.: Meeting with the NRC Commissioners, Commissioners' Conference Room, One White Flint North, Rockville, MD (Open)—The Committee will meet with the NRC Commissioners to discuss the topics listed above.

4 p.m.-4:15 p.m.: Subcommittee Report (Open)—Report by the Acting Chairman of the ACRS Subcommittee on Plant License Renewal regarding interim review of the license renewal application for Millstone Power Station, Units 2 and 3 and the associated draft Safety Evaluation Report prepared by the NRC staff.

4:15 p.m.-6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, April 8, 2005, Conference Room T-2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.-8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.-10:30 a.m.: Accident Sequence Precursor Program and Development of SPAR Models (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the status of the Accident

Sequence Precursor Program and development of the Standardized Plant Analysis Risk (SPAR) Models.
10:45 a.m.-11:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

11:45 a.m.-12 Noon: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

1 p.m.-6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, April 9, 2005, Conference Room T-2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.-12:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.
12:30 p.m.-1 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 5, 2004 (69 FR 59620). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set

aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301-415-7364), between 7:30 a.m. and 4:15 p.m., e.t.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at pdr@nrc.gov, or by calling the PDR at 1-800-397-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/> (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301-415-8066), between 7:30 a.m. and 3:45 p.m., e.t., at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: March 11, 2005.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 05-5274 Filed 3-16-05; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on

April 6, 2005, Room T-2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, April 6, 2005—10 a.m.—11:30 a.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301-415-7364) between 7:30 a.m. and 4:15 p.m. (e.t.) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (e.t.). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: March 11, 2005.

Sharon A. Steele,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. 05-5275 Filed 3-16-05; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27951]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

March 11, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for

complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 4, 2005, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 4, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Transmission Company LLC, et al. (70-10289)

American Transmission Company LLC ("ATC"), an electric transmission public-utility company under the Act, ATC Management Inc. ("ATCMI"), a public-utility company and a public-utility holding company exempt from registration under section 3(a)(1) of the Act by rule 2, both located at N19 W23993 Ridgeview Parkway West, Waukesha, WI 53188, and Alliant Energy Corporation ("Alliant"), a registered public-utility holding company and an indirect, partial owner of ATC and ATCMI, located at 4902 N. Biltmore Lane, Madison, WI 53707 (together, "Applicants"), have filed and application-declaration, as amended ("Application"), with the Commission under sections 6(a) and 7 of the Act and rule 54.

Applicants seek up to \$100 million in additional financing authority for ATC to refinance or redeem short-term debt securities previously issued and other general corporate purposes, in addition to Applicants' current financing authority under the Commission's July 1, 2004 order ("Omnibus Financing Order"),¹ in an aggregate amount not to exceed \$810 million at any one time outstanding, *provided that* the aggregate amount of short-term debt issued will

¹ *American Transmission Company, et al., Holding Co. Act Release No. 27871.*

not exceed \$200 million at any one time outstanding.

I. Background

ATC is an electric transmission company, organized as limited liability company under Wisconsin law, with its sole purpose to plan, construct, operate, maintain and expand transmission facilities, to provide adequate and reliable transmission services and to support effective competition in energy markets. ATC was formed after the State of Wisconsin enacted legislation in 1999, encouraging, among other things, formation of for-profit transmission companies ("Transco Legislation").² ATC is operated and managed by ATCMI, a Wisconsin corporation that also owns a nominal interest in ATC.³

ATC was formed, in January 2001, by five public-utility holding companies (or certain of their subsidiaries)⁴ with service areas in Wisconsin and adjacent areas in Illinois and Michigan. The five initial members were (1) Alliant Power and Light Company ("WPL") and South Beloit Water, Gas and Electric Company ("South Beloit"),⁵ (2) Wisconsin Energy Corp. (through its subsidiaries Wisconsin Electric Power Company and Edison Sault Electric

Company),⁶ (3) Madison Gas and Electric Company,⁷ (4) WPS Resources Corporation (through its subsidiary Wisconsin Public Service Corp.),⁸ and (5) WPPI.⁹ By December 31, 2003, ATC had 21 additional investors.¹⁰

Applicants' proposal, as noted above, is for certain financing authority of up to \$100 million in addition to a previous authorization given by the Omnibus Financing Order, in which the Commission authorized, generally, the following financing transactions through June 30, 2005 ("Authorization Period"):¹¹

(i) ATC to issue debt securities in an aggregate amount not to exceed \$710 million at any one time outstanding during the Authorization Period, *provided that* the aggregate amount of short-term debt issued pursuant to the requested authority will not exceed \$200 million at any one time outstanding during the Authorization Period;

(ii) ATC to issue member interests and ATCMI to issue equity interests and preferred securities in an aggregate amount of \$500 million at any one time outstanding during the Authorization Period, *provided that* the aggregate amount of member interests and Class A and Class B shares outstanding at any one time during the Authorization Period will not exceed \$393 million plus the value at that time of the member interests and Class A and Class B shares outstanding as of the date of the Omnibus Financing Order;

(iii) ATC and ATCMI to provide guarantees and other credit support in an aggregate amount not to exceed \$125 million outstanding at any one time during the Authorization Period;

(iv) ATC and ATCMI to enter into various interest rate hedging transactions; and

(v) ATC and ATCMI to undertake transactions to extend the terms of or replace, refund or refinance existing obligations, as well as the issuance of new obligations in exchange for existing obligations.

² See generally, *Alliant Energy Corporation, et al., Holding Co. Act Release No. 27331* (Dec. 29, 2000). Applicants state that ATC is obliged, under the Transco Legislation, to construct, operate, maintain and expand its transmission facilities to provide adequate, reliable transmission service under an open-access transmission tariff. Applicants further state that ATC offers certain key benefits to its owners, *i.e.*, the elimination of rate "pancaking" among ATC members' transmission systems; one-stop shopping for transmission and wholesale distribution service over multiple transmission systems; the reduction of operational barriers within the ATC service area; and the transfer of ownership of the transmission assets from vertically integrated utilities that will facilitate functional unbundling, among other things. Applicants state also that, effective February 1, 2002, ATC transferred operational control of its facilities to the Midwest Independent Transmission System Operator, Inc.

³ ATC, as a Wisconsin limited liability company, may elect to be "member-managed" or "manager-managed" and ATC elected to be managed by ATCMI. Applicants state that ATCMI is structured as a corporation, rather than a limited liability company, to facilitate access to the public markets, including any potential public offering of ATCMI.

⁴ Of the five companies, four are investor-owned companies and they (either directly or through subsidiaries) transferred ownership and operation of their transmission assets to ATC in exchange for an ownership interest. The fifth, Wisconsin Public Power Inc. ("WPPI"), a Wisconsin municipal electric company, contributed cash in exchange for an equity interest in ATC proportional to its members' load ratio share in Wisconsin.

⁵ See *Alliant Energy Corp.*, note 2 above. WPL and South Beloit are both subsidiary companies of Alliant. WPL contributed transmission assets to ATC, but member units were issued for the assets to WPL's subsidiary, WPL Transco LLC.

⁶ *Wisconsin Energy Corp., Holding Co. Act Release No. 27329* (Dec. 28, 2000). Wisconsin Energy Corp., dba We Energies, is an exempt holding company under the Act.

⁷ *Madison Gas and Electric Co., Holding Co. Act Release No. 27326* (Dec. 28, 2000). Madison Gas and Electric Company is a public-utility company and an exempt holding company under the Act.

⁸ *WPS Resources Corporation, Holding Co. Act Release No. 27330* (Dec. 28, 2000). Wisconsin Public Service Corporation ("WPS") is an exempt public-utility company under the Act and a subsidiary of WPS Resources Corporation, an exempt holding company under the Act. WPS contributed transmission assets to ATC, but member units were issued for the assets to WPS Investments, LLC.

⁹ Wisconsin Public Power Inc. is not subject to regulation by reason of section 2(c) of the Act.

¹⁰ Eighteen more contributors invested transmission assets and/or cash in ATC (including twelve municipal utilities, four cooperatives, one public power entity and one investor-owned utility) in June 2001. Two members joined ATC on December 31, 2002, and a third member joined on December 31, 2003.

¹¹ See note 1 above.

II. The Current Financing Proposal

Applicants now seek up to \$100 million in additional authority for ATC in an aggregate amount not to exceed \$810 million in long-term debt securities at any one time outstanding, *provided that* the aggregate amount of short-term debt issued will not exceed \$200 million at any one time outstanding. Applicants state that the proceeds from the sale of securities in the proposed external financing transactions will be used for the refinancing or redemption of short-term debt securities previously issued by ATC and other general corporate purposes.

Applicants also propose that this additional authorization will be subject to the restrictions specified in the Omnibus Financing Order.¹² Applicants state, among other things, (i) the maturity of long-term debt will not exceed fifty years; (ii) any debt security issued will have the designation, aggregate principal amount, interest rate(s) (or methods of determining interest rates), terms of payment of interest, collateral, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms and other terms and conditions as ATC might determine at the time of issuance, *provided that*, in no event, however, will the interest rate on long-term debt exceed 500 basis points over the yield-to-maturity of a U.S. Treasury security having a remaining term approximately equal to the average life of the debt; and (iii) the underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of securities under this Application will not exceed 7% of the principal or total amount of the securities being issued.

Applicants also represent that ATCMI and ATC each has and will maintain common equity of at least 30% of its consolidated capitalization (common equity, preferred stock, long-term and short-term debt). Applicants further represent that no security may be issued in reliance upon the requested order, unless: (i) The security to be issued, if rated, is rated investment grade; (ii) all outstanding rated securities of the issuer are rated investment grade; and (iii) all outstanding rated securities of ATCMI are rated investment grade. Applicants state that ATC will notify the Commission within five (5) business days of becoming aware of any downgrade in the securities of any registered holding company in the

¹² See note 1 above.

Alliant system and that the notice shall include a statement of whether the downgrade will affect ATC's access to capital markets. ATC is not a wholly-owned subsidiary of Alliant. Applicants state that, unlike other subsidiaries of registered holding companies, ATC is only partially owned by Alliant and has a number of other equity investors that each hold over 10% of ATC and ATCMI. Applicants further state that ATC finances on its own balance sheet without credit support from Alliant or any other upstream owners and that ATC maintains an arm's length relationship with Alliant and is not privy to any "inside" information. All information regarding Alliant in this Application comes from Alliant's public filings. For purposes of this condition, a security will be considered rated investment grade if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3-1 under the Securities Exchange Act of 1934. Applicants request that the Commission reserve jurisdiction over the issuance by ATC LLC of any securities that are rated below investment grade. Applicants further request that the Commission reserve jurisdiction over the issuance of any guarantee or other securities at any time that the conditions set forth in clauses (i) through (iii) above are not satisfied.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5-1166 Filed 3-16-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51361; File No. SR-CBOE-2005-10]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing of Proposed Rule Change To Revise Certain Membership Rules Related to the Testing and Orientation Requirements for Nominees of Member Organizations Approved Solely as Clearing Members

March 11, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January

25, 2005, 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, II, and III below, which Items have been prepared by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

CBOE proposes to revise certain membership rules related to the testing and orientation requirements for certain members and to make certain other non-substantive changes. Below is the text of the proposed rule change. Proposed new language is in italics, proposed deletions are in brackets.

Rule 3.2. Qualifications and Membership Statuses of Individual Members

(a) No change.
 (b) The individual membership statuses that are approved by the Membership Committee (along with the primary Exchange Rule that provides for such approval if it is not Rule 3.9) include: (i) owner[*]; (ii) lessor[*]; (iii) lessee[*]; (iv) Chicago Board of Trade exerciser[*]; (v) sole proprietor[*]; (vi) individual with a membership that has been registered for a member organization[*]; (vii) nominee of a member organization[*]; (viii) Market-Maker (Rule 8.2); (ix) Floor Broker (Rule 6.71); (x) member eligible to trade securities traded pursuant to Chapter XXX (Rule 30.2); and (xi) Trust Member (Rule 3.25). [Those individual membership statuses noted with an asterisk are also referred to in the Rules as membership capacity statuses.]

(c) No change.
 * * * Interpretations and Policies:
 No change.

Rule 3.3. Qualifications and Membership Statuses of Member Organizations

(a) No change
 (b) The member organization membership statuses that are approved by the Membership Committee (along with the primary Exchange Rule that provides for such approval if it is not Rule 3.9) include: (i) owner[*]; (ii) lessor[*]; (iii) lessee[*]; (iv) member organization for which an individual member has registered his or her membership[*]; (v) member organization approved to transact business with the public[*] (Rule 9.1); (vi) Clearing Member; and (vii) order

service firm[*] (Rule 6.77). [Those individual membership status noted with an asterisk are also referred to in the Rules as membership capacity statuses.]

(c)-(d) No change.

* * * Interpretations and Policies:
 No change

Rule 3.8. Nominees and Members Who Register Their Memberships for Member Organizations

(a)(i)-(ii) No change
 (iii) each nominee of a member organization designated pursuant to subparagraph (a)(i) of this Rule, *except for a nominee of a member organization approved solely as a Clearing Member and/or to transact business with the public pursuant to Rule 9.1*, is required to have an authorized trading function[, except that a nominee of a member organization that is approved solely to transact business with the public pursuant to Rule 9.1 is not required to comply with this requirement];

(iv)-(v) No change.
 (b)-(g) No change.

* * * Interpretations and Policies:
 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, 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. CBOE 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 proposed rule change makes certain clarifications to the Exchange's membership rules that relate to membership status categories. The Exchange is also proposing to amend its rules to provide an exemption from the general requirement that nominees of member organizations be required to attend the Exchange's Member Orientation Program and to pass the Exchange's Trading Member Qualification Exam.

The Exchange proposes to clarify certain information set forth in Exchange Rules 3.2(b) and 3.3(b) by

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

removing the explanatory information relating to "membership capacity statuses." The membership capacity statuses in Rules 3.2(b) and 3.3(b) delineate the membership classifications that member individuals and firms may have on the Exchange. In addition, asterisks are attached to certain membership capacity statuses in Rules 3.2(b) and 3.3(b). Rules 3.2(b) and 3.3(b) explain that the membership statuses noted with an asterisk are referred to in the Exchange rules as membership capacity statuses. In practice, this simply means that a membership applicant must elect on the Exchange's membership application form one of the statuses designated with an asterisk. Since the material related to the asterisks, and the asterisks themselves, only reflect internal Exchange procedures for categorizing its members, the proposed deletions reflect technical changes that are intended to simplify Exchange rules.

The Exchange proposes to revise Exchange Rule 3.8(a)(iii) to provide that a nominee of a member organization approved solely as a Clearing Member is not required to have an authorized trading function. The effect of the proposed rule is to eliminate the requirement that a nominee of a Clearing Member be required to attend the Exchange's Member Orientation Program and to pass the Exchange's Trading Member Qualification Exam. Nominees of Clearing Members originally were required to attend the Exchange's Member Orientation Program and pass the Member Qualification Exam because Exchange Clearing Members generally engaged in both clearing and trading activities. A Clearing Member conducting trading activities would have been required to have a nominee on the Exchange trading floor acting as a Floor Broker and/or Market-Maker. Certain Exchange Clearing Members have disposed of their trading activities and currently only engage in clearing activities on the Exchange. The proposed rule is intended to accommodate Clearing Members that only engage in clearing activities and do not otherwise engage in trading activities. Clearing Members that wish to engage in trading activities on the Exchange would still be required to designate a nominee who has an authorized trading function, and therefore would have to attend the Exchange's Member Orientation Program and to pass the Exchange's Trading Member Qualification Exam.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with the provisions

of Section 6(b) of the Act,³ in general, and with Section 6(b)(5) of the Act,⁴ in particular, which requires that CBOE rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

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-CBOE-2005-10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission,

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-10. 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-2005-10 and should be submitted on or before April 7, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5-1165 Filed 3-16-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51359; File No. SR-NSCC-2004-07]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change To Amend the Membership Standards Required of Insurance Companies

March 11, 2005.

I. Introduction

On October 26, 2004, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change File No. SR-NSCC-2004-07 pursuant to Section

⁵ 17 CFR 200.30-3(a)(12).

19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposed rule change was published in the **Federal Register** on January 24, 2005.² No comment letters were received. For the reasons discussed below, the Commission is now granting approval of the proposed rule change.

II. Description

The proposed rule change amends NSCC's Rules regarding the membership standards required of insurance companies. As a general matter, the current membership standards for insurance companies are based in part on ratings provided by rating agencies. The proposed rule replaces these standards in relevant part with a measure based on Risk-Based Capital ("RBC") ratios.

The RBC model was developed by the National Association of Insurance Commissioners ("NAIC"), the organization of insurance regulators from the 50 States, the District of Columbia, and the four U.S. territories. State insurance regulators created the NAIC in 1871 to address the need to coordinate regulation of multistate insurers. The NAIC has developed uniform financial reporting by insurance companies and an RBC model. The NAIC's RBC model is designed to calculate the minimum amount of capital that an insurer needs to support its overall business operations based on the degree of risk taken by the insurer and to protect the policyholders and business against adverse developments. Currently substantially all of the U.S. State insurance jurisdictions have adopted laws, regulations, or bulletins that are considered to be substantially similar to the NAIC's RBC for Insurers Model Act.

The calculation of the RBC ratio is based on an insurer's Total Adjusted Capital ("TAC"). TAC is comprised primarily of capital plus surplus divided by a capital level determined by the RBC formula called the Authorized Control Level Risk-Based Capital ("ACL RBC"). The ACL RBC is comprised of asset risk, credit risk, underwriting risk, and business risk.

In general, State regulatory authorities require no corrective action so long as an insurance company maintains an RBC ratio over 200%. NSCC's membership requirement would be an RBC ratio of 250% as derived from financial data reported by the insurance company to its State regulatory authority as part of its annual

statutorily-required financial statements. All current insurance company members of NSCC would meet the proposed 250% requirement.

Insurance companies will be required to submit the relevant data to NSCC on an annual basis at which time their compliance with the minimum standard will be reviewed by NSCC. In addition, any insurance company that fell below the 250% ratio during the course of the year will be required to notify NSCC immediately of this fact.

NSCC believes that the RBC standard is preferable to the existing NSCC requirements of using third-party ratings for the following reasons. First, the RBC standard should accurately represent the financial strength of an insurer because the RBC system is based on statutorily-required financial statements and it takes into account asset risks, credit risks, underwriting and pricing risks and the risk that the return from assets are not aligned with the requirements of the company's liabilities and general business risk. Second, the RBC standard is the industry benchmark. Third, the information needed to calculate the RBC ratio is readily available in the statutorily-required financial statements, which are to be provided to NSCC annually.

III. Discussion

Section 17A(b)(3)(F) of the Act requires among other things that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in its custody or control or for which it is responsible.³ The Commission finds that NSCC's proposed rule change is consistent with this requirement because it enhances NSCC's standards of financial responsibility applicable to insurance companies and therefore should help NSCC protect itself and its members from undue risk.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴ that the proposed rule change (File No. SR-NSCC-2004-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5-1163 Filed 3-16-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51363; File No. SR-NSCC-2005-01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend Its Operational Capability Requirement for Membership

March 11, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 19, 2005, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this proposed rule change is to amend NSCC's Rules and Procedures regarding the operational capability requirement for membership.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.²

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by NSCC.

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 34-51035 (January 13, 2005), 70 FR 3413.

³ 15 U.S.C. 78q-1(b)(3)(F).

⁴ 15 U.S.C. 78s(b)(2).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC is proposing to amend Section I(A)(3) of Addendum B and Addendum I, Section I(3) of Addendum Q, and Section I(2) of Addendum R of NSCC's Rules and Procedures concerning the operational capability requirements of applicants for membership.

NSCC's current rules specify that an applicant must "have adequate personnel capable of handling transactions with the Corporation [NSCC] and adequate physical facilities, books and records and procedures to fulfill anticipated commitments to and to meet the operational requirements of the Corporation [NSCC]." NSCC believes that these provisions may be interpreted to impose upon NSCC an obligation to make determinations with respect to these particular aspects of members' operational capability. NSCC ordinarily leaves such determinations to the members' designated examining authorities. The operational capability that NSCC ordinarily focused upon during the application process is the applicant's ability to appropriately communicate with NSCC; that is, the applicant's ability to input data to NSCC and to receive output from NSCC on a timely and accurate basis.

NSCC believes that it is appropriate to clarify these sections of the rules so that they reflect the practices of NSCC and so that there will be no misunderstandings as to their meaning. The text of the above-referenced sections of NSCC's Rules would be amended to delete references to adequate personnel and adequate facilities, books, and records that are extraneous to the ability of applicants to communicate with NSCC. In place, these sections will state that an applicant must "be able to satisfactorily communicate with the Corporation [NSCC] * * *." NSCC will continue to retain the right to examine any aspect of an applicant's or member's business pursuant to the provisions of NSCC Rule 15.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act³ and the rules and regulations thereunder applicable to NSCC because the proposed rule change will clarify NSCC's rules and procedures with regard to requirements imposed on applicants for membership. By eliminating a potential misinterpretation of its membership

requirements, NSCC believes that it will thereby provide enhanced protections to NSCC and its members and will assist NSCC in assuring the safeguarding of funds and securities in NSCC's control or for which NSCC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 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-NSCC-2005-01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NSCC-2005-01. This file

number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at <http://www.nsc.com/legal>. 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-NSCC-2005-01 and should be submitted on or before April 7, 2005.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5-1164 Filed 3-16-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51358; File Nos. SR-NYSE-2004-24; SR-NASD 2004-141]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Changes by the New York Stock Exchange, Inc., and the National Association of Securities Dealers, Inc., To Prohibit Participation by a Research Analyst in a Road Show Related to an Investment Banking Services Transaction and To Require Certain Communications About an Investment Banking Services Transaction To Be Fair, Balanced and Not Misleading

March 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

³ 15 U.S.C. 78q-1.

(“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 22, 2004 the New York Stock Exchange (“NYSE” or the “Exchange”), and on September 20, 2004, the National Association of Securities Dealers, Inc. (“NASD”), filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule changes as described in Items I, II, and III below, which items have been prepared by the respective self-regulatory organizations (“SROs”). On February 11, 2005, NYSE filed Amendment No. 1 to its proposed rule change, which replaced the original rule filing in its entirety. On February 4, 2005, NASD filed Amendment No. 1 to its proposed rule change, which replaced the original rule filing in its entirety.³ The Commission is publishing this notice to solicit comments on the proposed rule changes, as amended, from interested persons.

I. Self-Regulatory Organizations’ Statements of the Terms of Substance of the Proposed Rule Changes

The Exchange is filing with the Commission a proposed amendment to NYSE Rule 472 (“Communications with the Public”) which, among other things, will prohibit research analysts from participating in road shows relating to investment banking services transactions.

NASD is proposing a rule change to NASD Rule 2711 to prohibit: (1) A research analyst from participating in a road show related to an investment banking services transaction, or otherwise communicating with customers in the presence of investment banking personnel or company management about an investment banking services transaction; and (2) investment banking personnel from directing a research analyst to engage in sales and marketing efforts or other communications with a current or prospective customer related to an investment banking services transaction. The proposed rule change would permit analysts to educate investors and internal personnel about an investment banking services transaction, provided such communications are fair, balanced and not misleading. Amendment No. 1 to the proposed rule change makes express in the rule language the requirement that those communications be fair and balanced.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On March 9, 2005, NASD filed with the Commission Amendment No. 2 to its proposed rule change, which clarified that Amendment No. 1 replaced the original filing in its entirety.

Below is the text of the proposed rule changes. Proposed new language is italicized.

A. NYSE’s Proposed Rule Text

Rule 472. Communications With the Public Approval of Communications and Research Reports

(a)(1)–(b)(5)—No change.

Investment Banking, Research Department and Subject Company Relationships and Communications

(b)(6)(i) A research analyst is prohibited from directly or indirectly:

(a) participating in a road show related to an investment banking services transaction; and

(b) engaging in any communication with a current or prospective customer(s) in the presence of investment banking department personnel or company management about an investment banking services transaction.

(ii) Investment banking department personnel are prohibited from directly or indirectly:

(a) directing a research analyst to engage in sales or marketing efforts related to an investment banking services transaction; and

(b) directing a research analyst to engage in any communication with a current or prospective customer(s) about an investment banking services transaction.

(iii) Research analyst written and oral communications relating to an investment banking services transaction, with a current or prospective customer(s), or with internal personnel, must be fair, balanced and not misleading, taking into consideration the overall context in which the communication is made.

(c)–.120—No change.

B. NASD’s Proposed Rule Text

Rule 2711. Research Analysts and Research Report

(a) through (b) No change.

(c) Restrictions on Communications with the Subject Company (1) through (4) No change.

(5) A research analyst is prohibited from directly or indirectly:

(A) participating in a road show related to an investment banking services transaction; and

(B) engaging in any communication with a current or prospective customer in the presence of investment banking department personnel or company management about an investment banking services transaction.

(6) Investment banking department personnel are prohibited from directly or indirectly:

(A) directing a research analyst to engage in sales or marketing efforts related to an investment banking services transaction; and

(B) directing a research analyst to engage in any communication with a current or prospective customer about an investment banking services transaction.

(7) Any written or oral communication by a research analyst with a current or prospective customer or internal personnel related to an investment banking services transaction must be fair, balanced and not misleading, taking into consideration the overall context in which the communication is made.

(d) through (k) No change.

II. Self-Regulatory Organizations’ Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In their filings with the Commission, the Exchange and NASD included statements concerning the purpose of, and basis for, the proposed rule changes, as amended, and discussed any comments received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Exchange and NASD have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organizations’ Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. NYSE’s Purpose

The Exchange is proposing an amendment to NYSE Rule 472, which, among other things, would prohibit research analysts from participating in road shows relating to investment banking services⁴ transactions.

Background

Joint regulatory efforts among the NYSE, NASD (the “SROs”) and the SEC to address potential conflicts of interest relating to research analysts resulted in: (1) SEC approval of major SRO rule

⁴ As defined under Rule 472.20, “investment banking services” includes, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transaction), or similar investments; or serving as placement agent for the issuer. The term also includes acting as a member of a selling group in a securities underwriting (See NYSE Information Memo No. 02–26, dated June 26, 2002).

changes in May 2002;⁵ (2) the adoption of the Commission's Regulation Analyst Certification ("Regulation AC"),⁶ which requires research analysts to certify that their research reports accurately reflect their personal views and disclose whether they received compensation for their specific recommendations; (3) the Global Research Analyst Settlement ("Global Settlement") reached between various securities regulators and 10 major investment banking firms to conclude enforcement actions regarding research analysts' conflicts of interest;⁷ and (4) additional changes to the SRO Rules to conform to the Sarbanes-Oxley Act,⁸ which were approved by the SEC in July 2003⁹ (the "Sarbanes-Oxley Amendments").

Currently, according to the NYSE, NYSE Rules 472 and 351 generally restrict the relationship between research and investment banking departments and the companies that are the subjects of research reports; require disclosure of financial interests in subject companies by analysts or members or member organizations; require disclosure of client relationships with and compensation from subject companies; impose quiet periods for the issuance of research reports following the completion of companies' securities offerings; restrict personal trading by research analysts in the securities of the companies covered by such analysts; require attestations by members and member organizations that they are in compliance with NYSE Rule 472; and generally require extensive disclosure in research reports of certain important information to help customers monitor the correlation between research analysts' ratings and the price movements of subject companies' securities.

The Global Settlement

As noted above, the SEC, NYSE, NASD, NASAA and the New York Attorney General's Office announced in 2003 a global settlement with 10 investment banking firms to settle enforcement actions involving conflicts of interest between research and investment banking. The NYSE notes that, among the undertakings included in the settlement is a prohibition against research analysts participating in efforts

to solicit investment-banking business, including attending "pitch" meetings. According to the NYSE, these restrictions were imposed to prevent stock recommendations from being tainted by efforts to obtain investment banking fees, and to further remove research analysts from investment banking pressures.

In July 2003, the SEC approved the Sarbanes-Oxley Amendments. At the same time, the SEC also approved NYSE Rule 472(b)(5), which prohibits research analysts from participating in solicitation activities (e.g., pitch meetings) to secure investment banking business from companies. During the filing and public comment period, the SEC requested comment on the SRO proposed amendments in light of the Global Settlement, and also noted that although certain elements of the Global Settlement were addressed by the SROs in their proposed amendments (e.g., pitch meeting prohibitions), there were differences as well.

Proposed Amendment

Proposed NYSE Rule 472(b)(6) provides that:

(i) A research analyst is prohibited from directly or indirectly:

(b) participating in a road show related to an investment banking services transaction; and

(c) engaging in any communication with a current or prospective customer(s) in the presence of investment banking department personnel or company management about an investment banking services transaction.

(ii) Investment banking department personnel are prohibited from directly or indirectly:

(a) directing a research analyst to engage in sales or marketing efforts related to an investment banking services transaction; and

(b) directing a research analyst to engage in any communication with a current or prospective customer(s) about an investment banking services transaction.

(iii) Research analyst written and oral communications relating to an investment banking services transaction, with a current or prospective customer(s), or with internal personnel, must be fair, balanced and not misleading, taking into consideration the overall context in which the communication is made.

Discussion

The NYSE believes that underwriters are the crucial intermediaries in the process of offering securities to the public. According to the NYSE, they

provide sales and marketing expertise to issuers during the securities offering process, and provide research coverage for companies they help bring public. The NYSE believes that since research can impact the price of a company's securities, it is paramount to investor protection, that such research be objective, unbiased, and not the result of pressure on an analyst. The NYSE notes that such pressure can take the form of: trying to reward a company for its investment banking business, or to assist a firm's investment bankers in obtaining and maintaining investment banking relationships with a company. The NYSE believes that to ensure this goal, it is necessary to insulate research analysts from these pressures.

According to the NYSE, the offering of securities is divided into three time periods: (1) Pre-filing, (2) waiting, and (3) the post-effective period. Once a company contemplates a public offering, the time period preceding the filing of the registration statement is known as the pre-filing period. After the filing of the registration statement with the Commission, there is a statutory waiting period prior to the effective date of the registration statement. After the effective date, sales of the securities can take place.¹⁰ It is during this waiting period that underwriters, with the management of issuers, conduct road shows for the purpose of marketing the offering. Finally, there is the post-effective period that continues until the distribution of securities has been completed. It is during this period that prospectus delivery requirements are imposed, and restrictions on the issuance of research reports, often referred to as "quiet periods" occur.¹¹

According to the NYSE, regulatory investigations and examinations revealed that research analysts were subject to conflicts of interest when their firms were offering investment banking services to, and maintaining investment banking relationships with, corporate issuers. In this regard, the NYSE notes that the investigations found that investment banking firms may have promised favorable research,

¹⁰ 15 U.S.C. 77(h)a.

¹¹ After the effective date of the offering, section 2(a)(10) of the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77b(a)(10)) permits the use of supplementary sales literature (i.e. research reports) even if such literature does not conform to or is contained in a statutory prospectus, meeting the requirements of section 10 of the Securities Act (15 U.S.C. 77j). The use of this supplementary sales literature, or "free writing," is limited in that prior to or at the same time of receiving it, a person must have received a Section 10(a) statutory prospectus. Given this limitation, firms often wait until this prospectus delivery requirement ceases before issuing research reports.

⁵ See Securities Exchange Act Release No. 45908 (May 10, 2002), 67 FR 34969 (May 16, 2002) (SR-NYSE-2002-09).

⁶ 17 CFR 242.501.

⁷ See SEC Litigation Release No. 18438 (October 31, 2003).

⁸ 15 U.S.C. 78o-6.

⁹ See Securities Exchange Act Release No. 48252 (July 29, 2003), 68 FR 45875 (August 4, 2003) (SR-NYSE-2002-49).

specific research ratings, or price targets as consideration or inducement for the receipt of investment banking business. Furthermore, the NYSE believes that investment bankers and companies reviewed research reports prior to their publication, which often pressured research analysts to write more favorable reports on such companies than an objective, unbiased analysis of the company warranted.

According to the NYSE, it was in response to this activity that the Exchange and NASD promulgated the rules noted above to address these concerns. These rules expressly prohibit members and member organizations from offering favorable research, ratings or price targets as consideration or inducement for the receipt of investment banking business.¹² In addition, the NYSE notes that rules were promulgated to prevent research analysts from being pressured to provide favorable reports and ratings, such as prohibiting investment banking personnel from exercising supervision, control and compensatory evaluation over research analysts,¹³ and prohibiting pre-publication review and approval of research reports by investment banking personnel and the companies that are the subjects of such reports.¹⁴

The NYSE notes that the rules also prohibit research analysts from participating in pitch meetings with prospective investment banking clients.¹⁵ According to the NYSE, the purpose of this prohibition is to prevent the use of research as a sales and marketing tool, or to influence prospective clients.

Further, the Exchange promulgated restrictions on the publication and/or distribution of research reports by managers, co-managers, underwriters and dealers following initial public¹⁶ and secondary offerings¹⁷ by issuers and the expiration and/or waiver of lock-up agreements made in connection with such offerings.¹⁸ According to the

NYSE, the purpose of these quiet period restrictions was to minimize the ability of firms to reward issuers for giving them investment banking business by publishing favorable research soon after the completion of offerings.

As noted above, the Exchange believes it has already adopted rules to address inherent conflicts of interest that arise when research analysts are used by their firms to obtain, during the waiting period, and reward, during the post-effective period, issuers for their investment banking business. According to the NYSE, the proposed prohibition on research analyst participation in road shows seeks to address potential conflicts of interest during the periods that firms market securities offerings for issuers. As proposed, the NYSE believes that the new rule should insulate research analysts from potential undue influence of investment bankers and company management, but not interfere with legitimate activities.

By prohibiting analysts from engaging in any communication regarding investment banking services with current or prospective customers in the presence of investment banking personnel or company management, the Exchange believes it will reduce the pressure on research analysts to give overly optimistic assessments of investment banking services transactions. The NYSE believes that research analysts would still be able to communicate with customers in circumstances where investment banking and company management cannot influence analysts' truthful assessments of investment banking services transactions.

The Exchange is also proposing that investment banking department personnel be prohibited from directing research analysts to: (1) Engage in sales or marketing efforts related to investment banking services transactions; and (2) engage in communications with current or prospective customers about investment banking services transactions.

According to the NYSE, the proposed rule preserves the traditional function of research analysts (providing analysis of securities and transactions), while placing further limitations on the ability of investment banking personnel to influence and/or compromise the objectivity of their analysis.

While the proposed rule recognizes that road shows are a common form of investment banking "sales or marketing efforts" from which research analysts should be barred, the Exchange recognizes there are certain activities that do not compromise the objectivity and independence of research analysts.

Therefore, the NYSE believes that the proposed rule change would permit research analysts to issue written and oral communications relating to investment banking services transactions to current or prospective customers or internal personnel. According to the NYSE, such communications to investors and employees must be fair, balanced, and not misleading, while taking into consideration the overall context in which such communications are made.

The Exchange also notes that the proposed prohibition on research analysts' participation in road shows would not prohibit certain analysts' communications that are permitted under the federal securities laws (*i.e.* research reports issued in accordance with Rules 137, 138 and 139 under the Securities Act).¹⁹

The Exchange notes that, although the proposed amendment incorporates, to some extent, the substance of the comparable sales or marketing prohibitions found in the "Global Settlement," the Exchange is not filing the proposed rule change simply to conform to the Global Settlement, or to address the differences between the Global Settlement and NYSE rules. The Exchange believes the proposed amendment facilitates objective, independent, and reliable research by prohibiting research analysts employed by all members and member organizations from participating in road shows. The Exchange expects the entire securities industry and not just the signatory firms to the Global Settlement to benefit from this prohibition. The NYSE believes that by further insulating research analysts from the pressures associated with obtaining and maintaining investment banking relationships, the proposed rule change will engender more objective and unbiased research on companies who are the investment banking clients of members and member organizations.

Effective Date

The Exchange believes that the proposed amendment to NYSE Rule 472 should take effect 45 days after SEC approval. As proposed, the Exchange believes that the amendment does not impose any new or substantive requirements on members and member organizations nor would it necessitate the adoption of new systems and procedures to ensure compliance. Accordingly, the NYSE believes that 45 days is sufficient notice for firms to comply with the new prohibition.

¹² See NYSE Rule 472(g)(1).

¹³ See NYSE Rule 472(b)(1).

¹⁴ See NYSE Rules 472(b)(2) and (4).

¹⁵ See NYSE Rule 472(b)(5).

¹⁶ As defined under Rule 472.100, an "initial public offering" refers to the initial registered equity security offering by an issuer, regardless of whether such issuer is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a), prior to the time of the filing of such issuer's registration statement.

¹⁷ As defined under Rule 472.110, a secondary offering shall include a registered follow-on offering by an issuer or a registered offering by persons other than the issuer involving the distribution of securities subject to Regulation M under the Exchange Act.

¹⁸ See NYSE Rules 472(f)(1), (2), (3) and (4).

¹⁹ 17 CFR 230.137, 230.138 and 230.139.

2. NYSE's Statutory Basis

The NYSE believes the statutory basis for this proposed rule change is section 6(b)(5)²⁰ of the Exchange Act which requires, among other things, that the rules of the Exchange 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 interests. The NYSE believes that, by prohibiting research analysts from participating in road shows, the potential for conflicts of interests that could bias their research reports will be mitigated and thus serve the investing public by providing more objective research on subject companies.

3. NASD's Purpose

Over the past few years, NASD has worked with the SEC and New York Stock Exchange (NYSE) to implement a series of rules to increase the objectivity and reliability of research. NASD believes that while the rules generally foster objectivity through extensive conflict of interest disclosure requirements, they also prohibit certain conduct to minimize the primary source of biased research: the influences of investment banking. To that end, NASD Rule 2711 prohibits compensation paid to analysts based on their contributions to, or the success of, the investment banking department. The rule further prohibits analysts from participating in efforts to solicit investment banking business, including "pitches" to earn an underwriting mandate for a securities offering.

According to the NASD, the proposed rule change would further fortify the wall between investment banking and research by prohibiting research analysts from participating in a road show related to an investment banking services transaction and from communicating with current or prospective customers in the presence of investment banking department personnel or company management about such an investment banking services transaction. Additionally, the proposed rule change would prohibit investment banking personnel from directing a research analyst to engage in sales and marketing efforts and other communications with a current or prospective customer about an investment banking services transaction.

NASD believes that the primary role of a research analyst is to provide unbiased analysis of companies and transactions and to value securities accurately. NASD further believes that

the objectivity and reliability of such analysis can be compromised when a research analyst is utilized to market those same transactions and the sale of such securities. Accordingly, by prohibiting research analyst participation in road shows, the proposed rule change will further reduce the pressure on research analysts to give an overly optimistic assessment of a particular transaction. NASD believes it further will remove any suggestion to investors in attendance that the analyst will give positive coverage to the issuer and that the analyst endorses all of the views expressed by the company or investment banking department personnel.

According to the NASD, the proposed rule change would, however, permit research analysts to educate investors and member personnel about a particular offering or other transaction, provided the communication occurs outside the presence of the company or investment banking department personnel. NASD believes that such permissible communications to investors and internal personnel must be fair, balanced and not misleading, taking into account the overall context in which such communications are made. Thus, NASD believes that the proposed rule change preserves the ability of the research analyst to give a candid assessment of a transaction or sale of securities—including investment risks—in settings where the influences of investment banking and client pressure are minimized.

Finally, the proposed rule change would prohibit investment banking department personnel from directing a research analyst to engage in sales or marketing efforts and any other communication with a current or prospective customer about an investment banking services transaction. NASD believes this provision is important to eliminate any attempt by investment banking personnel to pressure a research analyst to engage in those communications, thereby further insulating research analysts from influences that could affect their objectivity.

NASD specifically requests comment on whether the proposed prohibitions should extend to supervisors of research analysts, directors of the research department or others who have the ability to influence the substance of research reports.

NASD also notes that the settlement of research analyst conflicts allegations among NASD, NYSE, the SEC, state regulators and twelve of the nation's largest investment banking firms

("Global Settlement") contains a prohibition similar to the proposed rule change. NASD does not believe that consistency with the Global Settlement is itself a rationale for the proposed rule change. However, in this instance, NASD believes that the similar proposed rule change will facilitate the goal of more objective and reliable research by all members, with the ancillary benefit of rules consistency.

The effective date of the proposed rule change will be 45 days following Commission approval.

4. NASD's Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,²¹ which requires, among other things, that NASD 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 is consistent with the provisions of the Act because it will reduce conflicts of interest and thereby provide investors with more reliable information and also curtail the potential for fraudulent and manipulative acts.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

The NYSE and NASD do not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NYSE and NASD have neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes 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 NYSE and NASD consents, the Commission:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

²⁰ 15 U.S.C. 78f(b)(5).

²¹ 15 U.S.C. 78o-3(b)(6).

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 Numbers SR-NYSE-2004-24 and/or SR-NASD-2004-141 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 Numbers SR-NYSE-2004-24 and/or SR-NASD-2004-141. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE and 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 the File Numbers SR-NYSE-2004-24 and/or SR-NASD-2004-141 and should be submitted on or before April 7, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5-1161 Filed 3-16-05; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10068 and # 10069

American Samoa Disaster # AS-00001 Disaster Declaration

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Territory of American Samoa (FEMA-1582-DR), dated 03/03/2005.

Incident: Tropical Cyclone Olaf, including High Winds, High Surf, and Heavy Rainfall.

Incident Period: 02/15/2005 through 02/21/2005.

DATES: *Effective Date:* 03/03/2005.

Physical Loan Application Deadline Date: 05/02/2005.

EIDL Loan Application Deadline Date: 12/05/2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 4, P.O. Box 419004, Sacramento, CA 95841.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration for Public Assistance Only on February 18, 2005, and subsequent amendment adding Individual Assistance on 03/03/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

The Interest Rates are:

TERRITORY OF AMERICAN SAMOA, LIMITED TO MANU'A ISLANDS

	Percent
Homeowners with Credit Available Elsewhere	5.875
Homeowners without Credit Available Elsewhere	2.937

²² 17 CFR 200.30-3(a)(12).

TERRITORY OF AMERICAN SAMOA, LIMITED TO MANU'A ISLANDS—Continued

	Percent
Businesses with Credit Available Elsewhere	6.000
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 100688 and for economic injury is 100690.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05-5305 Filed 3-16-05; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10070]

Arizona Disaster # AZ-00003 Disaster Declaration

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of ARIZONA (FEMA-1581-DR), dated 02/17/2005.

Incident: Severe Storms and Flooding.

Incident Period: 12/28/2004 through 01/12/2005.

DATES: *Effective Date:* 02/17/2005.

Physical Loan Application Deadline Date: 04/18/2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/17/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan

applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: COCONINO, GILA, MOHAVE, NAVAJO, YAVAPAI

Tribal Nations: Hopi Tribal Nation, The Portion of the Navajo Tribal Nation Within the State of Arizona

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10070B.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05-5306 Filed 3-16-05; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10032]

Kansas Disaster Number KS-00001

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kansas (FEMA-1579-DR), dated February 8, 2005.

Incident: Severe Winter Storms, Heavy Rains, and Flooding.

Incident Period: January 4, 2005, through January 6, 2005.

DATES: *Effective Date:* February 22, 2005.

Physical Loan Application Deadline Date: April 11, 2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Kansas,

dated February 8, 2005, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Brown, Jackson, Kiowa, Leavenworth, McPherson, Pottawatomie.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008.)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05-5304 Filed 3-16-05; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10029 and #10030]

Ohio Disaster Number OH-00002

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Ohio (FEMA-1580-DR), dated February 15, 2005.

Incident: Severe Winter Storms, Flooding, and Mudslides.

Incident Period: December 22, 2004, through February 1, 2005.

DATES: *Effective Date:* March 9, 2005.

Physical Loan Application Deadline Date: April 18, 2005.

EIDL Loan Application Deadline Date: November 15, 2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Ohio dated February 15, 2005, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Darke, Fairfield, Guernsey, Hocking, Holmes, Licking, Richland, Stark, Tuscarawas.

Contiguous Counties: Ohio: Ashland, Mahoning, Mercer, Portage, Preble, Summit, Wayne.

Indiana: Jay, Randolph, Wayne.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008.)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05-5303 Filed 3-16-05; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 5026]

Culturally Significant Objects Imported for Exhibition Determinations: "Clash of Empires: The British, French and Indian War, 1754-1763"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875), I hereby determine that the objects to be included in the exhibition "Clash of Empires: The British, French and Indian War, 1754-1763," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Senator John Heinz Pittsburgh Regional History Center, Pittsburgh, PA, from on or about May 1, 2005, to on or about April 15, 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 Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: (202) 453-8049). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: March 11, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05-5330 Filed 3-16-05; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review**

AGENCY: National Highway Traffic Safety Administration, 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 December 14, 2004 [FR docket # 04-27305, Vol. 9, No. 239, pgs. 74546-74566].

DATES: Comments must be submitted on or before April 18, 2005.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine at the National Highway Traffic Safety Administration, Office of Rulemaking (NVS-121), 202-366-4931, 400 Seventh Street, SW., 5307, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:**National Highway Traffic Safety Administration**

Title: 49 CFR 571.125, Warning Devices.

OMB Number: 2127-0506.

Type of Request: Extension of a currently approved collection.

Abstract: 49 U.S.C. 30111, 30112, and 30117 (Appendix 1) of the National Traffic and Motor Vehicle Safety Act of 1996, authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The Secretary is authorized to issue, amend, and revoke such rules and regulations as she/he deems necessary.

Using this authority, the agency issued FMVSS no. 125, "Warning Devices" (Appendix 2), which applies to devices, without self contained energy sources, that are designed to be carried mandatory in buses and trucks that have a gross vehicle weight rating (GVWR) greater than 10,000 pounds and voluntarily in other vehicles. These devices are used to warn approaching traffic of the presence of a stopped vehicle, except for devices designed to be permanently affixed to the vehicles.

Affected Public: Business or other for profit organizations.

Estimated Total Annual Burden: 1 Hour.

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 Departments 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 March 11, 2005.

H. Keith Brewer,

Director, Office of Crash Avoidance.

[FR Doc. 05-5254 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review**

AGENCY: National Highway Traffic Safety Administration, 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 December 14, 2004 [FR docket # 04-27305, Vol. 9, No. 239, pgs. 74546-74566].

DATES: Comments must be submitted on or before April 18, 2005.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine at the National Highway Traffic Safety Administration, Office of Rulemaking (NVS-121), 202-366-4931, 400 Seventh Street, SW., 5307, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:**National Highway Traffic Safety Administration**

Title: Replaceable Light Source Dimensional Information Collection, 49 CFR Part 564.

OMB Number: 2127-0563.

Type of Request: Extension of a currently approved collection.

Abstract: The information to be collected is in response to 49 CFR Part 564, "Replaceable Light Source Dimensional Information." Persons desiring to use newly designed replaceable headlamp light sources are required to submit interchangeability and performance specifications to the agency. After a short agency review to assure completeness, the information is placed in a public docket for use by any person who would desire to manufacture headlamp light sources for highway motor vehicles. In Federal Motor Vehicle Safety Standard No. 108, Lamps, reflective devices and associated equipment," Part 564 submission are referenced as being the source of information regarding the performance and interchangeability information for legal headlamp light sources, whether original equipment or replacement equipment. Thus, the submitted information about headlamp light sources becomes the basis for certification of compliance with safety standards.

Affected Public: Business or other for profit organizations.

Estimated Total Annual Burden: 28 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 Departments 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 March 11, 2005.

H. Keith Brewer,

Director, Office of Crash Avoidance.

[FR Doc. 05-5255 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, 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 December 14, 2004 [FR docket # 04-27305, Vol. 9, No. 239, pgs. 74546-74566].

DATES: Comments must be submitted on or before April 18, 2005.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine at the National Highway Traffic Safety Administration, Office of Rulemaking (NVS-121), 202-366-4931, 400 Seventh Street, SW., 5307, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Compliance Labeling of Retroreflective Materials Heavy Trailer Conspicuity.

OMB Number: 2127-0569.

Type of Request: Extension of a currently approved collection.

Abstract: Federal Motor Vehicle Safety Standard No. 108, "Lamps Reflective Devices, and Associated Equipment," specifies requirements for vehicle lighting for the purposes of reducing traffic accidents and their tragic results by providing adequate roadway illumination, improved vehicle conspicuity, appropriate information transmission through signal lamps, in both day, night, and other conditions of reduced visibility. For certifications and identification purposes, the Standard requires the permanent marking of the letters "DOT-C2," "DOT-C3", or "DOT-C4" at least 3mm high at regular intervals on retroreflective sheeting material having adequate performance to provide effective trailer conspicuity.

The manufacturers of new tractors and trailers are required to certify that their products are equipped with retroreflective material complying with the requirements of the standard. The Federal Highway Administration (FHWA) Office of Motor Carrier Safety enforces this and other standards through roadside inspections of trucks. There is no practical field test for the performance requirements, and labeling is the only objective way of distinguishing trailer conspicuity grade material from lower performance material. Without labeling, FHWA will not be able to enforce the performance requirements of the standard and the compliance testing of new tractors and trailers will be complicated. Labeling is also important to small trailer manufacturers because it may help them to certify compliance. Because wider stripes or material of lower brightness also can provide the minimum safety performance, the marking system serves the additional role of identifying the minimum stripe width required for retroreflective brightness of the particular material. Since the differences between the brightness grades of suitable retroreflective conspicuity material is not obvious from inspection, the marking system is necessary for tractor and trailer manufacturers and repair shops to assure compliance and for FHWA to inspect tractors and trailers in use.

Permanent labeling is used to identify retroreflective material having the minimum properties required for effective conspicuity of trailers at night. The information enables the FHWA to make compliance inspections, and it aids tractor and trailer owners and repairs shops in choosing the correct repair materials for damaged tractors and trailers. It also aids smaller trailer manufacturers in certifying compliance of their products.

The FHWA will not be able to determine whether trailers are properly equipped during roadside inspections without labeling. The use of cheaper and more common reflective materials, which are ineffective for the application, would be expected in repairs without the labeling requirement.

Affected Public: Business or other for profit organizations.

Estimated Total Annual Burden: 28 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 Departments 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 March 11, 2005.

H. Keith Brewer,

Director, Office of Crash Avoidance.

[FR Doc. 05-5256 Filed 3-16-05; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34669]

BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant temporary overhead trackage rights to BNSF Railway Company (BNSF) for eastbound trains on: (1) UP's Dallas Subdivision from Tower 55 at Fort Worth, TX (milepost 245.3), to Longview, TX (milepost 89.6); (2) UP's Little Rock Subdivision from Longview (milepost 89.6) to North Little Rock, AR (milepost 343.6); (3) UP's Hoxie Subdivision from North Little Rock (milepost 343.6) to Bald Knob, AR (milepost 287.9); and (4) UP's Memphis Subdivision between Bald Knob (milepost 287.9) to Kentucky Street, Memphis, TN (milepost 378.1), a distance of approximately 542.2 miles. UP has also agreed to grant limited temporary overhead trackage rights to BNSF for westbound trains on: (1) UP's Memphis Subdivision from Kentucky Street in Memphis (milepost 378.1) to Briark, AR (milepost 375.3); (2) UP's Brinkley Subdivision (milepost 4.1) to Brinkley, AR (milepost 70.6); (3) UP's Jonesboro Subdivision (milepost 200.5) to Pine Bluff, AR (milepost 264.2); (4) UP's Pine Bluff Subdivision from Pine Bluff (milepost 264.2) to Big Sandy, TX (milepost 525.1); and (5) UP's Dallas Subdivision (milepost 114.5) to Tower 55 at Fort Worth (milepost 245.3), a distance of approximately 526.3 miles.

The transaction was scheduled to be consummated on March 6, 2005, and the temporary trackage rights will expire on May 4, 2005. The purpose of the temporary trackage rights is to allow BNSF to bridge its trains 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. 34669, 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 Sarah W. Bailiff, 2500 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161-0039.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: March 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05-5210 Filed 3-16-05; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5309

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 5309, Application for Determination of Employee Stock Ownership Plan.

DATES: Written comments should be received on or before May 16, 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: Application for Determination of Employee Stock Ownership Plan.

OMB Number: 1545-0284.

Form Number: 5309.

Abstract: Internal Revenue Code section 404(a) allows employers an income tax deduction for contributions to their qualified deferred compensation plans. Form 5309 is used to request an IRS determination letter about whether the plan is qualified under Code section 409 or 4975(e)(7).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 462.

Estimated Time Per Respondent: 11 hrs, 28 minutes.

Estimated Total Annual Burden Hours: 5300.

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: March 10, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5-1168 Filed 3-16-05; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 940-EZ

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 940-EZ, Employer's Annual Federal Unemployment (FUTA) Tax Return.

DATES: Written comments should be received on or before May 16, 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: Employer's Annual Federal Unemployment (FUTA) Tax Return.

OMB Number: 1545-1110.

Form Number: 940-EZ.

Abstract: Form 940-EZ is a simplified version of Form 940 that most employers with uncomplicated tax situations (e.g., only paying unemployment contributions to one

state paying them on time) can use to pay their FUTA tax. Most small businesses and household employers use the form.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, and individuals or households, and farms.

Estimated Number of Respondents: 4,089,000.

Estimated Time Per Respondent: 8 hrs, 50 minutes.

Estimated Total Annual Burden Hours: 36,162,483.

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: March 10, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5-1169 Filed 3-16-05; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041-A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1041-A U.S. Information Return-Trust Accumulation of Charitable Amounts.

DATES: Written comments should be received on or before May 16, 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: U.S. Information Return-Trust Accumulation of Charitable Amounts.

OMB Number: 1545-0094.

Form Number: 1041-A.

Abstract: Form 1041-A is used to report the information required in Internal Revenue Code section 6034 concerning accumulation and distribution of charitable amounts. The data is used to verify the amounts for which a charitable deduction was allowed are used for charitable purposes.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, and individuals.

Estimated Number of Respondents: 18,000.

Estimated Time Per Respondent: 37 hrs, 33 minutes.

Estimated Total Annual Burden Hours: 675,900.

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: March 10, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5-1170 Filed 3-16-05; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0215]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the

nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 18, 2005.

FOR FURTHER INFORMATION CONTACT:

Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., or e-mail denise.mclamb@mail.va.gov.

Please refer to "OMB Control No. 2900-0215." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395-7316. Please refer to "OMB Control No. 2900-0215" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Information To Make Direct Payment to Child Reaching Majority, VA, Form Letter 21-863.

OMB Control Number: 2900-0215.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 21-863 is used to determine a schoolchild's continued eligibility to VA death benefits and eligibility to direct payment at the age of majority. Death pension or dependency and indemnity compensation is paid to an eligible veteran's child when there is not an eligible surviving spouse and the child is between the ages of 18 and 23 and attending school. Until the child reaches the age of majority, payment is made to a custodian or fiduciary on behalf of the child. An unmarried schoolchild, who is not incompetent, is entitled to begin receiving direct payment on the age of majority.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 17, 2004 at page 67389.

Affected Public: Individuals or households.

Estimated Annual Burden: 3 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 20.

Dated: February 28, 2005.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 05-5235 Filed 3-16-05; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0653]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 18, 2005.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-8030, fax (202) 273-5981 or e-mail: denise.mclamb@mail.va.gov. Please refer to "2900-0653."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-7316. Please refer to "2900-0653."

SUPPLEMENTARY INFORMATION:

Title: Veterans Survey on Bio-terrorism, VA Form 10-21074(NR).

OMB Control Number: 2900-0653.

Type of Review: Extension of a currently approved collection.

Abstract: The Veterans Survey on Bio-terrorism is in response to PL 107-188, "Public Health Security and Bio-terrorism Preparedness and Response Act of 2002". This act calls: "To improve the ability of the United States to prevent, prepare for and respond to bio-terrorism and other public health emergencies". Section 101 of this act outlines a variety of preparedness goals, one of which includes the effective dissemination of relevant information in a timely and secure manner to the public. VA will use the information collected to evaluate how veterans obtained information about bio-terrorism in the past, or how they wish

to obtain information in the future; their knowledge about the three different types of potential biological agents; their attitude, and perceptions of surviving a bio-terrorism attack in the future as well as their confidence in the role VA will play in the event of a bio-terrorism act.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 1, 2004 at pages 69993-69994.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,760 hours.

Estimated Average Burden per Respondent: 27 minutes.

Frequency of Response: Twice.

Estimated Number of Respondents: 7,382.

Dated: February 28, 2005.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 05-5236 Filed 3-16-05; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that the National Research Advisory Council will hold a meeting on Tuesday, March 29, 2005, at the Hamilton Crowne Plaza Hotel, 14th & K Streets, NW., Washington, DC, from 8:30 a.m. until 3 p.m. The meeting is open to the public.

The purpose of the Council is to provide advice to the Secretary of Veterans Affairs on research and development sponsored and/or conducted by the Department of Veterans Affairs to include policies and programs of the Research and Development Office.

The meeting will begin with opening remarks by the Acting Chief Research and Development Officer. The Council will receive informational briefings on the status of the VA research program and the research portfolio.

Any member of the public wishing to attend the meeting or wishing further information should contact Ms. Karen Scott, Designated Federal Officer, at (202) 254-0200. Oral comments from

the public will not be accepted at the meeting. Written statements or comments should be transmitted electronically to karen.scott@hq.med.va.gov or mailed to

Ms. Scott at Department of Veterans Affairs, Office of Research and Development (12C), 810 Vermont Ave., NW., Washington, DC 20420.

Dated: March 9, 2005.

By Direction of the Secretary.
E. Philip Riggin,
Committee Management Officer.
[FR Doc. 05-5237 Filed 3-16-05; 8:45 am]
BILLING CODE 8320-01-M

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration**14 CFR Part 39**

[Docket No. FAA-2004-19530; Directorate Identifier 2002-NM-274-AD; Amendment 39-14008; AD 2005-05-19]

RIN 2120-AA64

**Airworthiness Directives; Boeing
Model 727 Airplanes**
Correction

In rule document 05-4826 beginning on page 12120 in the issue of Friday,

March 11, 2005, make the following corrections:

§ 39.13 [Corrected]

1. On page 12122 in § 39.13(h), in the table, in the fifth column, in the first entry, in the fourth line, “of the upper chord the” should read “of the upper chord of the”.

2. On the same page, in the same section, in the same table, in the same column, in the second entry, in the third line, “chord” should read “chords”.

3. On the same page, in the same section, in the same table, in the same column, in the third entry, in the third line, “of the rear spar from” should read “of the front spar and the lower chord of the rear spar from ”.

4. On the same page, in the same section, in the same table, in the same column, in the fourth entry, in the third line, “rear spar WBL” should read “rear spar from WBL”.

5. On page 12123, in the same section, in the same table, in the same column,

the first entry is corrected to read as follows:

An HFEC inspection of the upper chord of the rear spar from WBL 70.5 to the wing tip for cracks, corrosion, minor surface defects, and existing stop-drilled repairs of cracking (initial inspection only), in accordance with paragraph 3.B., Work Instructions, Part 9, of the Accomplishment Instructions of the service bulletin.

[FR Doc. C5-4826 Filed 3-16-05; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Thursday,
March 17, 2005**

Part II

Department of the Interior

**Office of Surface Mining Reclamation and
Enforcement**

**30 CFR Parts 816 and 817
Topsoil Replacement and Revegetation
Success Standards; Proposed Rule**

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Parts 816 and 817**

RIN 1029-AC02

Topsoil Replacement and Revegetation Success Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are proposing minor changes to our regulations that govern topsoil replacement and revegetation success standards. These revisions would: Encourage species diversity on reclaimed lands; provide flexibility to States in using new vegetative success standards and sampling techniques; define success standards for undeveloped land; remove shelter belts from the list of postmining land uses subject to success standards; remove what we believe is an impediment to reforestation of mined lands and provide practical means of measuring woody shrubs commonly planted on arid lands in the West; and make the timing of revegetation success measurements in areas receiving 26 inches of annual precipitation or less consistent with those in areas receiving more than 26 inches of annual precipitation.

DATES: *Written comments:* Comments on the proposed rule must be received on or before 4:30 p.m., eastern time, on May 16, 2005, to ensure our consideration.

Public hearings: Upon request, we will hold a public hearing on the proposed rule at a date, time and location to be announced in the **Federal Register** before the hearing. We will accept requests for a public hearing until 5 p.m., eastern time, on April 7, 2005.

ADDRESSES: You may submit comments, identified by docket number 1029-AC02, by any of the following methods:

- Department of the Interior's on-line commenting system: <https://occonnect.mms.gov>. Follow the instructions on the Web site for submitting comments.

- E-mail: rules_comments@osmre.gov. Include docket number 1029-AC02 in the subject line of the message. We encourage you to e-mail your comments; however, our network may not accept

comments from a yahoo.com or a hotmail.com address.

- Mail/Hand Delivery/Courier: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252, 1951 Constitution Avenue, NW., Washington, DC 20240.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Docket: You may review the docket (administrative record) for this rulemaking including comments received in response to this proposed rule at the Office of Surface Mining Reclamation and Enforcement, Administrative Record, located in Room 101, 1951 Constitution Avenue, NW., Washington, DC 20240. The Administrative Record office is opened Monday through Friday, excluding holidays from 8 a.m. to 4 p.m. The telephone number is 202-208-2847.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see "III. How Do I Submit Comments On The Proposed Rule?" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Postle, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, P.O. Box 46667, Denver, CO 80201; telephone: 303-844-1400, extension 1469. E-mail: bpostle@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background Information
- II. What Are The Proposed Rule Changes?
- III. How Do I Submit Comments On The Proposed Rule?
- IV. Procedural Matters and Required Determinations

I. Background Information

In response to several revegetation issues and questions that have been raised over the years both by the public and internally within OSM, we decided to conduct a public outreach initiative to review and assess our revegetation regulations at 30 CFR 816.111 through .116 and 30 CFR 817.111 through .116. As part of this revegetation outreach initiative, we published a **Federal Register** notice on May 17, 1999 (64 FR 26773), announcing public meetings and soliciting comments, concerns, and new ideas regarding the regulatory performance standards that determine revegetation success. In the notice, we also announced the availability of an OSM concept paper that reviewed various longstanding revegetation issues. The concept paper was made available to interested parties upon

request, via FAX ON DEMAND, and on the Internet at <http://www.osmre.gov>. Ten public meetings were held around the country between May 27 and August 25, 1999. In the Spring of 2003, as a follow-up to this 1999 revegetation initiative, OSM conducted a survey of State regulatory authorities. The survey was designed to determine if the statistical and/or production requirements of the current revegetation regulations at § 816.116 and § 817.116 adversely affect the establishment of a diverse plant community; if there is a continuing need for inclusion of success standards and sampling techniques in a State's approved program; and if there is a need for success standards for the undeveloped postmining land.

In addition to the revegetation initiative and survey, we also established a reforestation outreach initiative that began with three workshops involving Federal and State regulatory personnel, industry representatives, and landowners. These workshops were held between January 1999 and May 2002. As part of this second initiative, we raised the question whether specific OSM regulations act as a disincentive to the choice of forestry as a postmining land use.

Largely as a result of these revegetation and reforestation initiatives and survey, OSM identified five minor revisions that it felt needed to be made to the existing regulations. The proposed revisions would be to the topsoil replacement standards at § 816.22(d)(1)(i) and § 817.22(d)(1)(i); the success standards and sampling techniques requirements at § 816.116(a)(1) and § 816.117(a)(1); the land use categories subject to the success standards of § 816.116(b)(3) and § 817.116(b)(3); the revegetation success standards for trees and shrubs at § 816.116(b)(3)(ii) and § 817.116(b)(3)(ii); and timing of revegetation success measurements at § 816.116(c)(3)(i) and (ii) and § 817.116(c)(3)(i) and (ii). These proposed revisions would, respectively, encourage species diversity on reclaimed land; provide States more flexibility in using additional success standards and sampling techniques; provide success standards for undeveloped land; remove shelter belts from the list of postmining land uses subject to success standards; remove what we believe to be an impediment to the reforestation of mined lands and provide a practical means of measuring woody shrubs commonly planted in the West (the tree and shrub stocking standards); and make the timing of revegetation success measurements in areas receiving 26 inches of annual

precipitation or less consistent with those in areas receiving more than 26 inches of annual precipitation. Since the soil replacement and revegetation success standards are identical for surface and underground mining activities, this preamble will discuss our proposed revisions to part 816 with the understanding that the discussion also applies to our proposed revisions to part 817.

II. What Are the Proposed Rule Changes?

1. Section 816.22(d)(1)(i): Topsoil Redistribution

We are proposing changes to our topsoil redistribution standard in § 816.22(d)(1)(i) in an effort to encourage the growth of the diverse vegetative cover required by both section 515(b)(19) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) and its implementing regulations at § 816.111(a)(1). Our current topsoil redistribution regulations at § 816.22(d)(1)(i) require that topsoil be replaced in a manner that “achieves an approximately uniform, stable thickness consistent with the approved postmining land use * * *.”

The § 816.22(d)(1)(i) requirement that topsoil be replaced to an approximate uniform thickness has proven to be particularly appropriate when the approved postmining land uses are, for example, commercial forestry or cropland, which involve a single species vegetative cover in a managed agricultural environment. However, when the approved postmining land uses are wildlife habitat or grazingland (rangeland) that require satisfaction of specified vegetative diversity standards for bond release, the § 816.22(d)(1)(i) requirement that topsoil be replaced to an approximate, uniform thickness may often work against the achievement of those vegetative diversity standards. This is because a plant community that will sustain itself without constant management input is, to a considerable degree, a function of the physical and chemical characteristics of the soil upon which it is growing. In turn, topsoil depth is one of the several physical characteristics that can easily be varied to encourage the desired species diversity. Accordingly, we propose to revise our topsoil redistribution regulations at § 816.22(d)(1)(i) to allow soil thickness to be varied to the extent that such variation encourages the specific revegetation goals identified in the permit. As explained in more detail at the end of this section, the proposed topsoil revision will allow topsoil to be distributed at variable thicknesses when

such variations will encourage the development of the diverse plant community required for a specific postmining land use.

When we first promulgated our topsoil regulations over 20 years ago, we noted that two commenters had objected to the proposed uniform thickness requirement as being a design standard, not a performance standard. 48 FR 22092 (May 16, 1983). These commenters warned that the rule’s uniform soil thickness requirement could lead to a monoculture vegetative community rather than a diverse native species community. We did not accept this comment, responding that topsoil thickness is but one of several factors affecting plant growth and species diversification. We stressed, with words that suggested our awareness of the significant practical problems that could be posed by a variable thickness requirement, that soil horizons commonly develop in variable thicknesses and abrupt changes occur within short linear distances. In consideration of these facts, the 1983 rule required that soil be redistributed to an “approximately uniform, stable thickness consistent with the approved postmining land uses * * *.” We characterized this rule language as a “common sense approach to provide a workable standard that would sufficiently protect the environment and achieve the goals of the Act.” 48 FR 22097 (May 16, 1983).

More recently, in response to OSM’s 1999 revegetation outreach effort, commenters again questioned the appropriateness of the § 816.22(d)(1)(i) provision, which they interpreted as requiring that topsoil always be redistributed to a uniform thickness. These commenters stated that uniform soil thickness tends to promote a limited number of species in the vegetative cover while variable soil thicknesses tend to promote a more diverse vegetative community. The truth of this proposition has been born out by the experience of OSM agronomists and is consistent with well-established principles of soil-plant relationships. On this basis, we propose to revise our regulations at § 816.22(d)(1)(i) by adding a sentence that would expressly allow soil thickness to be varied to the extent such variations help to meet the specific revegetation goals identified in the permit. We would also insert the word “when” between the words “thickness” and “consistent” in the existing language of § 816.22(d)(1)(i). This insertion should make clear that the uniform soil thickness provision is a function of the approved postmining land use, contours, and surface water

drainage systems, and is not, in itself, an inflexible requirement. Section 816.22(d)(1)(i), as revised, would read as follows: “Achieves an approximately uniform, stable thickness when consistent with the approved postmining land use, contours, and surface-water drainage systems. Soil thickness may also be varied to the extent such variations help meet the specific revegetation goals identified in the permit.”

In these proposed revisions to § 816.22(d)(1)(i), which would allow but not require non-uniform redistribution of topsoil, we seek to avoid the very practical redistribution problems discussed in the 1983 preamble. 48 FR 22097. While the uniform topsoil redistribution standard of that rule has generally worked quite well, the proposed revisions to that standard are intended to provide the operator with another tool for encouraging the development of the diverse plant communities required of specific postmining land uses. For example, if the designated postmining land use was fish and wildlife habitat, and the desired plant communities were a mixture of grasslands with interspersed shrub and trees areas for wildlife cover, then the permit could describe the use of variable topsoil thickness to ensure the establishment of grasses on thicker soils and trees and shrubs on thinner soils. The fact that the permit applicant must clearly set forth the justification for any non-uniform redistribution of topsoil should largely protect against potential abuse. This rule would not affect existing topsoil salvage requirements.

2. Section 816.116(a)(1)

Removal of requirement that only revegetation success standards and measurement techniques that have been approved as part of regulatory programs through the Federal rulemaking process may be used to document whether revegetation has been successfully attained.

Introduction

Our regulation at § 816.116(a)(1), which we adopted on September 2, 1983 (48 FR 40160), requires regulatory authorities to select standards for determining revegetation success and statistically valid sampling techniques to demonstrate whether the selected standards have been achieved at reclaimed mine sites. It also requires that the standards and sampling techniques from which these selections are made be approved as part of State regulatory programs, which in essence requires compliance with the Federal

rulemaking process that governs the review and approval of regulatory programs and program amendments.

Revegetation success standards set out the type, nature, density, and distribution of plants that a permittee must reestablish on the disturbed areas of a minesite and the length of time that the plants must be in place before they may be counted for purposes of determining whether the standard has been met. Revegetation success standards include both qualitative and quantitative elements.

Qualitative elements include most of the items listed in § 816.111, which focuses on the kind of plant species to be established (based on their suitability for the postmining land use and the other factors listed, such as permanence, diversity, and seasonality). In some cases, they also may include species diversity, the type and condition of plants that may be counted for purposes of evaluating revegetation success, the spatial distribution of various types of plants on the reclaimed area (when evaluating diversity), and a determination of whether vegetative ground cover is adequate to control erosion.

For the purposes of this preamble, the quantitative elements of revegetation success standards consist of the three parameters listed in § 816.116(a)(2): ground cover, production, and stocking. Ground cover is defined in § 701.5 as the percentage of the land surface that is overlain by either aerial parts of plants (generally live leaves and stems) or naturally produced litter (dead leaves and stems). Production refers to the quantity of a particular part or parts of the plants grown on a site. The most common production standards are row crop yields (e.g., bushels of corn per acre) and the amount of hay or forage produced (e.g., tons of hay per acre, adjusted for moisture content, or the average weight of oven-dried clippings from sample plots). Stocking is a measure of the density of woody plants, generally the number of trees (and sometimes shrubs) per acre. Consistent with the precedent established in our 1979 rules (see 30 CFR 816.116(b)(3) [1979]), we interpret the requirement in § 816.116(a)(1) and (2) that revegetation success be evaluated using statistically valid sampling techniques as applying only to the standards for the three parameters mentioned in paragraph (a)(2): ground cover, production, and stocking.

Standards for success and statistically valid sampling techniques must comply with the requirements of § 816.116(a)(2) and (b). As discussed in above, paragraph (a)(2) of those rules requires

that revegetation success standards include the parameters of ground cover, production, and stocking to the extent that those parameters are appropriate for the type of vegetation associated with the postmining land use. It also requires that those parameters be evaluated using sampling techniques with a 90 percent statistical confidence interval. These sampling techniques are needed because, with the exception of whole-field harvest of hay and grains, it is rarely practical to count every qualifying plant or plant part on the minesite being evaluated. Use of appropriate statistical methods will ensure that the estimate (average of all sample plots measured) of the true value of the vegetation parameter being evaluated is correct a specified percentage of the time. For example, if the estimate of the site's ground cover, as determined by the average of ground cover measurements from individual plots within the site, is valid at the 90 percent confidence level, that estimate will represent the true value, or actual ground cover of the entire site, 9 out of 10 times.

The numerical standards for the parameters mentioned in paragraph (a)(2) must be representative of the values for those parameters on unmined lands in the area. For example, crop yields from reclaimed lands must be equivalent to yields from similar unmined lands in the vicinity of the operation. Paragraph (b) of § 816.116 specifies which of the three parameters must be included in revegetation success standards for various postmining land uses (cropland; pastureland; grazingland; fish and wildlife habitat; recreation, shelterbelts, or forestry; and areas to be developed for industrial, commercial, or residential use). It also establishes additional criteria that the revegetation success standards for the parameters associated with those land uses must meet. Finally, it provides that only the ground cover parameter will apply when an operation mines and reclaims previously mined areas that had not been reclaimed to permanent program standards.

Examples of revegetation success standards established pursuant to this rule include a requirement that a minimum percentage of vegetative ground cover be established on the reclaimed area, a minimum stocking requirement for woody plants (a specified number of qualifying trees or shrubs per land unit), minimum crop yields per land unit, and minimum forage production per land unit. Success standards may be established in a variety of ways, including (1) on a program-wide basis, (2) through the use

of technical guides such as average county crop yield statistics collected by the National Agricultural Statistics Service or other State or Federal agencies, or (3) the use of reference areas, in which measurements of pertinent vegetative parameters from the reclaimed area are compared with measurements from an undisturbed area with weather, soil, slope, aspect, and other characteristics similar to those of the reclaimed area before it was mined.

Paragraph (a)(2) of § 816.116 requires the use of objective, statistically valid sampling techniques to document whether revegetation success standards for the parameters of ground cover, production, and stocking have been achieved. This requirement does not apply to the other elements of the evaluation of revegetation success required by the introductory paragraph of § 816.116(a), such as species composition and diversity. Specifically, all such techniques must use a 90 percent confidence interval; *i.e.*, a one-sided test with a 0.10 alpha error. Examples of statistically valid sampling techniques include the point-intercept and line-intercept methods of measuring ground cover; harvest of sample plots to measure crop production; weighing oven-dried clippings from sample plots to determine forage production on pasture and grazingland; and belt transect and point-centered quarter methods to measure stocking of woody plants.

We remain satisfied with this approach to documenting the success of revegetation. However, the rule we adopted in 1983 allows use of only those revegetation success standards and measurement techniques that have been incorporated into the approved regulatory program. See, § 816.116(a)(1). We propose to remove that requirement. The criteria in § 816.116(a)(2) and (b) would continue to govern the selection of appropriate revegetation success standards and measurement techniques for ground cover, production, and stocking. Furthermore, as provided in § 780.18(b)(5)(vi) and § 784.13(b)(5)(vi), each permit application must specify the particular revegetation success standards and measurement techniques that will be used to document successful revegetation at that site.

As explained in more detail below, there are a number of reasons why we no longer believe that revegetation success standards and measurement techniques need to be included in the approved regulatory program. First, ongoing research findings and technological advances sometimes provide a basis for refining success standards and modifying or improving

sampling techniques. However, the relatively cumbersome State-program amendment process may discourage States from utilizing those research findings and technological advances to adopt new and improved sampling techniques and modified revegetation success standards. Second, from the beginning of the program, we have recognized that appropriate revegetation success standards may vary greatly, even within a State, depending upon the range of land uses, climates, soils, etc. that occur. Third, our regulations do not require that sampling techniques and technical standards used to meet other program requirements be incorporated into an approved regulatory program.

Finally, of all the Federal regulatory programs, only the one for Tennessee (*see* 30 CFR 942.816(f) and 942.817(e)) includes specific revegetation success standards. None of the Federal regulatory programs includes specific measurement techniques for documenting revegetation success. Our experience in the three Federal programs that have jurisdiction over active mining operations (Tennessee, Washington, and the Indian lands program) indicates that the absence of specific standards and techniques in those programs has not resulted in inadequate revegetation of mined lands, in an inability to ensure documentation of attainment of revegetation success, or in determinations that are inconsistent with other determinations either within the State or program or with those in other States.

We believe that allowing States to select revegetation success standards and sampling techniques without requiring prior approval of those standards and techniques through the program amendment process would better enable States and operators both to keep up with technological advances and to tailor success standards to local conditions. The existing requirement that those standards and techniques comply with the detailed criteria of § 816.116(a)(2) and (b) should ensure that the success standards and sampling techniques used in the various States will provide similar degrees of proof that adequate reclamation has been achieved.

Statutory and Regulatory Background—the Revegetation Provisions of SMCRA

Section 515(b)(19) of SMCRA mandates that surface coal mine operators “establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover * * * capable of self-regeneration and plant succession at least equal in extent of cover to the

natural vegetation of the area * * * .” 30 U.S.C. 1265(b)(19).

Section 515(b)(20) requires the surface mine operator to “assume the responsibility for successful revegetation, as required by paragraph (19) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (19) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator’s assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work * * * .” 30 U.S.C. 1265(b)(20).

Section 516(b)(6) requires underground mining operators to “establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area * * * .” 30 U.S.C. 1266(b)(6).

The Revegetation Provisions of the Current Rule

The Secretary has fleshed out these statutory performance standards for revegetation with detailed regulatory ones found at §§ 816.111 through 816.116. In doing so the Secretary concluded that there was no reason to establish differing standards for surface and underground mining. 48 FR 40140 (September 2, 1983). In particular, § 816.116 sets out at some length the parameters to be used to document the success of revegetation and how those parameters are to be measured.

Section 816.116(a)(1), which we propose to remove in part, requires that the regulatory authority select revegetation success standards and statistically valid sampling techniques and include those standards and techniques in the approved regulatory program: “Standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program.”

We propose to remove the phrase “and included in an approved regulatory program” and retain only the requirement that the regulatory authority select revegetation success standards and statistically valid sampling techniques. We anticipate that the States will continue to put the success standards and statistically valid sampling techniques in an internal guidance document for use by operators in developing permit applications.

Sections 816.116(a)(2) establishes certain criteria for the revegetation success standards and sampling techniques: “Standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standard. The sampling techniques for measuring success shall use a 90-percent statistical confidence interval (*i.e.*, one-sided test with a 0.10 alpha error).”

Section 816.116(b) sets out more specific criteria for revegetation success standards based on the land’s previous mining history and the approved postmining land use.

The Reasons We Adopted Objective Measurements and Tests for Documenting the Success of Revegetation

The existing regulation at § 816.116(a)(1) requiring that the regulatory authority select standards for revegetation success and statistically valid sampling techniques and include those standards and techniques in the regulatory program was proposed March 23, 1982 (47 FR 12596), and adopted September 2, 1983 (48 FR 40150). The rule was intended to address at least two potentially competing considerations when determining the success of revegetation: (1) The need to reflect local soils and climatic conditions and (2) the need for consistent determinations both between States and within a particular State—“The proposed regulations would require the regulatory authority to develop standards that reflect the capabilities of local soils and climatic conditions. Minimum standards and acceptable sampling techniques would become parts of State programs and would be subject to approval by OSM. OSM believes this arrangement will enable States to tailor success standards to local conditions and at the same time will assure that, regardless of State, all selected standards will provide similar degrees of proof that adequate reclamation has been achieved.” Preamble to proposed rule. 47 FR 12596, 12599 (March 23, 1982).

The 1979 rule required the use of either reference areas or technical standards published by the U.S. Department of Agriculture or the U.S. Department of the Interior to evaluate ground cover and productivity. *See* 30 CFR 816.116(a) and (b)(1) (1979). The 1983 rule allowed States to select

technical standards from any source or, if desirable, to develop new standards. In response to comments that the proposed rules would leave individual States without guidance when determining minimum acceptable standards for revegetation success, OSM stated in the preamble to the final rule that "[t]his rulemaking reaffirms OSM's position that the primary responsibility for regulating surface mining and reclamation operations should rest with the States. Federal rules must be capable of nationwide application. The absence of detail in the Federal rules is not a weakening of revegetation requirements but reflects that the rules are designed to account for regional diversity in terrain, climate, soils, and other conditions under which mining occurs." Preamble to final rule. 47 FR 40140 (September 2, 1983).

OSM believed that the flexibility provided by the new rule would not adversely impact the consistency and reliability of results: "Proposed § 816.116(a)(1) would require the use of statistically valid sampling techniques for measuring success. Under the proposal, the sampling procedures would be chosen by the regulatory authority. OSM believes that the use of statistically valid sampling techniques would aid regulatory authorities in making consistent decisions regarding performance bond release and provide standardized inspection techniques sought by mine operators." Proposed rule. 47 FR 12596, 12599 (March 23, 1982).

In the preamble to the final rule, OSM described how these measurement techniques might work: "Under this rule, the method of sampling vegetation could vary depending upon the precise standard for success included in the State program. In this manner, both an "ecologically sound" and "scientifically acceptable" technique for measuring the success of revegetation can be developed. On sparsely vegetated lands, sampling may be limited to gathering data for estimates of total vegetative ground cover. There also may be circumstances where, with the approval of the regulatory authority, historical data collected for the same cover type within the region can be used, rather than reference-area data. In the East, 100 randomly located point-frequency observations will usually provide an acceptable sample size for the estimation of vegetative ground cover. Small sample sizes are associated with large statistical error which can make a test for revegetation success meaningless. OSM has not stated a level of sampling precision in the final rules but will instead evaluate on a case-by-

case basis the adequacy of predetermined sample sizes or methods of sample size selection proposed for use in State programs." Preamble to final rule. 47 FR 40140, 40150 (September 2, 1983).

The Reasons for Removing the Requirement That Success Standards and Statistically Valid Sampling Techniques Be Approved as Part of the Regulatory Program

a. The requirement to include success standards and sampling techniques for revegetation in approved regulatory programs is unnecessarily burdensome.

In the years since adoption of the 1983 rule, as discussed below, we have found that the requirement that revegetation success standards and statistically valid sampling techniques, including modifications to those standards and techniques, be approved as part of the regulatory program imposes a significant and unnecessary burden on both OSM and the States.

Further, this requirement may discourage the utilization of new and improved sampling methods based on new technologies or research by academia and government agencies. For example, in the West, the Western Region Coordinating Center has been working with representatives of State regulatory authorities in the region to develop resources such as success/failure charts and handbooks on successful practices. In the Western region, improvements in statistical tools, such as the application of nonparametric statistics and use of the "reverse" null hypothesis, as well as the commonly used classical null hypothesis and parametric statistics, have increasingly allowed revegetation specialists to more accurately evaluate and compare relatively sparse and irregularly distributed premining and postmining vegetation. Similarly, new techniques using computers and satellite-based remote sensing tools now can be used to more accurately evaluate vegetation characteristics of premining lands, and perhaps in the future, postmining lands. In the future, it may be possible to use these tools to document vegetation diversity that may not be apparent from random design sampling grids. More and more frequently, remote sensing tools are being used to evaluate premining vegetation mosaics. The Western Region Coordinating Center is encouraging States and operators to develop and experiment with new tools and techniques such as multi-spectral remote sensing, to document plant diversity and more accurately reflect the composition of plant communities. In

the Appalachian Region OSM is working with the State of West Virginia and academia to demonstrate the utility and suitability of the plate method for evaluating herbaceous productivity on reclaimed lands.

The time and resources required by the State program amendment process, however, discourage updating approved standards and techniques. Because of the time and resources required by the program amendment process, States forfeit flexibility to make changes that may be more accurate measures of revegetation success. Review of OSM's program amendment records indicates that processing of revisions to approved success standards and sampling techniques takes an average of approximately 4.5 months and can range from 2.5 months to 7 months, not taking into account the time it takes States to prepare the program amendment submission. The amendment process, codified at § 732.17, requires publication of a proposed rule in the **Federal Register**, a period for public comment, review of the standards and sampling techniques for consistency with the requirements in § 816.116, identification of any deficiencies to the regulatory authority, response from the State, possible reopening of the comment period, development of a draft final rule, Solicitor review of that final rule, and publication of the final rule in the **Federal Register** as part of the approved State regulatory program. The concern that in 1983 led OSM to reject national standards and sampling techniques in favor of local standards and techniques supports the more flexible approach that we are proposing here. 47 FR 12599 (March 23, 1982).

Moreover, our regulations do not require that sampling techniques used to meet other program requirements, such as the collection of geologic data and evaluation of overburden characteristics under § 780.22 or the models used to prepare the determination of the probable hydrologic consequences of mining under § 780.21(d), be approved as part of the regulatory program. Nor do they require that other technical standards, such as the definition of material damage to the hydrologic balance needed to prepare the cumulative hydrologic impact assessment under § 780.21(g), be approved as part of the regulatory program. Instead, regulatory authorities generally deal with these issues by preparing technical guidance documents. We have found this approach to be highly effective, both in States with approved State programs and in States where OSM is the

regulatory authority, such as Federal program States and on Indian lands.

Finally, of all the Federal regulatory programs, only the one for Tennessee (see 30 CFR 942.816(f) and 942.817(e)) includes specific revegetation success standards. None of the three Federal programs that have active mining (Tennessee, Washington, and the Indian lands program) include specific vegetation sampling techniques. The Tennessee program at 30 CFR 942.816(f)(6) and 942.817(e)(6) expressly states that sampling techniques for measuring woody plant stocking and ground cover shall be in accordance with techniques approved by the Office. In addition, only the Tennessee program (at 30 CFR 942.816(f) and 942.817(e)) includes revegetation success standards. In all other cases, the burden of going through a Federal rulemaking process to establish revegetation success standards and sampling techniques has effectively been imposed only upon States. The fact that we have not incorporated revegetation success standards and sampling techniques into most Federal programs has not created a significant divergence between Federal program States and other States with respect to standards and techniques for documenting successful reclamation.

b. Adoption of this rule change will not lead to inconsistent performance standards and sampling techniques.

For a number of reasons, we believe that allowing State regulatory authorities to select revegetation success standards and sampling techniques for documenting revegetation success without first incorporating those requirements into their approved programs will not adversely affect the quality of reclamation of mined lands or lead to significant inconsistencies among the States.

First, the regulations at § 816.116(a)(2) and (b), for which all State programs must have counterparts, establish detailed criteria and requirements for the standards and sampling techniques that States may utilize. These regulations should ensure that the revegetation success standards and sampling techniques that States employ for the parameters of ground cover, production, and stocking will be consistent with one another in terms of the quality of revegetation success required and the statistical validity of measurement techniques. Each State program must include provisions consistent with § 816.116(a)(2) and (b). The change that we are proposing would allow a State program to employ the latest analytical and sampling techniques without first having to seek

Federal approval. The criteria enunciated in § 816.116(a)(2) and (b), however, would prohibit States from establishing inadequate success standards or selecting sampling techniques for which there is no sound scientific basis. In short, the requirements of § 816.116(a)(2) and (b) would adequately ensure that the revegetation success standards and sampling techniques selected by the various States would provide similar degrees of proof that adequate reclamation has been achieved.

Second, under § 773.6(a) and (b)(2), any person with an interest that might be adversely affected by a decision on a permit application has the opportunity to review and comment on the permit-specific revegetation success standards and sampling techniques that each permit application must include pursuant to § 780.18(b)(5)(vi) and § 784.13(b)(5)(vi). Also, when a permittee applies for final bond release, the surface owner must be notified of the bond release inspection and given the opportunity to participate. See, § 800.40(b)(1). Before a bond is released, persons with a valid legal interest, including surface owners, have the right to file written objections to the bond release and to request a public hearing. See, § 800.40(f).

Finally, under § 733.12(a)(1), we annually evaluate the administration of each State program. The inspections conducted as part of that oversight process should identify any major deficiencies with respect to a State's revegetation success standards and revegetation sampling techniques. If we discover that inappropriate or inadequate standards or sampling techniques have contributed to problems with reclamation adequacy, we will require that the State modify them. We will also continue to afford technical assistance to the States in selecting and using success standards and sampling techniques that meet the requirements and needs of the approved program.

For the reasons stated above, OSM proposes to remove the requirement to include the standards for revegetation success and statistically valid sampling techniques in the approved program. However, States must still select the standards for success and statistically valid sampling techniques in accordance with the criteria in their State program counterparts to § 816.116(a)(2) and (b). In addition, permit applicants still must propose standards and techniques from those selected by the State for use in the particular State and include them in their permit applications for regulatory

authority review and approval. Vegetation sampling conducted for Phase III bond release must be in compliance with the standards for success and statistically valid sampling techniques selected by the State and included in the approved permit. These regulatory requirements and procedures should be adequate to ensure that the various State programs provide similar degrees of proof that adequate reclamation has been achieved.

3. Section 816.116(b)(3): Success Standards for Undeveloped Land

OSM is proposing to revise § 816.116(b)(3) to include undeveloped land among the list of approved post mining land use areas subject to the success standards of this section. This list currently includes fish and wildlife habitat, recreation and forest products (forestry). During OSM's 1999 revegetation outreach effort, several commenters suggested that undeveloped land should be available as an approved postmining land use. Current § 701.5 includes undeveloped land among its listed land use categories, and defines it as land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession. Without any change to the current regulations, undeveloped land can be approved as a postmining land use under the postmining land use provisions of § 816.133. On this basis, OSM has already approved three State program amendments specifically recognizing undeveloped land as an approved postmining land use. See Ohio (59 FR 22507, 22513 (May 2, 1994)); also discussing Texas (1991) and Alabama (1992).

The particular problem with undeveloped land, which this proposal seeks to address, is that, unlike all the other land use categories listed in § 701.5, undeveloped land does not have specified success standards in § 816.116(b). Accordingly, we are proposing to revise § 816.116(b)(3) to add undeveloped land as one of the land uses subject to that section's success standards. Revised § 816.116(b)(3) would then read: "For areas to be developed for fish and wildlife habitat, recreation, undeveloped land, or forest products, success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover." This revision will mean that undeveloped land will be subject to cover and, if applicable, stocking requirements depending on the vegetation goals for that parcel of land.

The cover and stocking requirements of § 816.116(b)(3) are particularly appropriate criteria for evaluating the revegetation success of an undeveloped land use area, as they can be used to ensure the establishment of the seral species, *i.e.*, a community of mixed grasses, forbs, shrubs and trees, necessary to facilitate natural plant succession.

4. Section 816.116(b)(3): Shelter Belts

OSM is proposing to further revise § 816.116(b)(3) by removing shelter belts from among the list of postmining land uses subject to the success standards of that section. As noted above, § 816.116(b)(3) currently sets forth the success standard conditions for areas to be developed with an identified postmining land use of fish and wildlife habitat, recreation, forestry, and shelter belts. The longstanding problem of including shelter belts among the § 816.116(b)(3) postmining land use areas is that shelter belts are not a recognized land use, as defined at § 701.5, but rather are conservation practices used in support of land uses. As such, shelter belts are better dealt with under our regulations at § 816.116(c)(4) governing the use of normal husbandry practices.

Section 816.116(c)(4) expressly permits the regulatory authority to allow the use of selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, provided the regulatory authority obtains prior approval from the Director that the practices are normal husbandry practices for the area. This approval would not extend the period of responsibility for revegetation success and bond liability if the practices could be expected to continue as part of the postmining land use, or if discontinuance of the practices after the liability period expires would not reduce the probability of permanent revegetation success. In the September 2, 1983, preamble discussion of § 816.116(c)(4), OSM stated that the approved measures, *e.g.*, normal husbandry practices, must be normal conservation practices within the region for unmined lands having uses similar to the approved postmining land use of the disturbed area. 48 FR 48140, 40157.

The Natural Resources Conservation Service (NRCS) also considers shelter belts (also referred to as windbreaks) as conservation practices, not land uses, and defines them as linear plantings of single or multiple rows of trees or shrubs or sets of linear plants (NRCS Field Office Technical Guide (FOTG), Section IV, Conservation Practice Standard—Windbreak/Shelterbelt

Establishment, 380). Some of the purposes of shelter belts cited by that document include reducing soil erosion and protecting plants from wind, altering the microenvironment for enhancing plant growth, managing snow deposition, providing shelter for structures, livestock, and recreational areas, and enhancing wildlife habitat by providing travel corridors. From these cited purposes, it is also clear that the NRCS treats shelter belts as normal husbandry practices used in support of other land uses such as cropland, pastureland or recreation; not as land uses themselves. Another factor supporting the conclusion that shelter belts are more akin to normal husbandry practices than land uses is that shelter belts, like normal husbandry practices, require ongoing maintenance to ensure their functionality, including replacement of dead trees and shrubs, application of water as needed, thinning and pruning and application of nutrients.

Nonetheless, the 1979 and 1983 revegetation rules, without explanation, grouped shelter belts with wildlife, recreation, or forest uses other than commercial forest land uses in the § 816.117(c) success standards (44 FR 15311, 15414), and later with fish and wildlife habitat, recreation and forestry land uses in the § 816.116(b)(3) success standards (48 FR 40152, 40160). Notwithstanding this inclusion, one theme that ran throughout both those preambles and final rules, and which supports our proposed deletion of shelter belts from the § 816.116(b)(3) listed land uses, is that revegetation success was always to be judged on the effectiveness of the vegetation for the approved postmining land use. Because shelter belts have never been included among the land use categories listed in § 701.5, because shelter belts are defined as conservation practices not land uses by the NRCS, and because the recognized purpose and ongoing maintenance requirements of shelter belts are consistent with normal husbandry practices, we are proposing to remove shelter belts from the land use areas listed in § 816.116(b)(3). The use of shelter belts would instead be covered under the normal husbandry practice provision of § 816.116(c)(4). If the use of shelter belts is necessary in a given area to achieve the postmining land use, then, in accordance with the requirements of § 816.116(c)(4), the regulatory authority would need to identify shelter belts as a normal husbandry practice and include them in the approved regulatory program under § 732.17.

5. Section 816.116(b)(3)(ii): Tree and Shrub Stocking Standards

OSM is proposing three minor revisions to the way operators may satisfy existing revegetation success standards for areas developed for fish and wildlife habitat, recreation, or forest product postmining land uses. For these postmining land uses, existing § 816.116(b)(3)(ii), commonly referred to as the “80/60 rule,” requires that, at the time of bond release, at least 80 percent of the trees and shrubs used to determine revegetation success must have been in place for 60 percent of the applicable minimum period of responsibility. In addition, the rule requires that trees and shrubs used to determine revegetation success must have been in place for not less than two growing seasons.

The response to OSM’s 1999 revegetation and reforestation initiatives highlighted the fact that many mine operators perceived the 80/60 rule as not only being complex and confusing but also subject to uncertain implementation by State regulatory authorities. Furthermore, operators often perceived as unnecessarily difficult, costly, and time-consuming the need, under the 80/60 rule, for determining the length of time that individual trees and shrubs have been in place. As a result, in areas of greater than 26 inches of average annual precipitation (“humid areas”) where mined land could reasonably be reforested, the need for determining a tree’s time in place has proven to be a significant disincentive for reforestation as operators have consistently avoided choosing the forestry postmining land use. Instead, operators tended to choose grazingland or pastureland, not forestry, in order to avoid application of the tree-counting requirements of the 80/60 rule.

In areas of less than 26 inches or less of average annual precipitation (“semi-arid areas”) where the planting of woody shrubs is often required under the approved postmining land use, the time in place requirement of the 80/60 rule was seen as posing a somewhat different problem. In these semi-arid areas, many of the planted or seeded woody shrub species undergo a continual process called “suckering,” by which multiple new aboveground stems are generated from the initial plant. However, it is not possible to document the time in place for these new suckers. Therefore, even though the sucker plant community may be vigorous and expanding, the individual suckers cannot be counted for purposes of meeting the 80/60 revegetation success count. Finally, in a related issue, both

operators and regulatory officials from both the humid and semi-arid precipitation areas questioned the wisdom of not being able to include volunteer plants of approved species in the 80/60 revegetation success count when it cannot be verified that the volunteer plants have been in place for not less than two growing seasons.

In an effort to address these concerns regarding implementation of the 80/60 rule, OSM proposes to add four sentences to the end of the existing language of § 816.116(b)(3)(ii). The first sentence would effectively eliminate the current potential need under the 80/60 rule for field verification of the time in place of individual plants. Instead, operators could document compliance with the 80/60 time-in-place requirements by comparing records of initial planting and replanting to the final count of individual plants. More specifically, the 80/60 time in place requirements could be met when the following easily documented facts were established: (1) The final field count shows that the requisite number of plants of approved species are in place; (2) records show that no woody species has been planted in the last 3 years of a 5-year responsibility period or 6 years of a 10-year responsibility period; (3) if replanting has occurred in the last 60% of the responsibility period, that planting records show that the number of plants replanted is below 20% of the total acceptable plant count; and (4) no woody species were planted during the last two years of the responsibility period. By establishing these facts, we believe that it is possible to make a numerical assessment of compliance with the 80/60 rule that is at least as accurate as could be obtained under the current laborious practice of having to determine the length of time that individual plants have been in place.

The second and third sentences that OSM is proposing to add to the existing rule language of § 816.116(b)(3)(ii) would allow volunteer plants of approved species to be included in the 80/60 revegetation success count even when it cannot be verified that the volunteers are more than two years old. We believe this revision is consistent with section 515(b)(19) of the Act, which requires the operator to establish vegetation that is "capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area." These volunteer plants represent either regeneration of species already present on the reclaimed area or invasion of native species from adjacent undisturbed areas, which is an indication of plant succession. Live

volunteer plants are as likely to continue to grow and mature as transplants of the same species that may be little more than two years old. Therefore, counting the first products of plant regeneration or invasion is a clear and reasonable indicator of successful reclamation and an appropriate revision to the 80/60 rule. OSM hopes that this and the prior revision will work together to encourage the choice of forestry, rather than grazingland or pastureland, as a postmining land use.

The fourth sentence that OSM is proposing to add to the existing rule language of § 816.116(b)(3)(ii) would allow individual suckers from woody shrubs to be counted as volunteer plants when it is evident the shrub community is vigorous and expanding. As is the case with other volunteer plants, OSM believes that counting individual suckers within a vigorous and expanding shrub community is a reasonable indicator of successful reclamation and an appropriate revision to the 80/60 rule.

6. Section 816.116(c)(3): Timing of Revegetation Success Measurements

We are proposing a further change to our revegetation regulations to bring the timing of revegetation success measurements for areas of 26 inches or less of average annual precipitation ("semi-arid areas") into line with those for areas of greater than 26 inches of average annual precipitation ("humid areas"). In OSM's 1979 regulations, the timing of revegetation success measurements for arid areas at § 816.116(b)(1)(ii) was identical to that for humid areas at § 816.116(b)(1)(i). Both the humid and arid area regulations required that the revegetation success standards be equaled or exceeded for the last two consecutive years of the respective 5- and 10-year responsibility periods. 44 FR 15237, 15413 (March 13, 1979).

Later, in 1983, OSM revised its humid area regulation, redesignated as § 816.116(c)(2)(i), to require that revegetation success standards be equaled or exceeded during the growing season of the last year of the five-year responsibility period, or, if required by the regulatory authority, during the growing season of the last 2 consecutive years of the responsibility period. We did not, however, change its arid area regulation at § 816.116(c)(3)(i), which continued to require that the revegetation success standard be equaled or exceeded for the last 2 consecutive years of the 10-year responsibility period. 48 FR 40155, 40160 (September 2, 1983). The 1983 revision requiring revegetation

standards in humid areas to be equaled or exceeded during the growing season of the last year of the responsibility period was challenged by environmental and citizen groups. In 1985, the court remanded the challenged revision because the lack of supporting evidence in the record precluded a determination that the regulations supported the goals set forth in SMCRA. *In Re: Permanent Surface Mining Regulation Litigation (II)*, 620 F. Supp. 1519, 1564 (D.D.C. 1985).

In response to that remand, OSM promulgated the current rules at § 816.116(c)(2)(i) setting forth the periods for measuring revegetation success for humid areas. 53 FR 34636, 34643 (September 7, 1988). The new regulations required that revegetation success standards for grazingland, pastureland, or cropland postmining land uses be equaled or exceeded during any two years of the last five years of the responsibility period, except the first. In support of this relaxation from the 1979 "last 2 consecutive years of the responsibility period" standard, the 1988 preamble noted that the earlier 1983 preamble had cited the effect of year-to-year [climatic] variability on crop yields or other parameters that are highly sensitive to such conditions as justifying the requirement of two consecutive years of revegetation success. 48 FR 40155, 40156 (September 2, 1983). Notwithstanding, OSM reasoned that, relative to grazingland, pastureland, and cropland postmining land uses in humid areas, "[m]easurement in nonconsecutive years avoids unduly penalizing the operator for the negative effects of climatic variability." The 1988 preamble continued that "OSM * * * believe[s] that measurement over two years is important to attenuate the influences of climatic variability, but now realizes that consecutiveness imposes an unnecessary degree of regulatory rigidity." Furthermore, we argued that to require measurement of crop or pasture yields in the last year of the responsibility period would be an unnecessary rigid standard given the variability of weather conditions. 53 FR 34640 (September 7, 1988).

The 1988 revision also provided that, for humid areas, the revegetation success standards for postmining land uses other than grazingland, pastureland, and cropland, *e.g.*, forest products, fish and wildlife habitat, etc., be equaled or exceeded during the growing season of the last year of the responsibility period. Supporting this relaxation of the 1979 "last two consecutive years of the responsibility standard," OSM reasoned that with a

forest ecosystem there exists a positive relationship between time and vegetative cover. Therefore, OSM concluded that, for forest-type ecosystems, the last year of the responsibility period would provide an accurate measurement of revegetation success. 53 FR 34641 (September 7, 1988). These revisions to the timing of revegetation success measurements for humid areas were not challenged.

The 1988 rulemaking did not, however, address the timing requirements for arid areas. Accordingly, the regulations for arid areas continued, as they had since 1979, to require that the revegetation success standards for all postmining land uses be equaled or exceeded during at least the last two consecutive years of the 10-year responsibility period.

After reviewing the 1988 preamble rationale that supported relaxation of the last two consecutive years requirement for humid areas, we have not found any persuasive reason why the same rationale would not equally apply to semi-arid areas. For example, for areas with postmining land uses other than grazingland, cropland, or pastureland, *e.g.*, forest products, fish and wildlife habitat, etc., determining vegetation success requires measurement of vegetative parameters that are not sensitive to short-term weather variations. With each of the "other" land uses, the vegetative measurements done for the last year of the responsibility period can be reasonably expected to represent the baseline for vegetative success in future years. This holds true whether the postmining land uses are located in a humid or arid area. For all postmining land uses, we believe that it is the uniqueness of the individual postmining land use and not the relative moisture of the area in which the land use is located that appropriately determines the number and spacing of the years for which vegetation success must be measured.

Accordingly, we are proposing to revise the agency's regulations for arid areas at § 816.116(c)(3)(i) to comport with its regulations for humid areas at § 816.116(c)(2)(i). The revised rules for arid areas would provide that the vegetation parameters identified in paragraph (b) of that section for grazingland, pastureland, or cropland shall equal or exceed the approved success standard during the growing season of any 2 years after year 6 of the responsibility period. Areas approved for other uses identified in paragraph (b) of that section would have to equal or exceed the applicable success standard

during the growing season of the last year of the responsibility period.

Revising the revegetation rules in this manner makes the rigor of § 816.116(c)(3)(i) for areas receiving 26 inches or less of annual precipitation, similar to § 816.116(c)(2)(i) for areas receiving more than 26 inches of annual precipitation. For the sake of further consistency, we are also proposing to revise our regulations governing the timing of revegetation success measurement for lands eligible for reining. Thus, the rules for lands in arid areas at § 816.116(c)(3)(ii) would be revised to comport with those for lands in humid areas at § 816.116(c)(2)(ii). Both rules would then require that revegetation standards be met or exceeded during the growing season of the last year of responsibility period.

III. How Do I Submit Comments on the Proposed Rule?

Electronic or Written Comments: If you submit written comments, they should be specific, confined to issues pertinent to the proposed rule, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on a final rule will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

Except for comments provided in an electronic format, you should submit three copies of your comments if possible. We will not consider anonymous comments. We cannot ensure that comments received after the close of the comment period (*see DATES*) or at locations other than those listed above (*see ADDRESSES*) will be considered or included in the Administrative Record.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (*see ADDRESSES*). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, to the extent allowed by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. Individuals

making such a request should submit their comments by regular mail and not by e-mail. 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.

Public hearings: We will hold a public hearing on the proposed rule upon request only. The time, date, and address for any hearing will be announced in the **Federal Register** at least 7 days prior to the hearing.

Any person interested in participating at a hearing should inform Mr. Robert Postle (*see FOR FURTHER INFORMATION CONTACT*), either orally or in writing by 5 p.m., eastern time, on April 7, 2005. If no one has contacted Mr. Postle to express an interest in participating in a hearing by that date, a hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held, with the results included in the Administrative Record.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard. To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony.

IV. Procedural Matters and Required Determinations

Executive Order 12866—Regulatory Planning and Review

This document is considered a significant rule and is subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

a. This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, Tribal, or local governments or communities. The revisions to the regulations governing topsoil replacement and revegetation success standards will not have an adverse economic impact on the coal industry or State regulatory authorities. During any given year, approximately 880 operators conduct vegetation sampling for bond release. The revisions may reduce operating expenses for coal operators by reducing

the time needed to conduct revegetation evaluations and expediting bond release. The estimated reduction in costs is unquantifiable. OSM estimates that approximately two State regulatory authorities will modify their standards for revegetation success during a year, requiring approximately 100 hours to complete each modification for submission to OSM. At an average wage rate of \$30 per hour, the annual cost savings for each State regulatory authority would be \$3,000 (100 hours/report × \$30), or \$6,000 for all States.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. The proposed revisions to our topsoil replacement and revegetation success standards may raise novel legal or policy issues, which is why the rule is considered significant by OMB under Executive Order 12866.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not considered a significant energy action under Executive Order 13211. The proposed revisions to our regulations that govern topsoil replacement and revegetation success standards notice will not have a significant affect on the supply, distribution, or use of energy.

Regulatory Flexibility Act

The Department of the Interior 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.*). The proposed revisions are not expected to have an adverse economic impact. Some of the revisions may facilitate bond release resulting in a reduction in operating costs for coal operators. Further, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons previously stated, this rule:

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises for the reasons stated above.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, Tribal, or local governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, Tribal, or local governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1534) is not required.

Executive Order 12630—Takings

The revisions to the regulations governing topsoil replacement and revegetation success standards do not have any significant takings implications under Executive Order 12630. Therefore, a takings implication assessment is not required.

Executive Order 13132—Federalism

In accordance with Executive Order 13132, the rule does not have significant federalism implications to warrant the preparation of a federalism assessment for the reasons discussed above.

Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and 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 evaluated the potential effects of this rule on federally recognized Indian Tribes and have determined that the proposed revisions to our regulations that govern topsoil replacement and revegetation success standards would not have substantial direct effects 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.

Paperwork Reduction Act

We have determined that this rule does not substantially alter the currently approved collections of information authorized by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* OMB has previously approved the collection activities and assigned clearance number 1029–0047 for 30 CFR parts 816 and 817.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) of this proposed rule and has made a tentative finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). It is anticipated that a finding of no significant impact (FONSI) will be made for the final rule in accordance with OSM procedures under NEPA. The draft EA is on file in the OSM Administrative Record at the address specified previously (*see ADDRESSES*). The EA will be completed and a finding made on the significance of any resulting impacts before we publish the final rule.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A “section” appears in bold type and is preceded by the symbol “§” and a numbered heading; for example, § 816.116.) (5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand? Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

List of Subjects

30 CFR 816

Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Dated: January 24, 2005.

Rebecca W. Watson, Assistant Secretary, Land and Minerals Management.

For the reasons given in the preamble, we propose to amend 30 CFR parts 816 and 817 as set forth below.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

1. The authority citation for part 816 continues to read as follows:

Authority: 30 U.S.C. 1201 et seq.; and sec. 115 of Pub. L. 98-146.

2. In § 816.22, revise paragraph (d)(1)(i) to read as follows:

§ 816.22 Topsoil and subsoil.

* * * * *

(d) * * *

(1) * * *

(i) Achieves an approximately uniform, stable thickness when consistent with the approved postmining land use, contours, and surface-water drainage systems. Soil thickness may also be varied to the extent such variations help meet the specific revegetation goals identified in the permit.

* * * * *

3. Amend § 816.116 as follows:

a. Revise paragraph (a)(1);

b. Revise the first sentence of paragraph (b)(3) introductory text;

c. Add four sentences to the end of paragraph (b)(3)(ii);

d. Revise paragraphs (c)(3)(i) and (ii).

§ 816.116 Revegetation: Standards for success.

(a) * * *

(1) Standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority.

* * * * *

(b) * * *

* * * * *

(3) For areas to be developed for fish and wildlife habitat, recreation, undeveloped land, or forest products, success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover. * * *

(i) * * *

(ii) * * * The requirements of this section apply to trees and shrubs that have been seeded or transplanted and can be met when records of woody vegetation planted show that no woody plants were planted during the last 2 growing seasons of the responsibility period and, if any replanting of woody plants took place during the responsibility period, the total number planted during the last 60% of that period is less than 20% of the total number of woody plants required. Any replanting must be by means of transplants to allow for adequate accounting of plant stocking. This final accounting may include volunteer trees and shrubs of approved species.

Volunteer trees and shrubs of approved species shall be deemed equivalent to planted specimens 2 years of age or older and can be counted towards success. Suckers on shrubby vegetation can be counted as volunteer plants when it is evident the shrub community is vigorous and expanding.

* * * * *

(c) * * *

(3) * * *

(i) Ten full years, except as provided in paragraph (c)(3)(ii) of this section. The vegetation parameters identified in paragraph (b) of this section for grazingland, pastureland, or cropland shall equal or exceed the approved success standard during the growing season of any 2 years after year 6 of the responsibility period. Areas approved for the other uses identified in paragraph (b) of this section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(ii) Five full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by paragraph (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

* * * * *

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

4. The authority citation for part 817 continues to read as follows:

Authority: 30 U.S.C. 1201 et seq.

5. In § 817.22, revise paragraph (d)(1)(i) to read as follows:

§ 817.22 Topsoil and subsoil.

* * * * *

(d) * * *

(1) * * *

(i) Achieves an approximately uniform, stable thickness when consistent with the approved postmining land use, contours, and surface-water drainage systems. Soil thickness may also be varied to the extent such variations help meet the specific revegetation goals identified in the permit.

* * * * *

6. Amend § 817.116 as follows:

a. Revise paragraph (a)(1);

b. Revise the first sentence of paragraph (b)(3) introductory text;

c. Add four sentences to the end of paragraph (b)(3)(ii);

d. Revise paragraphs (c)(3)(i) and (ii).

§ 817.116 Revegetation: Standards for success.

(a) * * *

(1) Standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority.

* * * * *

(b) * * *

* * * * *

(3) For areas to be developed for fish and wildlife habitat, recreation, undeveloped land, or forest products, success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover. * * *

(i) * * *

(ii) * * * The requirements of this section apply to trees and shrubs that have been seeded or transplanted and can be met when records of woody vegetation planted show that no woody plants were planted during the last 2 growing seasons of the responsibility period and, if any replanting of woody plants took place during the responsibility period, the total number planted during the last 60% of that period is less than 20% of the total number of woody plants required. Any replanting must be by means of transplants to allow for adequate accounting of plant stocking. This final accounting may include volunteer trees and shrubs of approved species. Volunteer trees and shrubs of approved species shall be deemed equivalent to planted specimens 2 years of age or older and can be counted towards success. Suckers on shrubby vegetation can be counted as volunteer plants when it is evident the shrub community is vigorous and expanding.

* * * * *

(c) * * *

(3) * * *

(i) Ten full years, except as provided in paragraph (c)(3)(ii) of this section.

The vegetation parameters identified in paragraph (b) of this section for grazingland, pastureland, or cropland shall equal or exceed the approved success standard during the growing season of any 2 years after year 6 of the responsibility period. Areas approved for the other uses identified in

paragraph (b) of this section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.
(ii) Five full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the

success standards are established by paragraph (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.
* * * * *
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at http://www.archives.gov/federal_register/public_laws/public_laws.html.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

S. 5/P.L. 109-2

Class Action Fairness Act of 2005 (Feb. 18, 2005; 119 Stat. 4)

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