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

WHEN: Tuesday, May 17, 2005
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Editorial Note: In the **Federal Register** of Thursday, May 5, 2005, the page numbers for several entries in that issue's table of contents were incorrect. A corrected table of contents for Thursday, May 5, 2005 appears after the Reader Aids section at the back of today's **Federal Register.**

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 70, No. 87
Friday, May 6, 2005

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture in order to reflect the Secretary's designation of the General Counsel as the Department official responsible for delegating the authority to other Department heads for considering, ascertaining, adjusting, determining, compromising, and settling, pursuant to the Federal Tort Claims Act (FTCA) and regulations of the Attorney General, claims less than $2500 that allege the negligence or wrongful act of an employee of a certain agency.

DATES: *Effective Date:* Effective May 6, 2005.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Cohen, Assistant General Counsel, General Law Division, Office of the General Counsel, Department of Agriculture, Room 3311–S, Washington, DC 20250, telephone 202–720–5565.

SUPPLEMENTARY INFORMATION: Under 28 U.S.C. 2672 of the FTCA, the head of each Federal agency, including the Secretary of Agriculture, is able to adjudicate FTCA claims brought against his or her respective agency. Furthermore, the FTCA states that an agency may effect a settlement equal to or less than $25,000, without the ''prior written approval of the Attorney General or his designee''. Through 7 CFR 2.31, the Secretary of Agriculture has delegated to the General Counsel the authority to ''[c]onsider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, as amended (28 U.S.C. 2671–2680), and the regulations of the Attorney General contained in 28 CFR part 14 * * *.''

The National Performance Review (NPR) determined that this limited delegation posed a barrier to the efficiency and cost-effectiveness of the USDA. Pursuant to the recommendations of NPR, on September 11, 1996, the Secretary of Agriculture enacted a pilot program, created under Secretary's Memorandum 1030–29, by delegating to the Assistant Secretary for Marketing and Regulatory Programs and the Administrator of APHIS the authority to adjudicate claims under $2500 submitted pursuant to the FTCA. The pilot program proved to be highly successful. During this program, adjudication time for this type of FTCA claim was reduced from a period of three to six months to less than two weeks. Additionally, payment processing time was reduced from ten days to as little as one day.

Based on the success of this pilot program, the delegations of authority of the Department of Agriculture are amended so that the General Counsel is now able to delegate the authority to another agency head to consider, ascertain, adjust, determine, compromise, and settle, and pursuant to the FTCA and regulations of the Attorney General, claims less than $2500 that allege the negligence or wrongful act of an employee of a particular USDA agency.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comment are not required and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12988 and Executive Order 12866, amended by Executive Order 13258. In addition, this action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and thus is exempt from the provisions of that Act. Finally, this action is not a rule as defined in 5 U.S.C. 804, and thus does not require review by Congress.

List of Subjects in 7 CFR Part 2

Authority delegations (government agencies).

■ Accordingly, 7 CFR part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

■ 1. The authority cittation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1), 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR, 1949–1953 Comp., p. 1024.

Subpart D—Delegation of Authority to Other General Officers and Agency Heads

■ 2. Amend § 2.31 to revise paragraph (a) to read as follows:

§ 2.31 General Counsel.

* * * * *

(a) Consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, as amended (28 U.S.C. 2671–2680), and the regulations of the Attorney General contained in 28 CFR part 14; delegate the authority to consider, ascertain, adjust, determine, compromise, and settle, pursuant to the Federal Tort Claims Act as amended (28 U.S.C. 2671–2680) and the regulations of the Attorney General contained in 28 CFR part 14, claims less than $2500 that allege the negligence or wrongful act of an employee of a USDA agency; and consider, ascertain, adjust, determine compromise, and settle claims pursuant to section 920 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127 (7 U.S.C. 2262a).

* * * * *

Dated: April 11, 2005.

Mike Johanns

Secretary of Agriculture.

[FR Doc. 05–9114 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–14–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV05–905–1 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Change in the Minimum Maturity Requirements for Fresh Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule reducing the minimum maturity requirements for fresh grapefruit under the marketing order for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida (order). The Citrus Administrative Committee (Committee), which locally administers the order, recommended this change. This rule continues in effect the action that reduced the minimum maturity requirement for soluble solids (sugars) from 8.0 percent to 7.5 percent until July 31, 2005. This action makes additional quantities of grapefruit available for the fresh market and will help reduce the losses sustained by the grapefruit industry during the recent hurricanes in Florida.

DATES: *Effective Date:* June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884–1671; Telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SE., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues in effect the action that reduced the minimum maturity requirement for soluble solids (sugars) of fresh grapefruit from 8.0 percent to 7.5 percent until July 31, 2005. This action makes additional quantities of grapefruit available for the fresh market and will help reduce the losses sustained by the grapefruit industry during the recent hurricanes in Florida. This action was unanimously recommended by the Committee at its meeting on November 16, 2004.

Section 905.52 of the order provides authority for establishment of grade and size requirements for Florida citrus. One element of grade is maturity. Section 905.306 of the order specifies, in part, the minimum maturity requirements for grapefruit. Prior to this change, the minimum maturity requirements for Florida grapefruit were 8.0 percent soluble solids (sugars) and 7.5 to 1 solids to acid ratio with a sliding scale minimum ratio of 7.2 to 1.

This rule reduces the minimum maturity requirement for soluble solids (sugars) from 8.0 percent to 7.5 percent soluble solids for the remainder of the 2004–05 season which ends July 31, 2005. On August 1, 2005, the requirement returns to 8.0 percent soluble solids. The 7.5 to 1 solids to acid ratio with a sliding scale minimum of 7.2 to 1 remains unchanged by this action.

During the months of August and September, the major grapefruit growing regions in Florida suffered significant damage and fruit loss from multiple hurricanes. The strong winds from the storms blew substantial volumes of the setting fruit off the trees. The impact of the storms also produced a much higher than normal fruit drop. The extent of the loss is evident in the official USDA crop estimate for this season which reflects a 69 percent decrease from last year's estimate.

In inspecting groves following the storms, growers found that the younger trees retained their fruit better compared to trees in established groves. However, based on Committee discussion, the fruit from younger trees has more difficulty meeting the current maturity requirement. To address the situation, the Committee considered how the maturity requirements might be adjusted so that more fruit from the younger trees would be available for the fresh market.

The Committee considered several options to address this issue including a one-point reduction in the soluble solids and a reduction in the minimum ratio. Several members were concerned about reducing requirements too much and believed that reducing maturity requirements by a full point would impact the quality of the fruit. It was also stated that the industry should not pack inferior fruit just because there is a shortage of volume. The Committee agreed that the current maturity standards have been well received by the market. However, Committee members also recognized that the special circumstances surrounding this season were unprecedented in the history of the grapefruit industry, and based on that, if it was possible, some allowances should be made to assist growers and provide some additional volume to the market.

The Committee reached a compromise position where the soluble solid requirement was reduced by a half a point and the ratios were maintained at current levels. The Committee stressed that this change be made for the remainder of the current season only, and starting August 1, 2005, the maturity requirements return to their previous level. The Committee believes by reducing the soluble solids level and maintaining the minimum ratio combinations at the current levels for

the remainder of the season, additional quantities of grapefruit can be made available for the fresh market without a significant reduction in quality. Therefore, the Committee voted unanimously to reduce the minimum soluble solid level from 8.0 to 7.5 until July 31, 2005. This change benefits both growers and consumers by increasing the available supply of fresh grapefruit.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. As this rule changes the minimum maturity requirements under the domestic handling regulations, a corresponding change to the import regulations must be considered. Such change to the import regulations would be made under a separate action.

Final Regulatory Flexibility Analysis

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

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

There are approximately 75 grapefruit handlers subject to regulation under the order and approximately 11,000 producers of citrus in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $6,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida grapefruit during the 2003–04 season was approximately $8.00 per 4/5-bushel carton, and total fresh shipments for the 2003–04 season are estimated at 26 million cartons of grapefruit.

Approximately 25 percent of all handlers handled 75 percent of Florida's grapefruit shipments. Using the average f.o.b. price, at least 69 percent of the grapefruit handlers could be considered small businesses under SBA's definition. In addition, based on production and grower prices reported by the National Agricultural Statistics Service, and the total number of grapefruit growers, the average annual grower revenue is approximately $20,600. In view of the foregoing, it can be concluded that the majority of handlers and producers of Florida grapefruit may be classified as small entities.

This rule continues in effect the action that reduced the minimum maturity requirement for soluble solids (sugars) from 8.0 percent to 7.5 percent for fresh grapefruit until July 31, 2005. This action makes additional quantities of grapefruit available for the fresh market and will help reduce the losses sustained by the grapefruit industry during the recent hurricanes in Florida. This action was unanimously recommended by the Committee at its meeting on November 16, 2004. This rule modifies the maturity requirements specified in § 905.306. Authority for this action is provided for in § 905.52 of the order.

With respect to the impact of this action, it is anticipated that this temporary change will not result in any increase in grower or handler costs. However, it makes some additional quantities of grapefruit available for the fresh market. This will help growers maximize their fresh shipments in a year where there may be potential shortages of grapefruit. This will help increase grower returns and address some of the losses sustained from the storms.

The Committee believes by reducing the soluble solids level and maintaining the minimum ratio combinations at the current levels for the remainder of the 2004–05 season, additional quantities of grapefruit will be made available for the fresh market without a significant reduction in quality. This change benefits both growers and consumers by increasing the available supply of fresh grapefruit.

The purpose of this rule is to help improve producer returns and provide some additional volume of grapefruit to the market. The opportunities and benefits of this rule are expected to be available to all grapefruit handlers and producers regardless of their size of operation.

The Committee considered several alternatives to taking this action. One alternative considered was a reduction in maturity requirements to 7.0 percent soluble solids with 7.0 to 1 solids to acid ratio. Committee members believed that this was too much of a change and that it would negatively impact the quality of the fruit. Therefore, this option was rejected. Another alternative considered was making no change to the maturity requirement. However, the Committee believed that some adjustment should be made to accommodate fruit from young trees. The Committee also recognized the special circumstances surrounding this season as a result of the hurricanes. Consequently, the Committee unanimously supported the action taken by this rule.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

The Committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 16, 2004, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on December 22, 2004 (69 FR 76597). Copies of the rule were mailed by the Committee's staff to all Committee members and Florida citrus handlers. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period which ended February 22, 2005. Two comments were received.

One commenter supported in principle the relaxation. The second commenter stated that the order should be eliminated and the Committee be disbanded. USDA disagrees with these suggestions.

The marketing order was implemented and is being administered consistent with the authority in the Agricultural Marketing Agreement Act of 1937, and was favored by citrus growers in a recent continuance referendum. In addition, actions taken by the Committee under the order have

helped increase grower returns to levels above the cost of production, which may contribute to more growers maintaining their groves. This rule is making more fruit available at a time when much of the crop was destroyed by last year's hurricanes without sacrificing fruit quality. This change benefits both growers and consumers by increasing the available supply of fresh grapefruit.

Therefore, no changees will be made as a result of these comments.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (69 FR 76597, December 22, 2004) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ Accordingly, the interim final rule amending 7 CFR part 905 which was published at 69 FR 76597 on December 22, 2004, is adopted as a final rule without change.

Dated: May 3, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–9109 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19693; Directorate Identifier 2004–CE–40–AD; Amendment 39–14076; AD 2004–25–16 R1]

RIN 2120–AA64

Airworthiness Directives; Kelly Aerospace Power Systems Part Number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23D04 Fuel Regulator Shutoff Valves (Formerly Owned by ElectroSystems, JanAero Devices, Janitrol, C&D Airmotive Products, FL Aerospace, and Midland-Ross Corporation)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is revising Airworthiness Directive (AD) 2004–25–16, which applies to aircraft equipped with a fuel regulator shutoff valve part number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23D04 used with B1500, B2030, B2500, B3040, B3500, B4050, or B4500 B-Series combustion heaters. AD 2004–25–16 currently requires you to repetitively inspect the fuel regulator shutoff valve (visually or by pressure test) for fuel leakage and replace the fuel regulator shutoff valve with an improved design replacement part with a manufacturer's date code of 02/02 or later if fuel leakage is found. AD 2004–25–16 also allows you to disable the heater as an alternative method of compliance. Since we issued AD 2004–25–16, we received several comments requesting a revision to paragraph (e)(2). Consequently, this AD retains the actions required in AD 2004–25–16 and revises the requirements in paragraph (e)(2) to remove a required action. We are issuing this AD to prevent failure of the fuel regulator shutoff valve, which could result in fuel leakage in aircraft with these combustion heaters. This failure could result in an aircraft fire.

DATES: This AD becomes effective on June 20, 2005.

On January 5, 2005 (69 FR 75228, December 16, 2004), the Director of the Federal Register approved the incorporation by reference of Kelly Aerospace Power Systems Service Bulletin No. A–107A, Issue Date: September 6, 2002; and Piper Vendor Service Publication VSP–150, dated January 31, 2003.

ADDRESSES: To get the service information identified in this AD, contact Kelly Aerospace Power Systems, P.O. Box 273, Fort Deposit, Alabama 36032; telephone: (334) 227–8306; facsimile: (334) 227–8596; Internet: *http://www.kellyaerospace.com.*

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 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2004–19693; Directorate Identifier 2004–CE–40–AD.

FOR FURTHER INFORMATION CONTACT: Kevin L. Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, One Crown Center, 1985 Phoenix Boulevard, Suite 450, Atlanta, GA 30349; telephone: (770) 703–6063; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? Reports of certain regulator shutoff valves leaking caused FAA to issue AD 2001–08–01, Amendment 39–12178 (66 FR 19718, April 17, 2001). AD 2001–08–01 required you to visually inspect and pressure test the fuel regulator shutoff valves for leaks and replace the fuel regulator shutoff valve if leaks were found.

The affected fuel regulator shutoff valves are part of the B1500, B2030, B2500, B3040, B3500, B4050, and B4500 combustion heater configuration.

Operators of aircraft with the affected fuel regulator shutoff valves installed and mechanics who did the actions of AD 2001–08–01 provided suggestions for improvement to the AD. Based on that feedback, FAA superseded AD 2001–08–01 with AD 2001–17–13, Amendment 39–12404 (66 FR 44027, August 22, 2001).

AD 2001–17–13 retained the actions of AD 2001–08–01, except it required only the visual inspection or the pressure test of the fuel regulator shutoff valves (not both) and listed the affected fuel regulator shutoff valves by part number instead of series. AD 2001–17–13 also included a provision for disabling the heater as an alternative method of compliance.

The FAA continued to receive reports of problems with these fuel regulator shutoff valves. This service history reflects that the inspections should be repetitive instead of one-time. Based on this information, FAA superseded AD 2001–17–13 with AD 2004–25–16, Amendment 39–13904 (69 FR 75228, December 16, 2004).

AD 2004–25–16 retains the actions required in AD 2001–17–13, makes the inspection repetitive, and requires installing improved design replacement parts.

What has happened since AD 2004–25–16 to initiate this AD action? We inadvertently retained an action from AD 2001–17–13 and made it repetitive. After each inspection of the fuel regulator shutoff valve for signs of fuel leaks and no leaks are found, AD 2004–25–16 requires the valve cover to be marked with the date of inspection.

Since AD 2004–25–16 made that inspection repetitive, it is not feasible to mark the valve cover with the date of each inspection. Therefore, we are revising AD 2004–25–16 to remove this action.

What is the potential impact if FAA took no action? This condition, if not corrected, could result in fuel leakage in aircraft with these combustion heaters, which could result in an aircraft fire with consequent damage or destruction.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to aircraft equipped with a fuel regulator shutoff valve part number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23D04 used with B1500, B2030, B2500, B3040, B3500, B4050, or B4500 B-Series combustion heaters. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 9, 2005 (70 FR 11588). The NPRM proposed to revise AD 2004–25–16 with a new AD that would retain the actions required in AD 2004–25–16 and removes the requirement to mark the valve cover with the date of inspection as specified in paragraph (e)(2) of the AD.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Remove the Piper Models PA–30 and PA–39 Airplanes From the Applicability

What is the commenter's concern? Three commenters state that an incident involving a Piper Model PA–31 airplane prompted the AD. The PA–31 airplane has a different fuel regulator shutoff valve configuration and a larger heater than Models PA–30 and PA–39 airplanes.

Model PA–31 airplanes run 35 pounds per square inch (PSI) fuel pressure at all times the engines are operating to the pressure regulator shutoff valve. The fuel line on Model PA–31 airplanes is also larger than the fuel line on Models PA–30 and PA–39 airplanes.

Model PA–30 airplanes run 7.5 PSI fuel pressure and the fuel line is 1/16 inch with an internal orifice of 1/32 inch. Therefore, the Model PA–30 airplane has one-fifth the pressure going to the regulator shutoff valve. Models PA–30 and PA–39 airplanes also have a fuel shutoff valve approximately 12 inches up-line from the pressure regulator shutoff valve.

According to the Aircraft Flight Manual, this valve should be closed except when the heater is in operation. When the manual fuel valve is closed, there is no pressure on the regulator resulting in little to no chance of fuel leakage.

The commenters request Models PA–30 and PA–39 airplanes be removed from the applicability of the AD.

What is FAA's response to the concern? The description of fuel system line sizes and volumes described by the commenters does not match those shown in the type design of the Models PA–30 and PA–39 airplanes.

The fuel pressure values stated by the commenters are below those seen in the supply line to Model PA–30 airplanes. Although the fuel regulator and shutoff valve supply pressures in Models PA–30 and PA–39 airplanes are below that of PA–31 series airplanes (as indicated by the commenters), the pressures are similar to that of other aircraft models for which leakage has been documented through the submittal of service difficulty reports.

The evaluation of leaking fuel regulator and shutoff valves has revealed a loss of clamping of the diaphragm by the assembly fasteners. This may be attributed to distortion of the diaphragm resulting in displacement or local thinning, local distortion of the housings either at or between the fastener locations or a loss of fastener preload.

We are not changing the final rule AD action based on this comment. If an individual operator has an airplane configuration that is different than that specified in the type design, he/she may request an alternative method of compliance (AMOC) following the procedures in the AD and 14 CFR part 39.

Comment Issue No. 2: Change the Compliance Time From 100 Hours Time-in-Service (TIS) Aircraft Operating Service to 100 Hours TIS Heater Operating Service or at the Annual Inspection

What is the commenter's concern? The commenter states that most Model PA–30 airplanes are based in warm climates where the heater is used for only a few hours a year. According to the Aircraft Flight Manual, this valve should be closed except when the heater is in operation. When the manual fuel valve is closed, there is no pressure on the regulator resulting in little to no chance of fuel leakage.

The commenter states the requirement to inspect every 100 hours TIS on the airplane imposes an unnecessary burden.

The commenter requests the inspection time change to 100 hours of heater operation or at the next annual inspection.

What is FAA's response to the concern? The evaluation of leaking fuel regulator and shutoff valves may be attributed to the deterioration of the diaphragm material itself. As with any other rubberized material, this results from environmental exposure over a period of time. As the described mechanisms do not directly relate to heater operation, the inspection interval was selected as aircraft TIS and not heater TIS. Although the use of a manual fuel shutoff valve may reduce the likelihood of fuel leakage when the heater is not operating, it does not reduce the effects of TIS on the condition of the fuel regulator and shutoff valve.

The owner/operator may request an extension or different compliance time through an AMOC by following the procedures in the AD and 14 CFR part 39.

We are not changing the final rule AD action based on this comment.

Conclusion

What is FAA's final determination on this issue? We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for the changes discussed above and minor editorial corrections. We have determined that these changes and minor corrections:

—Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Changes to 14 CFR Part 39—Effect on the AD

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the 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

What is the cost impact of this revision? Since we are revising AD 2004–25–16 to remove a required action from the previous AD, there is no cost impact for this revision.

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

Will this AD impact various entities? 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.

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

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

2. Is not a ''significant rule'' under 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 AD (and other information as included in the Regulatory Evaluation) 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 ''Docket No. FAA–2004–19693; Directorate Identifier 2004–CE–40–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2004–25–16, Amendment 39–13904 (69 FR 75228), and by adding a new AD to read as follows:

2004–25–16 R1 Kelly Aerospace Power Systems (formerly owned by ElectroSystems, JanAero Devices, Janitrol, C&D Airmotive Products, FL Aerospace, and Midland-Ross Corporation): Amendment 39–14076; Docket No. FAA–2004–19693; Directorate Identifier 2004–CE–40–AD; revises AD 2004–25–16, Amendment 39–13904.

When Does This AD Become Effective?

(a) This AD becomes effective on June 20, 2005.

What Other ADs Are Affected By This Action?

(b) This AD revises AD 2004–25–16, Amendment 39–13904.

What Airplanes Are Affected by This AD?

(c) This AD applies to aircraft equipped with a fuel regulator shutoff valve part number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23D04 used with B1500, B2030, B2500, B3040, B3500, B4050, or B4500 B-Series combustion heaters. The following is a list of aircraft where the B-Series combustion heater could be installed. This is not a comprehensive list and aircraft not on this list that have the heater installed through field approval or other methods are still affected by this AD:

Manufacturer	Aircraft models/series
(1) Bombardier Inc	CL–215, CL–215T, and CLT–415.
(2) Cessna Aircraft Company	208, T303, 310F, 310G, 310H, 310I, 310J, 310K, 310L, 310N, 310P, 310Q, 320C, 320D, 320E, 320F, 337 Series, 340, 340A, 414, 414A, 421, 421A, 421B, and 421C.
(3) The New Piper Aircraft Inc	PA–23 Series, PA–30, PA–31 Series, PA–34 Series, PA–39, and PA–44 Series.
(4) Raytheon Aircraft Corporation	95–B55 Series, 58, 58TC, 58P, 60, A60, and 76.

Note 1: The B1500, B2030, B2500, B3040, B3500, B4050, or B4500 B-Series combustion heaters were previously manufactured by Janitrol, C&D Airmotive Products, FL Aerospace, and Midland-Ross Corporation.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of numerous reports of fuel regulator shutoff valves leaking fuel. We are issuing this AD to prevent failure of the fuel regulator shutoff valve, which could result in fuel leakage in aircraft with these combustion heaters. This failure could result in an aircraft fire.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Visually inspect or pressure test the fuel regulator shutoff valve for any signs of fuel leaks.	Within the next 25 hours aircraft time-in-service (TIS) after January 5, 2005, (the effective date of AD 2004–25–16), unless already done within the last 75 hours aircraft TIS (*e.g.,* compliance with AD 2001–08–01 or 2001–17–13). Repetitively inspect thereafter at intervals not to exceed 100 hours aircraft TIS or 12 months, whichever occurs first. This is established to coincide with 100-hour and annual with 100-hour and annual inspections.	Locate the pressure shutoff valve in the installation using the applicable maintenance manual for valve location, removal, and installation instructions. Follow the procedures in Kelly Aerospace Power Systems Service Bulletin No. A–107A, Issue Date: September 6, 2002, for the visual inspection or the pressure test.
(2) If no fuel leaks or no signs of fuel stains are found during each inspection required by paragraph (e)(1) of this AD, make a log book entry with the date of inspection (month/year).	Prior to further flight after each inspection required in paragraph (e)(1) of this AD.	Follow the procedures in Kelly Aerospace Power Systems Service Bulletin No. A–107A, Issue Date: September 6, 2002.
(3) If any signs of fuel leaks or any signs of fuel stains are found during any inspection required in paragraph (e)(1) of this AD, replace the valve with a new valve of appropriate part number (P/N) that has a manufacturer's date code of 02/02 or later. For Piper PA–31–350 model aircraft, replace P/N A23D04–7.5 valve with P/N P23D04–7.5 Ensure there are no fuel leaks in the replacement valve by following the inspection and documentation requirements in paragraphs (e)(1) and (e)(2) of this AD.	Before further flight after the inspection where any fuel leak was found.	Follow Kelly Aerospace Power Systems Service Bulletin No. A–107A, Issue Date: September 6, 2002; Piper Vendor Service Publication VSP–150, dated January 31, 2003; and the applicable maintenance manual.
(4) As an alternative method of compliance to this AD, you may disable the heater provided you immediately comply with inspection, identification, and replacement requirements of this AD when you bring the heater back into service. Do the following actions when disabling: (i) Cap the fuel supply line upstream of the fuel regulator and shutoff valve; (ii) Disconnect the electrical power and ensure that the connections are properly secured to reduce the possibility of electrical spark or structural damage; (iii) Inspect and test to ensure that the cabin heater system is disabled; (iv) Ensure that no other aircraft system is affected by this action; (v) Ensure there are no fuel leaks; and (vi) Fabricate a placard with the words: ''System Inoperative''. Install this placard at the heater control valve within the pilot's clear view.	If you choose this option, you must do it before the next required inspection specified in paragraph (e)(1) of this AD. To bring the heater back into service, you must do the actions of paragraphs (e)(1), (e)(2), and (e)(3) of this AD (inspection, identification, and replacement, as necessary).	Not Applicable.
(5) Only install a fuel regulator shutoff valve with a manufacture date code of 02/02 or later.	As of January 5, 2005, (the effective date of AD 2004–25–16).	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.

(1) 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, Manager, Atlanta ACO, FAA. For information on any already approved alternative methods of compliance, contact Kevin L. Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, One Crown Center, 1985 Phoenix Boulevard, Suite 450, Atlanta, GA 30349; telephone: (770) 703–6063; facsimile: (770) 703–6097.

(2) Alternative methods of compliance approved for AD 2004–25–16, which is revised by this AD, are approved as alternative methods of compliance with this AD.

Does This AD Incorporate Any Material By Reference?

(g) You must do the actions required by this AD following the instructions in Kelly Aerospace Power Systems Service Bulletin No. A–107A, Issue Date: September 6, 2002; and Piper Vendor Service Publication VSP–150, dated January 31, 2003.

(1) On January 5, 2005 (69 FR 75228, December 16, 2004), and in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Federal Register previously approved the incorporation by reference.

(2) To get a copy of the service information, contact Kelly Aerospace Power Systems, P.O. Box 273, Fort Deposit, Alabama 36032; telephone: (334) 227–8306; facsimile: (334) 227–8596; Internet: *http://www.kellyaerospace.com.* To review copies of the service information, go to the National Archives and Records Administration

(NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. 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 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2004–19693; Directorate Identifier 2004–CE–40–AD.

Issued in Kansas City, Missouri, on April 28, 2005.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8884 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–19851; Airspace Docket No. 04–AAL–13]

RIN 2120–AA66

Modification and Revocation of Federal Airways; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes Jet Route 711 (J–711), modifies Jet Routes 133 and 889R (J–133 and J–889R), and modifies two colored Federal airways (B–25 and A–1) in Alaska. The FAA is taking this action to remove all airways and routes off the Hinchinbrook, AK, Nondirectional Radio Beacon (NDB) in preparation for the NDB's eventual decommissioning from the National Airspace System (NAS).

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

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

SUPPLEMENTARY INFORMATION:

History

On January 21, 2005, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify J–133, J–889, B–25, and A–1; and revoke J–711 in Alaska (70 FR 3156). The FAA Alaskan Region determined that continued operation of the Hinchinbrook, AK, NDB was in jeopardy at its current location, and that action was required to reconfigure the airways using the Orca Bay, AK, NDB. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received. With the exception of editorial changes, this amendment is the same as that proposed in the notice.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) to revoke J–711, and to modify J–133, J–889R, B–25, and A–1 in Alaska. The FAA is taking this action to remove all airways and routes off the Hinchinbrook, AK, NDB in preparation for the commissioning of the Orca Bay NDB on May 1, 2005.

Colored Federal airways and jet routes are published in paragraphs 6009(c) and paragraph 2004, respectively, of FAA Order 7400.9M dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The colored Federal airway and Alaskan VOR Federal airways listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

* * * * *

J–711 [Revoked]

* * * * *

J–133 [Revised]

From Sitka, AK, NDB via INT Sitka, AK NDB 308° and Orca Bay, AK, NDB 114°; Johnstone Point, AK; Anchorage, AK; to Galena, AK.

* * * * *

J–889R Anchorage, AK, to Yakutat, AK [Revised]

NOWEL; 60°28′59″ N., long. 148°38′08″ W., Anchorage, AK.
ARISE; 60°00′00″ N., long. 146°09′13″ W., Middleton Island, AK.
KONKS; 59°33′02″ N., long. 144°00′07″ W., Middleton Island, AK.
LAIRE; 58°48′15″ N., long. 140°31′43″ W., Yakutat, AK.

* * * * *

Paragraph 6009(c) Amber Federal Airways.

* * * * *

A–1 [Revised]

From Sandspit, BC, Canada, NDB 96 miles 12 AGL, 102 miles 35 MSL, 57 miles 12 AGL, via Sitka, AK, NDB; 31 miles 12 AGL, 50 miles 47 MSL, 88 miles 20 MSL, 40 miles 12 AGL, Ocean Cape, AK, NDB; INT Ocean Cape NDB 283° and Orca Bay, AK, NDB 106° bearings; Orca Bay NDB; INT Orca Bay 285° and Campbell Lake, AK, NDB 123° bearings; Campbell Lake NDB; Takotna River, AK, NDB; 24 miles 12 AGL, 53 miles 55 MSL; 51 miles 40 MSL, 25 miles 12 AGL, North River, AK, NDB; 17 miles 12 AGL, 89 miles 25 MSL, 17 miles 12 AGL, to Fort Davis, AK, NDB. Excluding that airspace within Canada.

* * * * *

Paragraph 6009(d) Blue Federal Airways.

* * * * *

B–25 [Revised]

From Orca Bay, AK, NDB, via Glenallen, AK, NDB; Delta Junction, AK, NDB.

* * * * *

Issued in Washington, DC, on April 29, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–9039 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–19052; Airspace Docket No. 04–ANM–12]

RIN 2120–AA66

Revision of Jet Route 94

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns a segment of Jet Route 94 (J–94) between the Oakland, CA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) and the Mustang, NV, VORTAC. Specifically, the FAA is taking this action to realign the current route segment between the Oakland VORTAC and the Mustang VORTAC that is unusable for navigation. This action will enhance air safety, simplify routings, and reduce controller workload.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

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

SUPPLEMENTARY INFORMATION:

History

On October 1, 2004, the FAA published in the **Federal Register** a notice of proposed rulemaking to realign J–94 for flights serving destinations between California and the East (69 FR 58859). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. With the exception of editorial changes, this amendment is the same as that proposed in the notice.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) by realigning a segment of J–94 between the Oakland, CA, VORTAC and the Mustang, NV, VORTAC. The current route segment is currently unusable for air navigation. This amendment will restore the use of J–94 for flights serving destinations between California and the East.

Jet routes are published in paragraph 2004 of FAA Order 7400.9M dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document will be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§71.1 [Amended]

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

Paragraph 2004 Jet Routes.

* * * * *

J–94 [Revised]

From Oakland, CA, via Manteca, CA; INT Manteca 047° and Mustang, NV 208° radials; to Mustang, NV; Lovelock, NV; Battle Mountain, NV; Lucin, UT; Rock Springs, WY; Scottsbluff, NE; O'Neill, NE; Fort Dodge, IA; Dubuque, IA; Northbrook; Pullman, MI; Flint, MI; Peck, MI; to the INT of the Peck 100° radial with the United States/Canadian Border. From the United States/Canadian Border at its INT with the Buffalo, NY, 274° radial via Buffalo; Albany, NY, to Boston, MA.

* * * * *

Issued in Washington, DC, April 29, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–9038 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 129

[Docket No. FAA–1999–5401; Amendment Nos. 121–310 and 129–41]

RIN 2120–AE42

Aging Airplane Safety; Correcting Amendment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; disposition of comments; correcting amendment.

SUMMARY: This document makes corrections to the Aging Airplane Safety final rule; disposition of comments published in the **Federal Register** on February 2, 2005 (70 FR 5518). In that document errors in the amendatory language caused certain subparagraphs in sections 121.368 and 129.33 to be inadvertently retained.

DATES: Effective May 6, 2005.

FOR FURTHER INFORMATION CONTACT: Frederick Sobeck, Aircraft Maintenance Division, AFS–308, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7355; facsimile (202) 267–5115.

SUPPLEMENTARY INFORMATION: On February 2, 2005, the Federal Aviation Administration (FAA) published the ''Aging Airplane Safety'' final rule; disposition of comments. The provisions of that rule included requirements for certain airplanes to undergo inspections and records reviews at specified intervals. The FAA discussed in the preamble to the rule that we were amending §§ 121.368 and 129.33 to remove the requirement for operators to provide the current status of both Corrosion Prevention and Control Programs and the inspections and procedures required under § 121.370a as separate items. To accomplish this, we intended to remove subparagraphs i, ii, and iii of §§ 121.368(d)(8) and 129.33(c)(8). Because of errors in the amendatory language, the subparagraphs were

incorrectly retained in the rule language. This document corrects the amendatory language to remove those subparagraphs.

List of Subjects

14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 129

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Correcting Amendment

■ Accordingly, Title 14 of the Code of Federal Regulations (CFR) parts 121 and 129 are amended as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

■ 2. Amend § 121.368 by revising paragraph (d)(8) to read as follows:

§ 121.368 Aging airplane inspections and records reviews.

(d) * * *

(8) Current status of applicable airworthiness directives, including the date and methods of compliance, and if the airworthiness directive involves recurring action, the time and date when the next action is required;

* * * * *

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

■ 3. The authority citation for part 129 continues to read as follows:

Authority: 49 U.S.C. 1372, 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901–44904, 44906, 44912, 46105, Pub. L. 107–71 sec 104.

■ 4. Amend § 129.33 by revising paragraph (c)(8) to read as follows:

§ 129.33 Aging airplane inspections and records reviews for U.S.-registered multiengine aircraft.

(c) * * *

(8) Current status of applicable airworthiness directives, including the date and methods of compliance, and if the airworthiness directive involves recurring action, the time and date when the next action is required;

* * * * *

Issued in Washington, DC, on May 2, 2005.

Rebecca MacPherson,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 05–9138 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD13–05–004]

RIN 1625–AA08

Special Local Regulations; National Maritime Week Tugboat Races, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is permanently amending the special local regulation governing general navigation and anchorage in the vicinity of the Annual National Maritime Week Tugboat Races, Seattle, Washington. Changes made to this regulation will clarify its annual enforcement date. This change is intended to better inform the boating public and to improve the level of safety at this event. Entry into the area established is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective May 6, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD13–05–004] and are available for inspection or copying at Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG J. L. Hagen, c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217–6002 or (800) 688–6664.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 29, 2005, we published a notice of proposed rulemaking (NPRM) entitled ''Special Local Regulations; National Maritime Week Tugboat Races, Seattle, WA'' in the **Federal Register** (70 FR 15786). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Only the enforcement dates currently published in 33 CFR 100.1306 will be changed by this modification. Due to calendar cycles, the event may fall on the second or third Saturday in May. This modification will correct the error to allow for the regulated area to be enforced when the event occurs. In 2005, the event falls on the second Saturday in May which is a period less than 30 days from the date this final rule will be published. It is in the public interest that this special local regulation be enforced on the date of the event to protect the safety of event participants and spectators.

Background and Purpose

Each year in May, the Annual National Maritime Week Tugboat Races, are held on the waters of Puget Sound in Elliott Bay near Seattle, Washington. Special local regulations in 33 CFR 100.1306 are enforced each year during the event to provide for public safety by controlling the movement of spectators and participants in the area of the race course.

This rule permanently amends 33 CFR 100.1306 requiring compliance with the regulation each year on either the second or third Saturday in May. Specific times of compliance will be published in the **Federal Register** each year as a notice of enforcement.

The remainder of the existing regulation remains unchanged.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the NPRM proposing this final rule.

Discussion of Rule

The Coast Guard is permanently amending 33 CFR 100.1306—Annual National Maritime Week Tugboat Races, Seattle, Washington, to require compliance with the regulation each year in May on the second or third Saturday. The current regulation does not accurately describe the enforcement period. Due to calendar cycles, the event may fall on the second or third Saturday in May. This modification will correct the error to allow for the regulated area to be enforced for the safety of the public when the event occurs.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). Although this rule will restrict access to the regulated area, the effect of this rule will not be significant because: (i) Vessels desiring to transit this area of Elliott Bay may do so by scheduling their trips in the early morning or evening when the restrictions on general navigation imposed by this section will not be in effect; (ii) the regulated area is limited in size; and (iii) the duration of the event is less than four hours.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of the regulated area.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Vessels desiring to transit this area of Elliott Bay may do so by scheduling their trips in the early morning or evening when the restrictions on general navigation imposed by this section will not be in effect; (ii) the regulated area is limited in size; and (iii) the duration of the event is less than four hours. For these reasons, the Coast Guard certifies under 5 U.S.C. 605(b) that this change will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 100.1306 revise paragraph (c) to read as follows:

§ 100.1306 National Maritime Week Tugboat Races, Seattle, WA.

* * * * *

(c) *Enforcement dates.* This section is enforced annually on the second or third Saturday in May from 12 p.m. to 4:30 p.m. The event will be one day only and the specific date will be published each year in the **Federal Register**. In 2005, this section will be enforced from 12 p.m. to 4:30 p.m. on Saturday May 14.

Dated: April 25, 2005.

J.M. Garrett,

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

[FR Doc. 05–9078 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 565

[Docket No. NHTSA–2005–21073]

Vehicle Identification Number Requirements; Technical Amendment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; technical amendment.

SUMMARY: This document contains a technical amendment to the agency's Vehicle Identification Number (VIN) requirements. The amendment clarifies the definition of ''model year'' included in that regulation.

DATES: This rule is effective June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Stas, Office of the Chief Counsel (telephone (202) 366–2992) (fax (202) 366–3820); National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Part 565 specifies the format, content, and physical requirements for the VIN system. The VIN system simplifies vehicle identification information retrieval and increases the accuracy and efficiency of vehicle recall campaigns. Section 565.3 provides definitions for the part and contains a definition for ''model year.'' One of the items of the information included in the vehicle's VIN is its model year.

Before NHTSA published a final rule establishing part 565 (48 FR 22567, May 19, 1983), the VIN requirements comprised Federal Motor Vehicle Safety Standard (FMVSS) No. 115. The final rule essentially moved the VIN requirements to Part 565 from FMVSS No. 115 without changing any substantive requirements of FMVSS No. 115.

However, the new Part 565 did contain some minor technical changes. One of the changes concerned the definition of ''model year.'' In its migration from FMVSS No. 115 to Part 565, the definition of ''model year'' was changed slightly, with the word ''calendar'' added to the text. Under the current definition, ''model year'' is defined as ''the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, so long as the actual period is less than *2 calendar* years'' (emphasis added). Prior to the change, the definition of ''model year'' read ''the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, so long as the actual period is *less than 2 years*'' (emphasis added).

On November 19, 2002, we received a letter from Erika Jones, Esq., asking whether 49 CFR § 565.6(d)(1) permits a manufacturer to designate vehicles as belonging to a single model year, where the production period for such vehicles falls within three different calendar years but runs for less than 24 months in total. Relying on the ''less than 2 calendar years'' phrase of Section 565.3(j), we responded on February 4, 2003 to Ms. Jones' inquiry, concluding that Part 565 does not permit a manufacturer to designate a single model year where the production period falls over a period of three calendar years.

On January 7, 2005, we received a letter from General Motors (GM) asking us to reconsider our conclusion, as stated in our February 4, 2003 letter to Ms. Erika Jones. GM stated that our interpretation was contrary to actual, long-standing industry practices and discussed the practical impacts of our interpretation. GM further argued that the interpretation creates an unnecessary burden for vehicle manufacturers because it is common practice for a manufacturer to use a model year designation for the production of a vehicle that spans over three calendar years, particularly when a manufacturer introduces a substantial design change for a vehicle model. This practice allows the manufacturer to ''obtain early experience with the performance of a new model and to correct problems, including potential safety defects, before a large volume of vehicles has been delivered to dealers and customers.''

After considering GM's arguments, we decided to rescind our February 4, 2003 interpretation. In a letter to GM dated February 16, 2005, we stated that we would interpret the term ''model year'' as a period not to exceed 24 months. We noted that in the preamble to the 1983 rule establishing Part 565, we had stated, ''[t]he substantive requirements of Standard 115 are unchanged by this action.'' That is, it was not the agency's intention to change the substantive requirements of the VIN regulation or to alter existing industry practices.

We now recognize that the addition of the term ''calendar'' created confusion. We are accordingly issuing this technical amendment to clarify the definition of ''model year'', consistent

with our February 16, 2005 interpretation.

This amendment is a technical one, and it does not impose or relax any substantive requirements or burdens on manufacturers. Therefore, NHTSA finds good cause that any notice and opportunity for comment on this technical amendment is not necessary.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This technical amendment has not been reviewed under *Executive Order 12866*. The technical amendment is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. As discussed above, this is a technical amendment, and it will not result in any substantive impact.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (95 U.S.C. § 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) provides that no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SEBRFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this technical amendment under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a final regulatory flexibility analysis for this technical amendment. NHTSA makes these statements on the basis that, as a technical amendment that corrects or clarifies existing regulatory provisions, this rule will not impose any significant costs on anyone. The costs of the underlying rule were analyzed at the time of its initial issuing as a final rule. Therefore, it has not been necessary for NHTSA to conduct a regulatory evaluation or Regulatory Flexibility Analysis for this technical amendment.

At the time that the final rule for 49 CFR Part 565 was issued, we explained that the part did not impose any new costs or provide any savings. It was simply a migration of the agency's VIN requirements from FMVSS No. 115 to 49 CFR Part 565. We explained that this will ''make it easier for motor vehicle manufacturers, many of which are small businesses, to understand and apply the agency's requirements for vehicle identification numbers. For these reasons, small businesses, small governmental organizations, and small organizations that purchase motor vehicles or rely on VINs for other recordkeeping or administrative matters, will not be affected by the rule.''

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking action under the principles and criteria in *Executive Order 12612*. The agency has determined that this technical amendment does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No State laws will be affected.

E. Executive Order 12988 (Civil Justice Reform)

Executive Order 12988 requires that agencies review proposed regulations and legislation and adhere to the following general requirements: (1) The agency's proposed legislation and regulations shall be reviewed by the agency to eliminate drafting errors and ambiguity; (2) The agency's proposed legislation and regulations shall be written to minimize litigation; and (3) The agency's proposed legislation and regulations shall provide a clear legal standard for affected conduct rather than a general standard, and shall promote simplification and burden reduction.

When promulgating a regulation, *Executive Order 12988*, specifically requires that the agency must make every reasonable effort to ensure that the regulation, as appropriate: (1) Specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

NHTSA has reviewed this technical amendment according to the general requirements and the specific requirements for regulations set forth in *Executive Order 12988*. This technical amendment simply clarifies the definition of the term ''model year'' in 49 CFR Part 565. This change does not result in any preemptive effect and does not have a retroactive effect. A petition for reconsideration or other administrative proceeding is not required before parties may file suit in court.

List of Subjects in 49 CFR Part 565

Motor vehicle safety, Reporting and recordkeeping requirements.

■ For the reasons stated above, NHTSA amends 49 CFR part 565 as follows:

PART 565—VEHICLE IDENTIFICATION NUMBER REQUIREMENTS

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

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30141, 30146, 30166, and 30168; delegation of authority at 49 CFR 1.50.

■ 2. Section 565.3 is amended by revising paragraph (j) to read as follows:

§ 565.3 Definitions.

* * * * *

(j) *Model Year* means the year used to designate a discrete vehicle model, irrespective of the calendar year in which the vehicle was actually produced, provided that the production period does not exceed 24 months.

* * * * *

Issued: May 3, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–9140 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000407096–0096–01 ; I.D. 050205A]

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest

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

ACTION: Removal of haddock trip limits.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), is eliminating the daily and maximum haddock trip limits for the groundfish fishery for the remainder of the 2005 fishing year, through April 30, 2006. Accordingly, there is no trip limit on the amount of haddock that can be harvested or landed for the rest of the fishing year for vessels subject to these regulations. The Regional Administrator has projected that less than 75 percent of the haddock target total allowable catch (TAC) will be harvested for the 2005 fishing year under the restrictive daily possession and trip limits. This action is intended to allow fishermen to catch the haddock TAC, without exceeding the TAC.

DATES: Effective May 3, 2005, through April 30, 2006.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone (978) 281–9347, fax (978) 281–9135, e-mail *Thomas.Warren@NOAA.gov*.

SUPPLEMENTARY INFORMATION: Framework Adjustment 33 to the Northeast (NE) Multispecies Fishery Management Plan (FMP), which became effective May 1, 2000, implemented the current haddock trip limit regulations (65 FR 21658). To ensure that haddock landings do not exceed the appropriate target TAC, Framework 33 established a haddock trip limit of 3,000 lb (1,360.8 kg) per NE multispecies day-at-sea (DAS) and a maximum trip limit of 30,000 lb (13,608 kg) of haddock for the period May 1 through September 30; and 5,000 lb (2,268 kg) of haddock per DAS and 50,000 lb (22,680 kg) per trip from October 1 through April 30. Framework 33 also implemented a mechanism to adjust the haddock trip limit based upon the percentage of TAC that is projected to be harvested. Section 648.86(a)(1)(iii)(B) specifies that, if the Regional Administrator projects that less than 75 percent of the haddock target TAC will be harvested in the fishing year, the trip limit may be adjusted or eliminated. Further, the regulations require that NMFS publish notification in the **Federal Register** informing the public of the date of any change to the trip limit.

The Supplemental Environmental Impact Statement (SEIS) prepared for Amendment 13 to the FMP (Amendment 13) estimated the total target TAC for the Gulf of Maine (GOM) and Georges Bank (GB) haddock stocks for the 2005 fishing year at 32,427 mt (71,487,267 lb), including both U.S. and Canadian landings. The Canadian quota for eastern GB haddock was set at 15,410 mt (33,972,270 lb). Therefore, the U.S. portion of the total target TAC for haddock for the 2005 fishing year is the difference between the entire haddock target TAC and the Canadian TAC, or 17,017 mt (37,514,997 lb). This amount includes the target TAC for the GOM and GB haddock stocks, as well as a haddock TAC of 7,590 mt (16,732,610 lb) specific to the Eastern U.S./Canada Area.

Based on recent historical fishing practices and preliminary landings data, the Regional Administrator has projected that less than 75 percent of the haddock target TAC for the 2005 fishing year (17,017 mt) will be harvested by April 30, 2006, under the restrictive daily possession and trip limits. Furthermore, this projection indicates that eliminating the daily and maximum trip limits for haddock would not likely precipitate haddock landings reaching the Eastern U.S./Canada Area haddock TAC of 7,590 mt. The Regional Administrator has therefore determined that eliminating the 3,000–lb (1,360.8–kg) and 5,000–lb (2,268–kg) daily haddock possession limits as well as the associated 30,000–lb (13,608–kg) and 50,000–lb (22,680–kg) per trip possession limits for May 1 through September 30, 2005, and October 1, 2005, through April 30, 2006, respectively, will increase the likelihood that at least 75 percent of the target TAC will be harvested for the 2005 fishing year. In order to prevent the TAC from being exceeded, the Regional Administrator will continue to monitor haddock landings and adjust the trip limit through publication of a notification in the **Federal Register**, pursuant to § 648.86(a)(1)(iii), if necessary.

Classification

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest in this instance. To further delay the elimination of the haddock trip limits is contrary to the public interest because it would unnecessarily result in wasteful discards and prevent the haddock fishery from achieving optimum yield. Moreover, the public had opportunity to comment on the adjustment of haddock trip limits and its consequences at the time the trip limits were implemented.

This action relieves a restriction by eliminating unnecessary daily and maximum trip limits for haddock for the remainder of the 2005 fishing year. These limits were implemented to prevent the target TAC for haddock from being exceeded. The target TAC for haddock has not been exceeded since 1996. Eliminating these restrictions will allow the fishing industry to harvest at least 75 percent of the target TAC for haddock during the 2005 fishing year. Further, eliminating these restrictions will allow vessels to possess and land haddock in excess of the daily and maximum trip limits, thereby preventing biological waste and providing an opportunity to offset some of the adverse economic impacts resulting from the implementation of Amendment 13. Therefore, because this rule relieves a restriction pursuant to 5 U.S.C. 553(d)(1) of the Administrative Procedure Act, the Assistant Administrator for Fisheries, NOAA, waives the 30–day delay in effectiveness date for this final rule. This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: May 2, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–9125 Filed 5–3–05; 2:24 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 050305C]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 3, 2005, through 1200 hrs, A.l.t., July 5, 2005.

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

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

The second seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 300 metric tons as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005), for the period 1200 hrs, A.l.t., April 1, 2005, through 1200 hrs, A.l.t., July 5, 2005.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are all rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

After the effective date of this closure the maximum retainable amounts at §§ 679.20(e) and (f) apply at any time during a trip.

Classification

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

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

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: May 3, 2005.

John H. Dunnigan

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

[FR Doc. 05–9126 Filed 5–3–05; 2:24 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 87
Friday, May 6, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV05–948–1 PR]

Irish Potatoes Grown in Colorado; Relaxation of Handling Regulation for Area No. 2 and Certain Imported Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This rule would relax the minimum grade requirements for potatoes handled under the Colorado potato marketing order, Area No. 2. This rule was recommended by the Colorado Potato Administrative Committee for Area No. 2 (Committee), the agency responsible for the local administration of the marketing order. For all potato varieties produced in Area No. 2 measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B), and from 1-inch minimum diameter to 1¾-inch maximum diameter, this rule changes the minimum grade from U.S. No. 1 to U.S. Commercial. This rule also would relax the minimum grade requirements between October 1 through June 30 of each year for imported red-skinned round type potatoes of the same size categories under the import regulations as required by section 8e of the Agricultural Marketing Agreement Act of 1937. The changes are intended to provide potato handlers and importers with more marketing flexibility, growers with increased returns, and consumers with a greater supply of small potatoes, and to bring the section 8e potato import regulation into conformity with the marketing order.

DATES: Comments must be received by July 5, 2005.

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

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

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

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This proposed rule also is issued under section 8e of the Act, which provides that whenever certain specified commodities, including potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulating the same commodity produced in different areas of the United States are concurrently in effect, a determination must be made as to which of the areas produces the commodity in most direct competition with the imported commodity. Imports must meet the same or comparable requirements established for that particular area. The requirements for red-skinned round type potatoes imported from October 1 through June 30 are based on the Colorado Area No. 2 marketing order requirements.

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule would not have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule would relax the minimum grade requirements from U.S. No. 1 to U.S. Commercial for all Colorado Area No. 2 potato varieties measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B), and from 1-

inch minimum diameter to 1¾-inch maximum diameter. These changes were recommended by the Committee on August 19, 2004, with nine members in favor and four against. The four members who voted against the change felt that the minimum grade for small potatoes should continue to be U.S. No. 1. The Committee believes that the changes would facilitate the marketing of Area No. 2 Colorado potatoes and improve grower returns. As provided under section 8e of the Act, the grade changes also would apply to all red-skinned round type imported potatoes of the same size categories during the months of October through June.

Section 948.22 authorizes the issuance of grade, size, quality, maturity, pack, and container regulations for potatoes grown in the production area. Section 948.21 further authorizes the modification, suspension, or termination of regulations issued pursuant to § 948.22.

Section 948.40 provides that whenever the handling of potatoes is regulated pursuant to §§ 948.20 through 948.24, such potatoes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations.

Grade regulations specific to the handling of potatoes grown in Area No. 2 are contained in § 948.386 of the order's handling regulations, whereas relevant import regulations are contained in § 980.1 and § 980.501 of the vegetable import regulations. Section 948.4 of the order defines the counties included in Area No. 2, which is commonly known as the San Luis Valley. The State of Colorado is divided into three areas for marketing order purposes. Currently, only Area No. 2 and Area No. 3 are active.

For many years, consumer demand for small fresh market potatoes was relatively soft in comparison to larger sizes. Size B and smaller potatoes were often discarded or fed to livestock. Grade and size regulations were developed to keep lower quality small potatoes out of the fresh market. At that time, the Committee believed that small potatoes, sold at a great discount, eroded the price for large potatoes. By requiring small potatoes to grade U.S. No. 1 or better, the Committee believed that high quality small potatoes would not have an adverse affect on the market for larger potatoes.

Within the past several years, however, demand has increased for small potatoes, which often command premium prices compared to larger size A potatoes (1⅞-inch and larger). With the growing demand for small potatoes, growers and handlers are concerned that they will not be able to supply this market, because only U.S. No. 1 or better grade can be shipped under the marketing order. Growers and handlers have had requests from their customers for additional small potatoes that grade U.S. Commercial or better. This action would help handlers in Area No. 2 meet their buyers' needs.

Committee statistics show that approximately 75 percent of the entire potato crop in Area No. 2 grades U.S. No. 1 or better. However, the percentage of Size B and smaller potatoes meeting U.S. No. 1 grade is only about 50 percent. The reason for the lower percentage of smaller potatoes is because several potato defects are scored based on the percentage of surface area affected on the individual potato. For example, a cut on a large potato may not affect a large enough surface area to be a scorable defect, but the same size cut would be scorable on a smaller potato. Under such circumstances, it would be much harder for a small potato to meet the U.S. No. 1 grade than it would for a large potato. The U.S. Commercial grade allows a slightly higher percentage of total defects than the U.S. No. 1 grade.

By changing the grade requirements to allow size B potatoes and potatoes measuring from 1-inch minimum diameter to 1¾-inch maximum diameter to meet U.S. Commercial grade or better, the Committee believes more small potatoes would be available to meet increasing demand, and thus help increase returns to growers. Not only would more small potatoes enter the market, small potatoes typically sell for a premium price in today's marketplace.

The Committee believes that by allowing small potatoes to meet the more relaxed U.S. Commercial grade instead of U.S. No. 1 grade, available volume for sale into the fresh market could increase by about 25 percent.

Although facing an increasing demand, the market for small potatoes is a minor segment of the market served by the Area No. 2 production area. As a consequence, the Committee believes that the smaller potatoes do not compete directly with the predominant large potatoes produced in this area, and that the relaxation of the grade requirements would not adversely effect the overall Area No. 2 potato market.

As mentioned earlier, section 8e of the Act provides that when certain domestically produced commodities, including potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating the same commodity produced in different areas of the United States are concurrently in effect, a determination must be made as to which of the areas produces the commodity in most direct competition with the imported commodity. Imports must meet the requirements established for that particular area.

Grade, size, quality, and maturity regulations have been issued regularly under marketing order Nos. 945 (Idaho-Eastern Oregon potatoes), 948 (Colorado potatoes, Area No. 2 and Area No. 3), 947 (Oregon-California potatoes), 946 (Washington potatoes), and 953 (Southeastern potatoes), since the marketing orders were established. Section 980.1 of the vegetable import regulations specifies that import requirements for potatoes are to be based on the seasonal categories of potatoes produced in all marketing order areas. In that regard, imported red-skinned round type potatoes must meet the requirements of the Area No. 2 Colorado potato marketing order during the months of October through the following June and the Washington potato marketing order during the months of July through September.

USDA's Foreign Agricultural Service reports that Canada has been the major source of fresh potato imports into the United States during 1999 through 2003. Imports totaled 276,955 metric tons in 1999, 228,023 metric tons in 2000, 221,303 metric tons in 2001, 281,891 metric tons in 2002, and 288,035 metric tons in 2003. During the five-year period, minor quantities of potatoes also were imported from The Netherlands, Costa Rica, Dominican Republic, Japan, Brazil, Ecuador, India, United Kingdom, Columbia, Fiji, and Jamaica. Imports from these sources represented less than 5 percent of the total imports. We do not have statistics on what portion of these potatoes are red-skinned.

Initial Regulatory Flexibility Analysis

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

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

behalf. Thus, both statutes have small entity orientation and compatibility.

Import regulations issued under the Act are based on regulations established under Federal marketing orders which regulate the handling of domestically produced products.

There are approximately 95 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 230 producers in the regulated production area. In addition, based on the most recent information available, approximately 168 importers of potatoes are subject to import regulations and may be affected by this rule. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $6,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

During the 2003–2004 marketing year, 17,125,898 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $6.75 per hundredweight, the Committee estimates that 90 Area No. 2 handlers or about 96 percent had annual receipts of less than $6,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average grower price for Colorado fall potatoes for 2003 was $4.55 per hundredweight. The average annual grower revenue for the 230 Colorado Area No. 2 potato growers is therefore calculated to be approximately $338,795. In view of the foregoing, the majority of the Colorado Area No. 2 potato growers and handlers may be classified as small entities. Although it is not known how many importers of potatoes may be classified as small entities, we believe that many of the 168 importers can be classified as such.

This rule would relax grade requirements implemented under Colorado marketing order Area 2 from U.S. No. 1 grade to U.S. Commercial grade for all potato varieties measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B) and from 1-inch minimum diameter to 1¾-inch maximum diameter. As provided under section 8e of the Act, these changes would also apply to all imported red-skinned round type potatoes of the same size categories between October 1 through June 30 of each year. While no changes would be required in the language of § 980.1, all imported red-skinned round type potatoes in these size categories October 1 through June 30 would be required to meet the requirements of U.S. Commercial grade or better rather than U.S. No. 1 grade or better.

Authority for this action is contained in §§ 948.21, 948.22, 948.40, and 948.386. Relevant import regulations are contained in § 980.1 and § 980.501 of the vegetable import regulations.

Regarding the impact of this rule on affected entities, relaxing the grade requirements for these small potatoes is expected to benefit handlers, importers, and growers. By relaxing the minimum grade requirements for small potatoes, a potentially greater quantity of potatoes would meet the order's handling regulations and the import regulations. This could translate into an increased market for these small potatoes and greater returns for handlers, importers, and growers.

As small potatoes have grown in popularity with consumers, the market demand has outpaced the quantity of small, high quality potatoes available from Area No. 2. The Committee believes that a relaxation in the grade requirements would increase the available supply of small potatoes. The small potato market is a minor segment of the potato market served by the Area No. 2 production area. As such, the Committee believes that these small potatoes do not compete directly with most of the potatoes produced in this area and that the relaxation of the grade requirements would not adversely effect the overall Area No. 2 potato market.

Based on Committee records, about half the handlers ship all of the size B and smaller potatoes grown in Area No. 2. Committee records also indicate that during the 2003–2004 season, approximately 165,000 hundredweight (less than 1 percent) of size B and smaller were inspected and shipped. If this proposed change in the minimum grade requirements is implemented, the Committee estimates that the marketable supply of size B and smaller potatoes would increase at least 25 percent and add about 41,250 hundredweight to the marketable supply. The Committee anticipates that the greater quantity of small potatoes would expand Area No. 2's market share, increase the supply of potatoes available for consumers, and increase grower returns.

The Committee considered several alternatives to the proposed relaxation in grade requirements for small sized potatoes. Prior to the August 19, 2004, meeting, the Committee mailed a survey to all Area No. 2 Colorado potato growers requesting recommendations on grade and size requirements. The consensus among the responding growers indicated that the majority preferred U.S. Commercial as a minimum grade for these two size categories.

After reviewing the results of the survey, the Committee discussed the merits of taking no action—thereby leaving the grade requirement at U.S. No. 1 grade or better—or adopting U.S. Commercial grade or U.S. No. 2 grade as a minimum requirement for the two size categories. The Committee felt that leaving the minimum grade at U.S. No. 1 would not have provided additional potatoes to supply the increasing market demand. In regards to the merits of U.S. Commercial grade as a minimum versus U.S. No. 2 grade, the Committee concurred with the industry that a U.S. No. 2 grade minimum would be too much of a relaxation due to quality considerations.

After discussing the alternatives, the Committee determined that a relaxation in the grade requirements to U.S. Commercial grade or better for small potatoes would provide the greatest benefit to the industry by augmenting the developing market for small potatoes and increasing grower returns.

This rule would not impose any additional reporting or recordkeeping requirements on either small or large potato handlers or importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The Committee's meeting was widely publicized throughout the Colorado potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the August 19, 2004, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. In addition, the World Trade Organization and known importers of potatoes will be notified of this proposed action. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this proposed rule on small businesses.

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

This rule invites comments on a proposed change to the handling regulations prescribed under the

Colorado potato marketing order and the potato import regulations. Any comments received will be considered prior to finalization of this rule.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this rule.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is proposed to be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 948.386, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 948.386 Handling regulation.

* * * * *

(a) * * *

(3) *All varieties.* Size B, if U.S. Commercial grade or better.

(4) *All varieties.* 1-inch minimum diameter to 1¾-inch maximum diameter, if U.S. Commercial grade or better.

* * * * *

Dated: May 3, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–9110 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 131, 154, 157, 250, 281, 284, 300, 341, 344, 346, 347, 348, 375, and 385

[Docket No. RM01–5–000]

Electronic Tariff Filings

April 29, 2005.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of technical conference, comment deadline, and electronic format manual.

SUMMARY: The Federal Energy Regulatory Commission is establishing August 1, 2005 as the deadline for comments on the regulatory text changes to accommodate electronic filing proposed in the Commission's July 8, 2004 Notice of Proposed Rulemaking (69 FR 43929) (NOPR). The Commission also is holding a technical conference on May 24, 2005 to discuss the computer software to be used in compliance with the Notice of Proposed Rulemaking. The date for comments on the software and other related aspects of the NOPR's proposal will be established in a subsequent notice. Additionally, the Commission is making available on its Web-site a draft electronic format manual for electronic tariff and rate filings to be made in conformance with the NOPR.

DATES: May 24, 2005 technical conference. August 1, 2005 for comments on the proposed regulatory text.

ADDRESSES: Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC 20426. Refer to the Comment Procedures section of the preamble of the Notice of Proposed Rulemaking for additional information on how to file comments.

FOR FURTHER INFORMATION CONTACT:

H. Keith Pierce (Technical Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8525, *Keith.Pierce@ferc.gov.*

Jamie Chabinsky (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6040, *Jamie.Chabinsky@ferc.gov.*

Bolton Pierce (Software Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8803, *Bolton.Pierce@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Technical Conference, Comment Deadline and Electronic Format Manual

Take notice that on August 1, 2005, comments will be due on the regulatory text changes proposed in the Federal Energy Regulatory Commission's (Commission) Notice of Proposed Rulemaking (NOPR) requiring electronic tariff filings. *Electronic Tariff Filings, Notice of Proposed Rulemaking,* 69 FR 43929 (July 23, 2004) FERC Stats. & Regs., Proposed Regulations ¶ 32,575 (July 8, 2004). Also, on May 24, 2005, Commission staff will host a technical conference to discuss the electronic tariff and rate case filing software that has been developed by the Commission. The software is available to download and test at *http://www.ferc.gov/docs-filing/etariff.asp.* Additionally, the Commission is making available on its Web site (*http://www.ferc.gov*) a draft electronic format manual for electronic tariff and rate filings to be made in conformance with the NOPR. The link for the manual can be found at *http://www.ferc.gov/docs-filing/etariff/electronic-manual.pdf.*

Because of the large number of regulatory text changes proposed in the NOPR, an earlier comment date on regulatory text changes is necessary in order to expedite the implementation of electronic filing. The date for comments specific to the computer software to be used for future electronic tariff and rate filings and other aspects of the proposal made in the NOPR will be established through a notice issued at a later date after the technical conference.

The technical conference will be held on May 24, 2005 from 9 a.m. until 4 p.m. (EDT). The conference will be held at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in Hearing Room 1.

The agenda shall include a demonstration of the electronic tariff filing software. Topics to be discussed include the scope of tariff filings to be filed electronically, the use of sections, tariff text format, meta data, the electronic tariff filing process and confidential information.

The Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and click on ''FERC''.

The conference is open to the public to attend, and pre-registration is not required.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact Keith Pierce, Office of Markets, Tariffs and Rates at (202) 502–8525 or *Keith.Pierce@ferc.gov.*

Linda Mitry,

Deputy Secretary.

[FR Doc. 05–9072 Filed 5–5–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD 07–05–039]

RIN 1625–AA08

Special Local Regulations: Annual Suncoast Offshore Grand Prix; Gulf of Mexico, Sarasota, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the permanent special local regulations for the Suncoast Offshore Challenge and the Suncoast Offshore Grand Prix in the Gulf of Mexico near Sarasota, Florida. By existing permanent special local regulations, these two race events have nearly identical course and time characteristics, however one event is held annually on the first Saturday of July and the other event is held annually on the first Sunday of July. The sponsor has decided to combine the events into a single day, reduced the length of the racecourse, and modified the times of the event which would take place annually on the first Sunday of July between 10 a.m. and 5 p.m. (Eastern Daylight Time). These amended regulations are necessary to provide for the safety of life for the participating vessels, spectators, and mariners on the navigable waters of the United States during the event.

DATES: Comments and related material must reach the Coast Guard on or before June 6, 2005.

ADDRESSES: You may mail comments and related material to Coast Guard Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598. The Waterways Management Division maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Marine Safety Office Tampa between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Jennifer Andrew at Coast Guard Marine Safety Office Tampa (813) 228–2191 Ext 8203.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD 07–05–039), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Marine Safety Office Tampa at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Annual Suncoast Offshore Challenge and Annual Offshore Grand Prix in the Gulf of Mexico near Sarasota, Florida are governed by permanent regulations at 33 CFR § 100.719 and 33 CFR § 100.720, respectively, and are normally held on the first Saturday and Sunday of July between 10 a.m. and 4 p.m. Event coordinators have decided to combine the two events to take place annually on the first Sunday of July between 10 a.m. and 5 p.m. Event coordinators are also reducing the length of the racecourse which would allow for Big Sarasota Pass channel to remain open during the event.

Discussion of Proposed Rule

This proposed rule is necessary to accommodate the rescheduling of the Annual Suncoast Offshore Challenge onto the date of the Annual Suncoast Offshore Grand Prix race date and to modify the regulated area to account for changes in the length of the racecourse. The proposed rule would remove 33 CFR § 100.719, the existing permanent regulation for the Annual Suncoast Offshore Challenge scheduled for the first Saturday in July. That event would be consolidated with 33 CFR § 100.720, the Annual Suncoast Offshore Grand Prix into a one-day race event to be held on the already established Grand Prix race day, annually on the first Sunday of July. The proposed termination time of 33 CFR § 100.720 would change from 4 p.m. to 5 p.m. Additionally, the Coordinates of the regulated area would be modified to reflect a reduced length in the racecourse and to open Big Sarasota Pass to vessel traffic which is normally blocked under the existing special local regulations.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The proposed regulation would be in effect for a limited time and is located in an area where vessel traffic is limited.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit near to shore at Lido Key in Sarasota, FL in the vicinity of Big Sarasota Pass and New Pass annually from 10 a.m. to 5 p.m. on the first Sunday in July. This proposed rule would not have a significant economic impact on a substantial number of small entities

since it will be in effect for a limited time in an area where vessel traffic is limited.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. As a special local regulation issued in conjunction with a boat race, this proposed rule satisfies the requirements of paragraph (34)(h). Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

§ 100.719 [Removed]

2. Remove § 100.719.

3. Revise § 100.720 to read as follows:

§ 100.720 Annual Suncoast Offshore Grand Prix; Gulf of Mexico, Sarasota, FL.

(a) *Regulated area.* The regulated area is established by a line drawn from the start position 27°18′22″ N, 82°35′46″ W thence to position 27°16′30″ N, 82°35′17″ W thence to position 27°16′30″ N, 82°35′02″ W thence to position 27°18′18″ N, 82°34′45″ W thence to position 27°18′53″ N,

82°35′04″ W thence to position 27°18′47″ N, 82°35′39″ W thence back to the start position. All coordinates referenced use datum: NAD 83.

(b) *Special local regulations.* (1) No anchoring will be permitted seaward of the shoreside boundaries of the regulated area out to three nautical miles from shore.

(2) Anchoring for spectators will be permitted shoreward of the shoreside boundaries of the regulated area.

(3) All vessel traffic not involved with the Suncoast Offshore Grand Prix, entering and exiting New Pass must exit at New Pass Channel daybeacon #3 (27°26′28″ N, 82°41′42″ W, LLNR 18100) and #4 (27°26′24″ N, 82°41′41″ W, LLNR 18105), and must proceed in a northerly direction shoreward of spectator craft, taking action to avoid a close-quarters situation until finally past and clear of the racecourse. All coordinates referenced use datum: NAD 83.

(4) All vessel traffic not involved with the Suncoast Offshore Grand Prix, entering and exiting Big Sarasota Pass Channel will be allowed to transit only within the marked channel at Big Sarasota Pass Channel, taking action to avoid a close-quarters situation until finally past and clear of the racecourse.

(5) Entry within the regulated area is prohibited for all non-participating vessels.

(c) *Enforcement Period.* This section will be enforced from 10 a.m. until 5 p.m. EDT, annually on the first Sunday of July.

Dated: April 19, 2005.

W. E. Justice,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 05–9079 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–05–033]

RIN 1625–AA87

Security Zone; Georgetown Channel, Potomac River, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary security zone on the waters of the upper Potomac River. This action is necessary to provide for the security of a large number of visitors to the annual July 4th celebration on the National Mall in Washington, DC. The security zone will allow for control of a designated area of the river and safeguard spectators and high-ranking officials.

DATES: Comments and related material must reach the Coast Guard on or before May 26, 2005.

ADDRESSES: You may mail comments and related material to Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791. Coast Guard Sector Baltimore, Waterways Management Division, maintains the public docket for this rulemaking. You may also submit comments electronically to *rlhouck@actbalt.uscg.mil.* Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Sector Baltimore, Waterways Management Division, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–05–033), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. You may also submit comments electronically to *rlhouck@actbalt.uscg.mil.* If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Sector Baltimore, Waterways Management Division, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

The U.S. Maritime Administration (MARAD) in Advisory 02–07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD more recently issued Advisory 03–06 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

Due to increased awareness that future terrorist attacks are possible, the Coast Guard as lead federal agency for maritime homeland security, has determined that the Captain of the Port Baltimore must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. This security zone is part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities against sabotage or terrorist attacks.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against a large number of spectators and high-ranking officials during the annual July 4th celebration would have on the public interest, the Coast Guard is proposing to establish a security zone upon all waters of the Georgetown Channel of the Potomac River, from the surface to the bottom, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge Complex) to the Theodore Roosevelt Memorial Bridge and all waters in between, including the waters of the Georgetown Channel Tidal Basin. This security zone will help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against a large number of spectators and high-ranking officials during the annual July 4th celebration. Due to these heightened security concerns, and the catastrophic impact a

terrorist attack on the National Mall in Washington, DC during the annual July 4th celebration would have on the large number of spectators and high-ranking officials, and the surrounding area and communities, a security zone is prudent for this type of event.

Discussion of Proposed Rule

It is very likely that hundreds of thousands of visitors will attend the July 4th celebration on the National Mall in Washington, DC. The Captain of the Port, Baltimore, Maryland proposes to establish a security zone for the highly-publicized public event in Washington, DC to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against a large gathering of spectators and high-ranking officials at or near the July 4th celebration on the National Mall in Washington, DC, would have. This security zone applies to all waters of the Georgetown Channel of the Potomac River, from the surface to the bottom, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge Complex) to the Theodore Roosevelt Memorial Bridge and all waters in between, including the waters of the Georgetown Channel Tidal Basin from 12:01 a.m. through 11:59 p.m. local time on July 4, 2005. Vessels underway at the time this security zone is implemented must immediately proceed out of the zone. We will issue Broadcast Notices to Mariners to further publicize the security zone. This security zone is necessary to prevent vessels or persons on designated waters of the Potomac River (including the waters of the Georgetown Channel Tidal Basin) from going ashore and thereby bypassing the security perimeter established by the U.S. Park Police of the National Park Service for the event.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Potomac River (including the waters of the Georgetown Channel Tidal Basin) from 12:01 a.m. to 11:59 p.m. on July 4, 2005.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for less than 24 hours. Although the security zone will apply to the entire width of the river, traffic may be allowed to pass through the zone at the direction of the Coast Guard Captain of the Port, Baltimore, Maryland. Additionally, before the effective period, the Coast Guard will issue maritime advisories widely available to users of the river to allow mariners to make alternative plans for transiting the affected areas. Because the zone is of limited size, it is expected that there will be minimal disruption to the maritime community. Smaller vessels not constrained by their draft, which are more likely to be small entities, may request permission from the Captain of the Port Baltimore, Maryland on a case-by-case basis to enter the zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to

safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because this rulemaking is a security zone less than one week in duration. A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' (CED) are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.507 to read as follows:

§ 165.507 Security Zone; Georgetown Channel, Potomac River, Washington, DC.

(a) *Definitions.* For purposes of this section, *Captain of the Port, Baltimore, Maryland* means the Commander, Coast Guard Sector Baltimore, Maryland or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his or her behalf.

(b) *Location.* The following area is a security zone: All waters of Georgetown Channel of the Potomac River, from surface to bottom, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge complex) to the Theodore Roosevelt Memorial Bridge and all waters in between, including the waters of the Georgetown Channel Tidal Basin.

(c) *Regulations.* (1) The general regulations governing security zones, found in § 165.33 of this part, apply to the security zone described in paragraph (b) of this section.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Baltimore, Maryland.

(3) Persons or vessels seeking entry into or passage through the security zone described in paragraph (b) of this section must first request authorization from the Captain of the Port, Baltimore to seek permission to transit the area. The Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576–2693. The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, VHF channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Effective period.* This section will be effective from 12:01 a.m. to 11:59 p.m. local time on July 4, 2005.

Dated: April 25, 2005.

Curtis A. Springer,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 05–9077 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Charleston 05–037]

RIN 1625–AA87

Security Zones; Charleston Harbor, Cooper River, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a permanent fixed security zone in the waters from the Don Holt, I–526 Bridge, on the Cooper River to the entrance of Foster Creek on the Cooper River, South Carolina. This security zone is necessary to protect the public and port from potential subversive acts during port embarkation operations. During enforcement of the security zone vessels would be prohibited from entering, transiting, anchoring, mooring, or

loitering within this zone, unless specifically authorized by the Captain of the Port, Charleston, South Carolina, or the Captain of the Port's designated representative.

DATES: Comments and related material must reach the Coast Guard on or before May 26, 2005.

ADDRESSES: You may mail comments and related material to Marine Safety Office Charleston, 196 Tradd St., Charleston, SC 29401. Marine Safety Office Charleston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Charleston between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Matthew Meskun, Chief of Waterways Management Division at 843–720–3240.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP Charleston 05–037), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Charleston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This security zone is necessary to protect the safety of life and property on navigable waters and prevents potential terrorist threats aimed at military installations during strategic embarkation operations. The security zone would encompass all waters on the Cooper River, South Carolina, from the Don Holt I–526 Bridge to the entrance of Foster Creek. Two or more military vessels may be in port at the same time, and each of these vessels requires security zones. When this situation occurs, the security zone described above would be enforced and would ensure greater vessel security than enforcing individual security zones. Additionally, this proposed security zone has been in place on a temporary basis since the terrorist attacks of September 11, 2001. The current temporary security zone, 33 CFR 165.T07–145, was published in the **Federal Register** January 6, 2005 (70 FR 1187).

Discussion of Proposed Rule

The proposed security zone would encompass all waters on the Cooper River, South Carolina, from the Don Holt I–526 Bridge to the entrance of Foster Creek. The Charleston Captain of the Port would enforce the security zone on the Cooper River from time to time and in the interest of national security vessels that are carrying cargo for the Department of Defense.

These vessels that carry DoD cargo need a level of security that requires the Cooper River to be closed to all traffic for a short period of time. Security assets would be on scene and mariners would be given as much advanced notice as possible. Marine Safety Office Charleston would notify the maritime community of closure periods via a broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz), or Marine Safety Information Bulletins, or actual notice from on scene security assets enforcing the zone.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

The limited geographic area encompassed by the security zone should not restrict the movement of commercial or recreational vessels through the Port of Charleston. Also, the Coast Guard Captain of the Port or the Captain of the Port's designated representative may allow an individual to transit the security zone subsequent to an individual's request.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit a portion of the Cooper River while the security zone is in effect.

This security zone would not have a significant economic impact on a substantial number of small entities because it would only be in place for short periods of time on an infrequent basis. Advanced notice would be provided to mariners so they can adjust their schedules due to enforcement of the security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG Mathew Meskun at Marine Safety Office Charleston at 843–720–3240. The Coast Guard will not retaliate against small entities that question or complain

about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation due to its limited duration in a fixed area.

Under figure 2–1, paragraph (34)(g) of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.709 to read as follows:

§ 165.709 Security Zone; Charleston Harbor, Cooper River, South Carolina.

(a) *Regulated area.* The Coast Guard is establishing a fixed security zone on all waters of the Cooper River, bank-to-bank and surface to bottom, from the Don Holt I–526 Bridge to the intersection of Foster Creek at a line on 32 degrees 58 minutes North Latitude.

(b) *Enforcement period.* This section will be enforced when security assets are on scene and Marine Safety Office Charleston has notified the maritime community that an Enforcement Period is in effect. Marine Safety Office Charleston will notify the maritime community by broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz), or Marine Safety Information Bulletins, or actual notice from on scene security assets enforcing the security zone.

(c) *Regulations.* During enforcement of the security zone described in paragraph (a) of this section, vessels or persons are prohibited from entering, transiting, mooring, anchoring, or loitering within the security zone unless authorized by the Captain of the Port Charleston, South Carolina or his or her designated representative.

(1) Persons desiring to transit the Regulated Area may contact the Captain of the Port via VHF–FM channel 16 or by telephone at (843) 720–3240 and request permission to transit the security zone.

(2) If permission to transit the security zone is granted, all persons and vessels must comply with the instructions of

the Captain of the Port or his or her designated representative.

Dated: April 15, 2005.

John E. Cameron,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 05–9036 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Subtitle A

[Docket No. OST–2005–20434]

Negotiated Rulemaking Advisory Commiteee on Minimum Standards for Driver's Licenses and Personal Identification Cards

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Suspension of advisory committee meeting.

SUMMARY: This document suspends the meeting of the Negotiated Rulemaking Advisory Committee on Minimum Standards for Driver's Licenses and Personal Identification Cards scheduled for May 10–13, 2005. The reason for the action is impending Congressional action, in the near future, concerning the ''REAL ID Act.'' This legislation would repeal section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, which provides the authority for the negotiated rulemaking on this subject.

DATES: The May 10–13, 2005, meeting of the advisory committee is suspended immediately.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Office of the General Counsel, at (202) 366–9310 (*bob.ashby@dot.gov*); Department of Transportation, 400 7th Street, SW., Washington, DC 20590, room 10424.

SUPPLEMENTARY INFORMATION: On December 17, 2004, the President signed into law the Intelligence Reform and Terrorism Prevention Act of 2004. (Pub. L. 108–458). Title VII of that Act is known as the 9/11 Commission Implementation Act of 2004 (the 9/11 Act). Subtitle B of the 9/11 Act addresses terrorist travel and effective screening. Among other things, Subtitle B, section 7212, mandated the issuance of minimum standards for State-issued driver's licenses and personal identification cards (Section 7212) that will be accepted by Federal agencies for official purposes.

Section 7212 directed the Department of Transportation to issue rules with the assistance of a negotiated rulemaking advisory committee, composed of representatives of the Departments of Transportation and Homeland Security, State agencies that issue driver's licenses, State elected officials, and other interested parties. The Department formed such an advisory committee, which met on April 19–21, 2005.

Congress has nearly completed work needed to pass the ''REAL ID Act,'' (a part of S. 1268), which repeals section 7212. As provided in the charter for the advisory committee, the committee—and the negotiated rulemaking process of which it is a key part—will terminate upon enactment of legislation repealing section 7212. Because we anticipate that the REAL ID Act will become law in the very near future, we are reluctant to ask committee members to commit the time and effort to the advisory committee next week, so the Department in this notice announces the suspension of the meeting of the committee that had been scheduled for May 10–13, 2005. If Congress enacts the REAL ID Act, the Department will issue another **Federal Register** notice, which will formally terminate the advisory committee and the regulatory negotiation process.

Issued this 4th day of May, 2005, in Washington, DC.

Jeffrey A. Rosen,

General Counsel.

[FR Doc. 05–9200 Filed 5–4–05; 2:05 pm]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2005–20791]

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by the Fire Equipment Manufacturers Association (FEMA) to require all new light duty trucks to be equipped with fire extinguishers.

FOR FURTHER INFORMATION CONTACT: For legal issues: Mr. George Feygin, Office of the Chief Counsel, phone (202) 366–2992. For technical issues: Mr. Charles R. Hott, Office of Crashworthiness Standards, NVS–113, phone (202) 366–0247.

You can reach both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On September 14, 2004, NHTSA received a petition from FEMA to require all new light duty trucks [1] to be equipped with fire extinguishers.[2] FEMA is an international group of leading fire protection manufacturers working together to educate the public about fire prevention to save lives and reduce property damage. Member companies manufacture fire protection products.

FEMA stated that the safety benefits of fire extinguishers in all new light trucks justify rulemaking to require the installation of portable fire extinguishers. FEMA also stated that fires are a common occurrence on America's highways and in automobile crashes. FEMA noted that according to the *Traffic Safety Facts 2001,* there were 14,000 automobile accidents where fire was involved, representing 0.1 percent of all vehicles involved in traffic crashes. Of those 14,000 accidents, 1,657 proved to be fatal and 5,000 involved injury. FEMA further stated that automobile crashes involving fires are more deadly. FEMA also provided data showing that crash related fires represent two percent of the total vehicle fires in the United States. FEMA enclosed a report from the National Fire Protection Association [3] showing that there were 307,000 fires in all motor vehicles in 2002.

FEMA contends that requiring fire extinguishers in new light trucks can help slow down the spread of fires because all fires start small, and it is crucial to keep the fire at bay long enough to rescue any occupants in order to prevent loss of life or injury. FEMA stated that swift use of portable fire extinguishers is likely to prevent small fires from becoming more significant and dangerous, and that this will provide rescuers with additional time to save occupants. FEMA further contends that increasing the number of fire extinguishers on roads increases the chance that vehicles passing an automobile fire can help rescue occupants. FEMA stated that fire

[1] The United States Department of Transportation, Traffic Safety Facts 2003 defines ''light duty trucks'' as ''trucks of 10,000 pounds gross vehicle weight rating or less, including pickups, vans, truck-based station wagons, and utility vehicles.''

[2] See Docket No. NHTSA–2004–16856–44.

[3] Fire Loss in the United States During 2002, National Fire Protection Association, September 2003.

extinguishers in new light trucks would give good Samaritans the ability to slow a fire.

FEMA further claimed that the Federal Motor Carrier Safety Administration (FMCSA) regulation requiring fire extinguishers in large trucks and buses engaged in interstate commerce, and the United States Coast Guard regulation requiring portable fire extinguishers in any boat with an inboard engine or permanently installed fuel tank, sets precedents to require portable fire extinguishers in new light trucks. FEMA stated the FMCSA regulation was brought about because it allows the driver to extinguish an electrical, tire, gasoline or cargo fire, and the United States Coast Guard regulation was issued because rescue personnel are not able to respond quickly enough if the fire occurs in a boat offshore.

FEMA provided 163 media reports of portable fire extinguishers used to extinguish or slow fires in motor vehicles. FEMA stated that according to the reports, more than 70 individuals were saved through the use of portable fire extinguishers. FEMA further stated that the vast majority of instances where portable fire extinguishers were used at the scene of an automobile accident were because of good Samaritans who had fire extinguishers in their vehicles, or because of police officers and truck drivers that are required to have portable fire extinguishers in their vehicles. FEMA claims that increasing the supply of portable fire extinguishers would greatly increase the safety of drivers and occupants of all vehicles on America's roads, not just light trucks.

FEMA further contended that requiring light trucks to be equipped with portable fire extinguishers would not be an onerous requirement. FEMA stated that many light trucks sold in the United States are engineered to be easily equipped because many countries throughout the world already require fire extinguishers in all vehicles. Austria, Belgium, the Russian Federation, Greece, Poland, Estonia, Mexico, Columbia, Latvia and Lithuania were cited as already requiring portable fire extinguishers in all motor vehicles, with Denmark, Germany, Italy, Portugal, Switzerland, Sweden and the Netherlands strongly recommending drivers to so equip their automobiles.

FEMA estimated the cost to equip new light trucks with fire extinguishers to be relatively minor, and that there would be a significant number of lives saved.

Analysis of the Petitioner's Argument

As indicated in the petition, crash related fires in motor vehicles represent only a small proportion of the total vehicle fires. An analysis of crash related fires in motor vehicles are reported annually by *Traffic Safety Facts,* and show that there is an average of 15,000 crash related motor vehicle fires per year with about seventy percent occurring in passenger cars and light trucks. Also, as indicated in the petition, there are many motor vehicle fires that are not crash related. The National Fire Protection Association report, ''*Fire Loss in the United States During 2002,*'' determined that there were about 329,000 fires in motor vehicles and 1,700 injuries to civilians in highway vehicle fires. However, FEMA provided no data to demonstrate that requiring portable fire extinguishers in new light trucks would reduce the number of injuries or fatalities associated with those fires. The agency is not convinced by FEMA's argument that increasing the number of fire extinguishers on the road would reduce the number of injuries or fatalities. The United States Fire Administration (USFA), in the Department of Homeland Security, Federal Emergency Management Agency, data show that sixty-four percent of the fire deaths are a result of the collision. The data also show that forty-five percent of persons injured in vehicle fires were injured while attempting to control the fire, twenty-one percent were injured trying to escape the blaze, and only eleven percent of the injured were incapacitated prior to ignition.[4]

The agency is concerned that if portable fire extinguishers were required as standard equipment in light duty trucks, there could be an increase in the number of injuries or fatalities, because not all motorists are trained to use portable fire extinguishers to put out automobile fires. Many of the media reports provided by FEMA showed that the users of the portable fire extinguishers were people who would have had more knowledge of fire safety and the use of portable fire extinguishers than average motorists, such as police officers or drivers of commercial vehicles.

The agency is concerned that making portable fire extinguishers available in all light duty trucks could increase the number of injuries and fatalities. The data from USFA clearly show that forty-five percent of the persons injured in vehicle fires were injured while attempting to control the fire. While good Samaritans may have sufficient training and/or knowledge to assist in extinguishing a vehicle fire, there is no evidence to suggest that the general driving public could safely extinguish such fires without exposing themselves to a greater risk than the potential benefit, even if the fire extinguishers were properly maintained. Firefighters and other emergency responders have training and are better prepared to safely extinguish such fires. As such, the available data do not show that requiring portable fire extinguishers in new light duty trucks, as petitioned by FEMA, would reduce the number of vehicle fire related deaths and injuries.

[4] U.S. Fire Administration, Topical Fire Research Series, Volume 2, Issue 4 July 2001 (Rev. March 2002).

Decision To Deny the Petition

In accordance with 49 CFR part 552, this completes the agency's review of the petition for rulemaking. Accordingly, the petition for rulemaking is denied for the reasons stated above.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: May 3, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–9139 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT87

Migratory Bird Hunting; Approval of Iron-Tungsten-Nickel Shot as Nontoxic for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, availability of Draft Environmental Assessment.

SUMMARY: The U.S. Fish and Wildlife Service (we, us, or USFWS) proposes to approve shot formulated of 62 percent iron, 25 percent tungsten, and 13 percent nickel as nontoxic for waterfowl and coot hunting in the United States. We assessed possible toxicity effects of the Iron-Tungsten-Nickel (ITN) shot, and have determined that it is not a threat to wildlife or their habitats, and that further testing of ITN shot is not necessary. We have concluded that because all of the metals in ITN shot type have been approved in higher concentrations in other nontoxic shot types and in ITN shot are very unlikely to adversely affect fish, wildlife, their

habitats, or the human environment, we do not need to prepare an Environmental Assessment for this action. We believe that the toxicity risks from ITN shot are small.

This rule also corrects the formulation of Tungsten-Tin-Bismuth shot. We inadvertently left the iron in the formulation out of our August 9, 2004, approval of the shot type (69 FR 48163).

DATES: Send comments on this proposal by June 6, 2005.

ADDRESSES: You may submit comments, identified by RIN 1018–AT87, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web Site: http://migratorybirds.fws.gov.* Follow the links to submit a comment.
- *E-mail address for comments: George_T_Allen@fws.gov.* Include ''RIN 1018–AT87'' in the subject line of the message. Please submit electronic comments as text files; do not use file compression or any special formatting.
- *Fax:* 703–358–2217.
- *Mail:* Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP–4107, Arlington, Virginia 22203–1610.
- *Hand Delivery:* Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203–1610.

We will not accept anonymous comments. Comments will become part of the Administrative Record for the review of the application. You may inspect comments at the mailing address above during normal business hours.

The Draft Environmental Assessment for approval of ITN shot is available from the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203–1610. You may call 703–358–1825 to request a copy of the Draft Environmental Assessment.

The complete file for this rule is available, by appointment, during normal business hours at the same address. You may call 703–358–1825 to make an appointment to view the files.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, Division of Migratory Bird Management, 703–358–1714.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–711) and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712) implement migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Acts. The Acts authorize the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Deposition of toxic shot and release of toxic shot components in waterfowl hunting locations are potentially harmful to many organisms. Research has shown that ingested spent lead shot causes significant mortality in migratory birds. Since the mid-1970s, we have sought to identify shot types that do not pose significant toxicity hazards to migratory birds or other wildlife. We addressed the issue of lead poisoning in waterfowl in an Environmental Impact Statement in 1976, and again in a 1986 supplemental EIS. The 1986 document provided the scientific justification for a ban on the use of lead shot and the subsequent approval of steel shot for hunting waterfowl and coots that began that year, with a complete ban of lead for waterfowl and coot hunting in 1991. We have continued to consider other potential candidates for approval as nontoxic shot. We are obligated to review applications for approval of alternative shot types as nontoxic for hunting waterfowl and coots.

We have received an application from ENVIRON-Metal, Inc. of Sweet Home, Oregon, for approval of Iron-Tungsten-Nickel shot formulated as 62 percent iron, 25 percent tungsten, and 13 percent nickel by weight for waterfowl and coot hunting. We have reviewed the shot under the criteria in Tier 1 of the revised nontoxic shot approval procedures contained in 50 CFR 20.134 for permanent approval of shot as nontoxic for hunting waterfowl and coots. We propose to amend 50 CFR 20.21 (j) to add ITN shot to the list of the approved types of shot for waterfowl and coot hunting.

The taxonomic family Anatidae, principally subfamily Anatinae (ducks) and their habitats, comprise the affected environment. Waterfowl habitats and populations in North America this year were described by the U.S. Fish and Wildlife Service (2004). In the Breeding Population and Habitat Survey traditional survey area (strata 1–18, 20–50, and 75–77), the total-duck population estimate was 32.2 ± 0.6 (± 1 standard error) million birds, 11% below last year's estimate of 36.2 ± 0.7 million birds and 3% below the 1955–2003 long-term average. Mallards (*Anas platyrhynchos*) numbered 7.4 ± 0.3 million, similar to last year's estimate of 7.9 ± 0.3 million birds and to the long-term average. Blue-winged teal (*A. discors*) numbered 4.1 ± 0.2 million, 26% below last year's estimate of 5.5 ± 0.3 million, and 10% below the long-term average. Among other duck species, northern shovelers (*A. clypeata,* 2.8 ± 0.2 million) and American wigeon (*A. americana,* 2.0 ± 0.1 million) were both 22% below their 2003 estimates. As in 2003, gadwall (*A. strepera,* 2.6 ± 0.2 million, +56%), green winged teal (*A. crecca,* 2.5 ± 0.1 million, +33%), and northern shovelers (+32%) were above their long-term averages. Northern pintails (*A. acuta,* 2.2 ± 0.2 million, −48%), scaup (*Aythya affinis* and *A. marila,* 3.8 ± 0.2 million, −27%), and American wigeon (−25%) were well below their long-term averages in 2004.

Total May ponds in Prairie Canada and the north-central U.S. were 3.9 ± 0.2 million, or 24% lower than last year and 19% below the long-term average. The projected mallard fall flight (which is fundamental for setting waterfowl hunting regulations) was 9.4 ± 0.1 million birds, compared to the estimate of 10.3 ± 0.1 million in 2003.

The 2004 total-duck population estimate for the eastern survey area (strata 51–56 and 62–69) was 3.9 ± 0.3 million birds. This estimate was similar to last year's estimate of 3.6 ± 0.3 million birds and to the 1996–2003 average. Individual species estimates for this area were similar to 2003 estimates and to 1996–2003 averages, with the exception of American wigeon (0.1 ± 0.1 million) and goldeneyes (*Bucephala clangula* and *B. islandica,* 0.4 ± 0.1 million), which were 61% and 42% below their 1996–2003 averages, respectively, and ring-necked ducks (*Aythya collaris,* 0.7 ± 0.2 million), for which the estimate was up 67% from 2003.

Other Biota

Waterfowl hunting occurs in habitats used by many taxa of migratory birds, as well as by aquatic invertebrates, amphibians, and some mammals. Fish also may be found in many hunting locations.

Shot Formulation and Production

Iron-Tungsten-Nickel shot is an alloy of 62% iron, 25% tungsten, and 13% nickel. Its density is about 9 grams/cm^3. The shot has no coating, nor is it chemically or physically altered when fired from a shotgun. Neither

manufacturing the shot nor firing shotshells containing the shot will alter the metals or increase their susceptibility to dissolving in the environment.

ENVIRON-Metal estimates that the volume of ITN shot for use in hunting migratory birds in the United States will be approximately 200,000 pounds (90,719 kilograms) during the first year of sale, and perhaps 500,000 pounds (227,000 kg) per year thereafter.

Environmental Fate of the Metals in ITN Shot

Elemental tungsten and iron are virtually insoluble in water, and therefore do not weather and degrade in the environment. Tungsten is stable in acids and does not easily form compounds with other substances. Preferential uptake by plants in acidic soil suggests uptake of tungsten when it has formed compounds with other substances rather than when it is in its elemental form (Kabata-Pendias and Pendias 1984).

Nickel is usually found at less than 1 part per billion (ppb) in fresh waters in locations unaffected by human activities. Pure nickel is not soluble in water. Free nickel may be part of chemical reactions, such as sorption, precipitation, and complexation. Reactions of nickel with anions are unlikely. Complexation with organic agents is poorly understood (USEPA 1980). Water hardness is the dominant factor governing nickel effects on biota (Stokes 1988).

Possible Environmental Concentrations

Calculation of the estimated environmental concentration (EEC) of a candidate shot in a terrestrial ecosystem is based on 69,000 shot per hectare (50 CFR 20.134). For ITN shot, if the shot are completely dissolved in dry, porous soil, the EEC for iron is 14.55 g/m^3, or 11.19 parts per million (ppm). Iron is naturally widespread, comprising approximately 2% of the composition of soils and sediments in the U.S. The EEC for iron from ITN shot is much lower than that level.

Tungsten is rare (1.5 ppm in the earth's crust), and is never found free in nature. The EEC for tungsten in soil is 5.92 g/m^3, or 4.55 ppm. This is below the EEC for several other tungsten-based shot types that we have previously approved. We are not aware of any problems associated with those shot types. The U.S. Environmental Protection Agency (USEPA) does not have a biosolids application limit for tungsten.

The EEC for nickel in ITN shot in soils is 3.08 g/m^3, or 4.55 ppm. This concentration is far below the USEPA biosolids application limit of 420 ppm (USEPA 2000).

The EEC for water assumes that 69,000 #4 shot are completely dissolved in 1 hectare of water 1 foot (30.48 cm) deep. For ITN shot, the EEC for iron in water is 2.39 milligrams per liter (mg/l). The USEPA chronic water quality criterion for iron in fresh water is 1 mg/l.

The EEC for tungsten from ITN shot is 0.97 mg/l. The USEPA has set no acute or chronic criteria for tungsten in aquatic systems.

The aquatic EEC for nickel from ITN shot is 505 mcg/l. The USEPA (1980) acute criterion for nickel in fresh water is 1400 mcg/l; the chronic criterion is 160 mcg/l. The acute and chronic criteria for salt water are 75 and 8.3 mcg/l, respectively.

Effects of Iron-Tungsten-Nickel Shot

Iron is an essential nutrient, so reported iron toxicosis in mammals is primarily a phenomenon of overdosing of livestock. Maximum recommended dietary levels of iron range from 500 ppm for sheep to 3,000 ppm for pigs (National Research Council [NRC] 1980). Chickens require at least 55 ppm iron in the diet (Morck and Austic 1981). Chickens fed 1,600 ppm iron in an adequate diet displayed no ill effects (McGhee *et al.* 1965). Turkey poults fed 440 ppm in the diet suffered no adverse effects. The tests in which eight #4 tungsten-iron shot were administered to each mallard in a toxicity study indicated that the 45% iron content of the shot had no adverse effects on the test animals (Kelly *et al.* 1998).

Tungsten may be substituted for molybdenum in enzymes in mammals. Ingested tungsten salts reduce growth, and can cause diarrhea, coma, and death in mammals (*e.g.* Bursian *et al.* 1996, Cohen *et al.* 1973, Karantassis 1924, Kinard and Van de Erve 1941, National Research Council 1980, Pham-Huu-Chanh 1965), but elemental tungsten is virtually insoluble and therefore essentially nontoxic. Tungsten powder added to the food of young rats at 2, 5, and 10% by mass for 70 days did not affect health or growth (Sax and Lewis 1989). A dietary concentration of 94 parts ppm did not reduce weight gain in growing rats (Wei *et al.* 1987). Exposure to pure tungsten through oral, inhalation, or dermal pathways is not reported to cause any health effects (Sittig 1991).

Tungsten salts are toxic to mammals. Lifetime exposure to 5 ppm tungsten as sodium tungstate in drinking water produced no discernible adverse effects in rats (Schroeder and Mitchener 1975). At 100 ppm tungsten as sodium tungstate in drinking water, rats had decreased enzyme activity after 21 days (Cohen *et al.* 1973).

Kraabel *et al.* (1996) surgically embedded tungsten-bismuth-tin shot in the pectoralis muscles of ducks to simulate wounding by gunfire and to test for toxic effects of the shot. They found that the shot neither produced toxic effects nor induced adverse systemic effects in the ducks during the 8-week period of their study.

Chickens given a complete diet showed no adverse effects of 250 ppm sodium tungstate administered for 10 days in the diet. However, 500 ppm in the diet reduced xanthine oxidase activity and reduced growth of day-old chicks (Teekell and Watts 1959). Adult hens had reduced egg production and egg weight on a diet containing 1,000 ppm tungsten (Nell *et al.* 1981). Ecological Planning and Toxicology (1999) concluded that the No Observed Adverse Effect Level for tungsten for chickens should be 250 ppm in the diet; the Lowest Observed Adverse Effect Level should be 500 ppm. Kelly *et al.* (1998) demonstrated no adverse effects on mallards dosed with tungsten-iron or tungsten-polymer shot according to nontoxic shot test protocols.

Ringelman *et al.* (1993) conducted a 32-day acute toxicity study which involved dosing game-farm mallards with a shot alloy of 39% tungsten, 44.5% bismuth, and 16.5% tin (TBT shot) by weight, respectively. All the test birds survived, showed normal behavior, and suffered no tissue toxicity or damage. Kraabel *et al.* (1996) determined that imbedded tungsten-bismuth-tin shot neither produced toxic effects nor induced any adverse systemic effects on the health of ducks.

Nickel is a dietary requirement of mammals, with necessary consumption set at 50 to 80 ppb for the rat and chick (Nielsen and Sandstead 1974). Though it is necessary for some enzymes, nickel can compete with calcium, magnesium, and zinc for binding sites on many enzymes.

Water-soluble nickel salts are poorly absorbed if ingested by rats (Nieboer *et al.* 1988). Nickel carbonate caused no treatment effects in rats fed 1,000 ppm for 3 to 4 months (Phatak and Patwardhan 1952). Rats fed 1,000 ppm nickel sulfate for 2 years showed reduced body and liver weights, an increase in the number of stillborn pups, and decrease in weanling weights through three generations (Ambrose *et al.* 1976). Nickel chloride was even more toxic; 1,000 ppm fed to young rats caused weight loss in 13 days (Schnegg and Kirchgessner 1976).

Soluble nickel salts are very toxic to mammals, with an oral LD_{50} of 136 mg/kg in mice, and 350 mg/kg in rats (Fairchild *et al.* 1977). Nickel catalyst (finely divided nickel in vegetable oil) fed to young rats at 250 ppm for 16 months, however, produced no detrimental effects (Phatak and Patwardhan 1952).

In chicks from hatching to 4 weeks of age, 300 ppm nickel as nickel carbonate or nickel acetate in the diet produced no observed adverse effects, but concentrations of 500 ppm or more reduced growth (Weber and Reid 1968). A diet containing 200 ppm nickel as nickel sulfate had no observed effects on mallard ducklings from 1 to 90 days of age. Diets of 800 ppm or more caused significant changes in physical condition of the ducklings (Cain and Pafford 1981). Eastin and O'Shea (1981) observed no apparent significant changes in pairs of breeding mallards fed diets containing up to 800 ppm nickel as nickel sulfate for 90 days. Mallard ducklings fed 1,200 ppm nickel as nickel sulfate from one to 90 days of age experienced reduced growth rates, tremors, paresis, and death (71% within 60 days) (Cain and Pafford 1981). Weights of ducklings receiving 200 and 800 ppm nickel were not significantly different than controls, but the humerus weight/length ratio, a measure of bone density, was significantly lower than controls among females in the 800 ppm group and all birds in the 1,200 ppm group. There was no mortality in the 200 and 800 ppm groups. Assuming a mean daily consumption of 128 g per bird (Heinz 1979), the 800 ppm treatment group would have consumed 102 mg nickel each day and 9.2 g nickel during the course of the 90-day study. In a Tier 2 dosing study under the regulations governing approval of nontoxic shot, mallard ducks birds would each be given eight number 4 ITN shot (each containing 0.02206 g of nickel) during the study. A duck would be exposed to 0.176 g of nickel during the study if the nickel were completely dissolved. This is much less than the nickel exposure experienced by the mallards in the Eastin and O'Shea (1981) study.

Toxicity of nickel to aquatic organisms is dependent upon water hardness, pH, and organic content, as well as other minor environmental parameters (Allen and Hansen 1996). In soft water, as few as 7 ppb may be acutely toxic to fish fry, but in harder waters toxicity thresholds may be an order of magnitude higher (Stokes 1988). General toxicity ranges for aquatic organisms are as variable, with an acute toxicity of as low as 82 mcg/l for some oligochaetes to 138,000 mcg/l for some gastropods; chronic toxicity values range from fewer than 100 mcg/l for some green algae to 10,000 mcg/l for filamentous algae (Stokes 1988).

The freshwater criterion maximum concentration is dependent on hardness. For a water body with hardness of 50 mg/l (generally associated with highly oligotrophic systems that would not support large numbers of waterfowl), this results in a criterion of 1,400 mcg/l. However, because early fish life stages are more sensitive to nickel, the freshwater chronic criterion is 160 mcg/l at a hardness of 50 mg/l (USEPA 1986).

The aquatic EEC for nickel from ITN shot is 505 mcg/l. The USEPA (1980) acute criterion for nickel in fresh water is 1400 mcg/l; the chronic criterion is 160 mcg/l. The acute and chronic criteria for salt water are 75 and 8.3 mcg/l, respectively. Based on the EEC, the maximum release of nickel from ITN shot would be well below the fresh water acute criterion for protection of aquatic life. The EEC exceeds the chronic criterion for fresh water and both acute and chronic values for seawater. However, ENVIRON-Metal reported that corrosion studies recently performed by an independent laboratory show that the corrosion rate for ITN shot is essentially equivalent to that of common steel, which is roughly linear with exposure time. Assuming that the rate of loss in the corrosion study continued, ITN shot would release about 11% of the calculated EEC per year; or about 4% of the acute water quality criterion and 35% of the chronic criterion for nickel in fresh water. After accounting for the dissolution of the shot, the EEC would be below the chronic criterion for salt water, but still about 7 times the acute criterion. However, the 11% dissolution would occur over a full year. Deposition of ITN shot in salt water environments would occur only during the hunting season, so worst-case nickel concentrations would be well below the chronic criterion. In addition, in most settings, shot deposition is far below that upon which the EEC is based.

Based on the information provided about ITN shot provided to us, we have little concern for the organisms from ingestion of ITN shot or from dissolution of the shot in aquatic settings.

We have previously approved as nontoxic other shot types that contain tungsten, iron, and nickel. Previous assessments of tungsten-containing alloys indicated that neither the tungsten nor the iron in ITN shot should be of concern in terrestrial or aquatic systems. The release of iron from the shot would be insignificant in natural settings. Reviews of past studies for approvals of other tungsten-alloy nontoxic shot types also support the idea that ingestion of ITN shot will not cause harm to birds or mammals.

Impacts of Approval of ITN Shot as Nontoxic

The status quo would be maintained by not authorizing use of ITN shot for hunting waterfowl and coots. By regulation, 10 other nontoxic shot types are authorized for use by waterfowl and coot hunters. Because these shot types are nontoxic to migratory birds, using only those shot types would have no adverse impact on waterfowl and their habitats.

Based on past test results of shot types containing the metals in ITN shot, we believe it too is nontoxic to waterfowl, other biota, and their habitats. Furnishing another approved nontoxic shot will likely result in a minor positive long-term impact on waterfowl and wetland habitats. Approval of ITN shot as nontoxic would have a positive impact on the waterfowl resource.

The impact on endangered and threatened species of approval of the shot will be small but positive. We obtain a biological opinion pursuant to Section 7 of the Endangered Species Act prior to establishing the seasonal hunting regulations. The hunting regulations promulgated as a result of this consultation remove and alleviate chances of conflict between migratory bird hunting and endangered and threatened species.

Our consultations do not address take resulting from noncompliance. Indeed, a factor considered when we developed the regulations banning the use of lead for migratory waterfowl hunting was the impact of lead on endangered and threatened species. Hunter failures to comply with the ban on lead for waterfowl and coot hunting are of concern to us. We believe noncompliance is of some concern, but failure to approve ITN shot as nontoxic would have only a small negative impact on the resource.

The impact of approval of ITN shot on endangered and threatened species is similar to that described for waterfowl. In the short- and long-term, approval would provide a positive impact on endangered and threatened species because all indications are that ITN shot is nontoxic. Also, as an alternative shot, it will further discourage the use of lead during waterfowl hunting and perhaps extend to upland game.

Approval of ITN shot as nontoxic would have a short-term positive impact on ecosystems. Some hunters still

shooting lead shot might switch to ITN shot. Approval of an additional nontoxic shot type will result in positive long-term impact on ecosystems.

Cumulative Impacts

We foresee no negative cumulative impacts of approval of ITN shot for waterfowl hunting. Approval of an additional nontoxic shot type should help to further reduce the negative impacts of the use of lead shot for hunting waterfowl and coots. We believe the impacts of approval of ITN shot for waterfowl hunting should be positive both in the United States and elsewhere.

Nontoxic Shot Approval

The first condition for nontoxic shot approval is toxicity testing. Based on the results of the toxicological reports and the toxicity tests, we preliminarily conclude that ITN shot does not pose a significant danger to migratory birds, other wildlife, or their habitats.

The second condition for approval is testing for residual lead levels. Any shot with a lead level of 1% or more will be illegal. We determined that the maximum environmentally-acceptable level of lead in shot is 1%, and incorporated this requirement in the nontoxic shot approval process we published in December 1997 (62 FR 63608). International Nontoxic Composites, Inc. has documented that ITN shot meets this requirement.

The third condition for approval involves enforcement. In 1995 (60 FR 43314), we stated that approval of any nontoxic shot would be contingent upon the development and availability of a noninvasive field testing device. This requirement was incorporated in the nontoxic shot approval process. ITN shotshells can be drawn to a magnet as a simple field detection method.

For these reasons, and in accordance with 50 CFR 20.134, we propose to approve Iron-Tungsten-Nickel shot as nontoxic for migratory bird hunting, and propose to amend 50 CFR 20.21(j) accordingly. This decision is based on data about the components of this shot, assessment of concentrations in aquatic settings, and assessment of the environmental effects of the shot. Those results indicate no likely deleterious effects of ITN shot to ecosystems or when ingested by waterfowl. Earlier testing of shot types containing tungsten and/or tin and/or iron indicated no environmental problems due to those metals in nontoxic shot. We do not believe the nickel in ITN shot will pose a significant environmental hazard, and we propose to approve ITN shot with no further testing.

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Public Comments Solicited

Our past experience with nontoxic shot approvals has been that 30 days is sufficient time for those interested in these actions to comment. Tungsten, iron, and nickel have been reviewed for use in nontoxic shot. Therefore, we will accept comments on this proposal for a 30-day period. A longer public comment period could unnecessarily delay approval of this shot for subsequent production and use.

NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), though all of the metals in this shot type have been approved in higher concentrations in other shot types and are not likely to pose adverse toxicity effects on fish, wildlife, their habitats, or the human environment, we have prepared a Draft Environmental Assessment for this action. We will finalize the Environmental Assessment before we publish a final rule on this action.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531 *et seq.*), provides that Federal agencies shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat.'' We have concluded that because all of the metals in this shot type have been approved in higher concentrations in other shot types and should not be available to biota due to use of ITN shot, this action will not affect endangered or threatened species. A Section 7 consultation under the ESA for this rule is not needed.

Cumulative Impacts

We foresee no negative cumulative impacts from approval of this additional nontoxic shot type. Approval of an additional shot type with metals already approved as nontoxic will not additionally impact the human environment.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations, or governmental jurisdictions. This rule proposes to approve an additional type of nontoxic shot that may be sold and used to hunt migratory birds; this rule would provide one shot type in addition to the types that are approved. We have determined, however, that this rule will have no effect on small entities since the approved shot merely will supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. We anticipate no dislocation or other local effects, with regard to hunters and others.

Executive Order 12866

This rule is not a significant regulatory action subject to Office of Management and Budget (OMB) review under Executive Order 12866. This rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. Therefore, a cost-benefit economic analysis is not required. This action will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. No other Federal agency has any role in regulating nontoxic shot for migratory bird hunting. The action is consistent with the policies and guidelines of other Department of the Interior bureaus. This action will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients because it has no mechanism to do so. This action will not raise novel legal or policy issues because the Service has already approved several other nontoxic shot types.

OMB makes the final determination under E.O. 12866. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, ''§ 20.134 Approval of nontoxic shot types.'') (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Paperwork Reduction 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. We have examined this regulation under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501) and found it to contain no information collection requirements. OMB has approved collection of information for the nontoxic shot approval process, and has assigned control number 1018–0067, which expires on December 31, 2006, to collection of information shot manufacturers are required to provide to us for the nontoxic shot approval process. For further information see 50 CFR 20.134.

Unfunded Mandates Reform

We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

We, in promulgating this rule, have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. This rule does not have a substantial direct effect

on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, this regulation does not have significant federalism effects and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 determined that this rule has no effects on Federally recognized Indian tribes.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, we propose to amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712; 16 U.S.C. 742a–j; Pub. L. 106–108.

2. Section 20.21 is amended by revising paragraph (j)(1) to read as follows:

§ 20.21 What hunting methods are illegal?

* * * * *

(j)(1) While possessing loose shot for muzzle loading or shotshells containing other than the following approved shot types.

Approved shot type	Percent composition by weight
bismuth-tin	97 bismuth, 3 tin.
iron (steel)	iron and carbon.
iron-tungsten (2 types)	60 iron, 40 tungsten and 78 iron, 22 tungsten.
iron-tungsten-nickel	62 iron, 25 tungsten, 13 nickel.
tungsten-bronze	51.1 tungsten, 44.4 copper, 3.9 tin, 0.6 iron.
tungsten-matrix	95.9 tungsten, 4.1 polymer.
tungsten-nickel-iron	50 tungsten, 35 nickel, 15 iron.
tungsten-polymer	95.5 tungsten, 4.5 Nylon 6 or 11.
tungsten-tin-bismuth	49–71 tungsten, 29–51 tin; 0.5–6.5 bismuth, 0.8 iron.
tungsten-tin-iron-nickel	65 tungsten, 21.8 tin, 10.4 iron, 2.8 nickel.

* * * * *

Dated: February 1, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–9022 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 70, No. 87
Friday, May 6, 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. 05–015–1]

National Animal Identification System; Notice of Availability of a Draft Strategic Plan and Draft Program Standards

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that a Draft Strategic Plan and a Draft Program Standards document for the National Animal Identification System (NAIS) are being made available for public review and comment. The Draft Strategic Plan describes the process of developing the NAIS, in particular the timeline for full implementation, while the Draft Program Standards document presents our current view of how the system would work when fully implemented.

DATES: We will consider all comments that we receive on or before June 6, 2005.

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

- EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 05–015–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–015–1.

Reading Room: You may read any comments that we receive on 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.

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

FOR FURTHER INFORMATION CONTACT: Mr. Neil Hammerschmidt, Animal Identification Officer, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road, Unit 43, Riverdale, MD 20737–1231; (301) 734–5571; or Dr. John F. Wiemers, National Animal Identification Staff, VS, APHIS, 2100 S. Lake Storey Road, Galesburg, IL 61401; (309) 344–1942.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 2003, the Secretary of Agriculture announced that the U.S. Department of Agriculture (USDA) would expedite the implementation of a National Animal Identification System (NAIS) for all animal species after the discovery of bovine spongiform encephalopathy in a cow in Washington State. On April 27, 2004, following several months of development, the Secretary announced the framework for implementation of a NAIS designed to provide a unique identification number for agricultural premises and animals so that diseases can be more quickly contained and eradicated. The Secretary also announced that $18.8 million would be transferred from the Department's Commodity Credit Corporation to provide initial funding for the program during fiscal year (FY) 2004. The FY 2004 funding was earmarked for the initial infrastructure development and implementation of the NAIS, but both private and public support will be required to make it fully operational.

The NAIS will be implemented in several phases over time. Currently, the registration of premises, *i.e.,* the locations where livestock are raised or held, is the primary activity of the NAIS. The second phase will involve the identification of animals. Certain species, such as cattle, will require individual identification, which will be accomplished by attaching to the animal an approved identification tag or device bearing an animal identification number (AIN). The AIN may be cross-referenced or linked to other technologies (*e.g.,* radio frequency identification, retinal image, DNA, etc.) to automate the collection of the animal's number or to verify the animal's identification. Other species, such as swine and poultry, typically move through the production chain in groups or lots. These animals may be eligible for identification as a group.

In order to facilitate the implementation of the NAIS, on November 8, 2004, we published in the **Federal Register** (69 FR 64644–64651, Docket No. 04–052–1) an interim rule that, among other things, amended the regulations to recognize additional numbering systems for the identification of animals in interstate commerce and State/Federal/industry cooperative disease control and eradication programs and to redefine the numbering system used to identify premises where animals are managed or held. Specifically, the interim rule recognized the AIN as an official numbering system for the identification of individual animals, the group/lot identification number (GIN) for the identification of groups or lots of animals within the same production system, and the seven-character premises identification number (PIN) for the identification of premises in the NAIS. Use of the new numbering systems was not, however, required as a result of the interim rule. Finally, the interim rule amended the regulations to prohibit the removal of official identification devices and to eliminate potential regulatory obstacles to the recognition of emerging technologies that could offer viable alternatives to existing animal identification devices and methods.

As part of the ongoing NAIS development process, the USDA's Animal and Plant Health Inspection Service (APHIS) has completed a Draft Strategic Plan and a Draft Program

Standards document. The NAIS Draft Strategic Plan, which covers the years 2005 to 2009, presents our current view of how the NAIS implementation process will unfold. The document provides a history of the NAIS' development to this point and examines some of the critical issues that must be dealt with in the course of implementing the system, including such stakeholder concerns as cost, confidentiality, flexibility, and liability. The Draft Strategic Plan also discusses the goals, key components, and guiding principles of the NAIS; APHIS' role in managing the system; and the means by which success will be measured. A timeline for full implementation of the NAIS is presented, as well as an outline of a five-stage State status designation process designed to measure progress toward that goal. The NAIS Draft Program Standards document, on the other hand, presents our current view of how the NAIS would work when fully implemented. The document contains, among other things, data standards for key components of the NAIS; descriptions of the roles and responsibilities of APHIS, State and tribal governments, and producers and other stakeholders in administering the NAIS; flow charts illustrating the workings of the system; identification and reporting requirements for animals moved within the United States, exported from the United States, and imported into the United States; species-specific procedures and requirements; an outline of the State status designation process referred to above; and definitions of key terms. Both documents are works in progress and will continue to be updated as more details are worked out. Updates will be posted on our Web site as they are made.

We are making the NAIS Draft Strategic Plan and the NAIS Draft Program Standards available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

Though we will consider comments on any issues pertaining to the two documents, there are certain topics on which we would particularly like to solicit feedback from the public. Please consider the following questions in your comments:

- The Draft Strategic Plan calls for making the entire system mandatory by January 2009. Is a mandatory identification program necessary to achieve a successful animal disease surveillance, monitoring, and response system to support Federal animal health programs? Please explain why or why not.
- In the current Draft Strategic Plan, the NAIS would require that producers be responsible for having their animals identified before the animals move to a premises where they are to be commingled with other animals, such as a sale barn. At what point and how should compliance be ensured? For example, should market managers, fair managers, etc., be responsible for ensuring compliance with this requirement before animals are unloaded at their facility or event? Please give the reasons for your response.
- In regard to cattle, individual identification would be achieved with an AIN tag that would be attached to the animal's left ear. It is acknowledged that some producers do not have the facilities to tag their animals; thus, the Draft Program Standards document contains an option for tagging sites, which are authorized premises where owners or persons responsible for cattle could have the cattle sent to have AIN tags applied. Do you think this is a viable option, *i.e.*, can markets or other locations successfully provide this service to producers who are unable to tag their cattle at their farms? Please give the reasons for your response.
- The current Draft Strategic Plan does not specify how compliance with identification and movement reporting requirements will be achieved when the sale is direct between a buyer and seller (or through their agents). In what manner should compliance with these requirements be achieved? Who should be responsible for meeting these requirements? How can these types of transactions be inputted into the NAIS to obtain the necessary information in the least costly, most efficient manner?
- USDA suggests that animals should be identified anytime prior to entering commerce or being commingled with animals from other premises. Is this recommendation adequate to achieve timely traceback capabilities to support animal health programs or should a timeframe (age limit) for identifying the animals be considered? Please give the reasons for your response.
- Are the timelines for implementing the NAIS, as discussed in the Draft Strategic Plan, realistic, too aggressive (*i.e.*, allow too little time), or not aggressive enough (*i.e.*, do not ensure that the NAIS will be implemented in a timely manner)? Please give the reasons for your response.
- Should requirements for all species be implemented within the same timelines, or should some flexibility be allowed? Please give the reasons for your response.
- What are the most cost-effective and efficient ways for submitting information to the database (entered via the Internet, file transfer from a herd-management computer system, mail, phone, third-party submission of data)? Does the type of entity (*e.g.*, producer, market, slaughterhouse), the size of the entity, or other factors make some methods for information submission more or less practical, costly, or efficient? Please provide supporting information if possible.
- We are aware that many producers are concerned about the confidentiality of the information collected in the NAIS. Given the information identified in the draft documents, what specific information do you believe should be protected from disclosure and why?
- The NAIS as planned would require States, producers, and other participating entities to provide information and develop and maintain records. How could we best minimize the burden associated with these requirements? For example, should both the seller and the buyer of a specific group of animals report the movement of the animals, or is reporting by one party adequate?

A key issue in the development of the NAIS concerns the management of animal tracking information. Animal heath officials must have immediate, reliable, and uninterrupted access to essential NAIS information for routine surveillance activities and in the event of a disease outbreak. APHIS determined that this goal could best be achieved by having the data repositories managed by APHIS. The Draft Program Standards document provides for two main NAIS information repositories: The National Premises Information Repository and the National Animal Records Repository. The National Premises Information Repository would maintain data on each production and animal holding location (contact name, address, phone number, type of operation, etc.). The National Animal Records Repository would maintain animal identification and movement data.

Recently, however, an industry-led initiative suggested a privately managed database as an alternative for the management of data on animal tracking in the NAIS. The industry group stated that a private database would ensure that the needs of both government and industry would be fulfilled, and that the flow of information throughout the NAIS would be maintained in a secure and confidential manner.

APHIS is requesting comment from stakeholders regarding the utility of a privately managed database for holding animal location and movement information. Among the issues you may wish to comment on are the following:

- How should a private database system be funded? Please give the reasons for your response.
- Should the NAIS allow for multiple privately managed databases? Please explain why or why not.
- Should a public (government) system be made available as well as a privately managed system so that producers would have a choice? Please give the reasons for your response.
- Should a privately managed system include all species? Please give the reasons for your response.
- Would either system work equally well at the State level? Please explain why or why not.

The NAIS Draft Strategic Plan and the NAIS Draft Program Standards may be viewed on the Internet at *http://www.usda.gov/nais.* The documents may also be accessed through EDOCKET (see **ADDRESSES** above for instructions for accessing EDOCKET). You may request paper copies of the documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to the titles of the documents when requesting copies. The documents are also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

Done in Washington, DC, this 3rd day of May 2005.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–9113 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Information Collection; Standard Operating Agreement Governing Intermodal Transportation

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) is seeking comments from all interested individuals and organizations on the extension with revision of an approved information collection associated with the intermodal transportation services. The information collection supports the domestic and export food assistance program needs. Also, this information collection allows CCC to determine the availability of intermodal marketing companies to meet the intermodal transportation needs of CCC for the movement of its freight.

DATES: Comments on this notice must be received on or before July 5, 2005, to be assured consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments must be addressed to Penny Carlson, Acting Chief, Planning and Analysis Division, Kansas City Commodity Office, 6501 Beacon Drive, Kansas City, Missouri 64133–4676. Comments may be also submitted either by e-mail to: *pkcarlson@kcc.usda.gov* or by fax to: (816) 926–1648. The comments must also be sent to the Desk Officer for Agriculture, Office of Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments must include the OMB number and the title of the information collection.

FOR FURTHER INFORMATION CONTACT: Penny Carlson, Acting Chief, Planning Analysis Division, (816) 926–6509 and *pkcarlson@kcc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Standard Operating Agreement Governing Intermodal Transportation.

OMB Control Number: 0560–0194.

Expiration Date: October 31, 2005.

Type of Request: Extension with revision.

Abstract: CCC, through the Kansas City Commodity Office (KCCO), solicits bids from transportation companies for the purpose of providing intermodal transportation of agricultural commodities. Intermodal Marketing Companies (IMC) provide rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service that CCC hires to provide program transportation needs. Those IMC's, who choose to do business with the KCCO Export Operations Division (EOD) are required to complete and submit the KC–9 (Standard Operating Agreement Governing Intermodal Transportation) at one time only. EOD uses the completed form to determine if IMC is available and meets CCC requirements for hauling agricultural products for CCC.

Estimate of Burden: Average 1 hour per response.

Respondents: Intermodal Marketing Companies.

Respondents: 22.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 22 hours.

Comment is invited regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collected; or (4) ways to minimize the burden of the collection of the 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.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for OMB approval.

Signed at Washington, DC, on April 29, 2005.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 05–9030 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Request for Applications (RFA) Community Outreach and Assistance Partnership Program; Initial Announcement

Catalogue of Federal Domestic Asssistance (CFDA): This program is listed in the CFDA under 10–455, Community Outreach and Assistance Partnership Program.

Dates: The closing date and time for receipt of an application is 5 p.m. eastern time on June 20, 2005. Applications received after the deadline will not be considered for funding. All awards will be made and partnership agreements completed no later than September 30, 2005.

Overview: In accordance with section 522(d) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $5 million in fiscal year (FY) 2005 for collaborative outreach and assistance programs for women, limited resource, socially disadvantaged and other traditionally under-served farmers and ranchers, who produce Priority

Commodities as defined in Part I.C. Awards under this program will be made on a competitive basis for projects of up to one year. Recipients of awards must demonstrate non-financial benefits from a partnership agreement and must agree to the substantial involvement of RMA in the project. This announcement lists the information needed to submit an application under this program.

For Further Information Contact: Marie Buchanan, National Outreach Program Manager, Telephone (202) 690–2686, Facsimile (202) 690–1518, e-mail: *Marie.Buchanan@rma.usda.gov.* Application materials can also be downloaded from the RMA Web site at *http://www.rma.usda.gov.*

This Announcement Consists of Seven Parts

I. General Information

A. Legislative Authority and Background

This program is authorized under section 522(d)(3)(F) of the Act which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. One of RMA's four strategic goals is to ensure that its customers and potential customers are well informed of the risk management solutions available. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, providing risk management education and information and offering outreach programs aimed at equal access and participation of underserved communities. A priority must be given to reaching producers of Priority Commodities as defined in section C of this part.

B. Purpose

The purpose of this program is to fund projects that provide women, limited resource, socially disadvantaged, and other traditionally underserved producers of Priority Commodities with training, informational opportunities and assistance necessary to understand:

(1) The kind of risks addressed by existing and emerging risk management tools;

(2) The features and appropriate use of existing and emerging risk management tools; and

(3) How to make sound risk management decisions.

Each partnership agreement awarded through this program will provide the applicant with funds, guidance, and the substantial involvement of RMA to deliver outreach and assistance programs to producers in a specific geographical area.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

- *Agricultural commodities covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.
- *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.
- *Underserved commodities.* This group includes: (a) commodities, including livestock, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock, with inadequate crop insurance coverage produced by small, limited resource, socially disadvantaged, or beginning farmers and ranchers.

A project is considered as giving priority to Priority Commodities if the majority of the educational outreach and assistance activities are directed to women, limited resource, socially disadvantaged and other traditionally under-served producers of one or more of the three classes of commodities listed above or any combination of the three classes.

D. Program Description

This program will support a wide range of innovative outreach and assistance activities in farm management, financial management, marketing contracts, crop insurance and other existing and emerging risk management tools FCIC, working through RMA, will be substantially involved in the activities listed under paragraph 2. The applicant must identify specific ways in which RMA could have substantial involvement in the proposed outreach activity. Applications that do not contain substantial involvement by RMA will be rejected.

In addition to the specific, required activities listed under paragraph 1, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify the objective of the activity, the specific tasks required to meet the objective, specific time lines for performing the tasks, and specific responsibilities of the partners.

1. In conducting activities to achieve the purpose and goal of this program, award recipients will be required to perform the following activities:

Develop and finalize a risk management outreach delivery plan that will contain the tasks needed to accomplish the purpose of this program, including a description of the manner in which various tasks for the project will be completed, the dates by which each task will be completed, and the partners that will have responsibility for each task. Task milestones must be listed to ensure that progress can be measured at

various stages throughout the life of the project. The plan must also provide for the substantial involvement of RMA in the project. (Note: All partnership agreements resulting from this announcement will include delivery plans in a table format. All applicants are strongly encouraged to refer to the table in the application package, when preparing a delivery plan and to use this format as part of the project description.)

- Assemble risk management instructional materials appropriate for producers of Priority Commodities to be used in delivering education and information. This will include: (a) Gathering existing instructional materials that meet the local needs of producers of Priority Commodities; (b) identifying gaps in existing instructional materials; and (c) developing new materials or modifying existing instructional materials to fill existing gaps.
- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers of the training and informational opportunities being offered. Minority media and publications should also be used to achieve the broadest promotion of outreach opportunities for women, limited resource and socially disadvantaged farmers and ranchers possible.
- Deliver risk management training and informational opportunities to women, limited resource and socially disadvantaged agricultural producers and agribusiness professionals of Priority Commodities. This will include organizing and delivering educational activities using the instructional materials identified earlier. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise farmers on risk management.
- Document all outreach activities conducted under the partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The recipient will also be required to provide information to an RMA-selected contractor to evaluate all outreach activities and advise RMA as to the effectiveness of activities.

2. RMA will be responsible for the following activities:

- Review and approve in advance the recipient's project delivery plan.
- Collaborate with the recipient in assembling risk management materials for producers. This will include: (a) Reviewing and approving in advance all educational materials for technical accuracy; (b) serving on curriculum development workgroups; (c) providing curriculum developers with fact sheets and other risk management publications prepared by RMA; (d) advising the applicant on the materials available over the internet through the AgRisk Education Library; (e) advising the applicant on technical issues related to crop insurance instructional materials; and (f) advising the applicant on the use of the standardized design and layout formats to be used on program materials.
- Collaborate with the recipient on a promotional program for raising awareness of risk management and for informing producers of training and informational opportunities. This will include: (a) Reviewing and approving in advance all promotional plans, materials, and programs; (b) serving on workgroups that plan promotional programs; (c) advising the applicant on technical issues relating to the presentation of crop insurance products in promotional materials; and (d) participating, as appropriate, in media programs designed to raise general awareness or provide farmers with risk management education.
- Collaborate with the recipient on outreach activities to agricultural producers and agribusiness leaders. This will include: (a) Reviewing and approving in advance all producer and agribusiness educational delivery plans; (b) advising the applicant on technical issues related to the delivery of crop insurance education and information; and (c) assisting the applicant in informing crop insurance professionals about educational plans and scheduled meetings.
- Reviewing and approving recipient's documentation of risk management education and outreach activities.

II. Award Information

A. Available Funding

The amount of funds available in FY 2005 for support of this program is approximately $5 million dollars. There is no commitment by USDA/RMA to fund any particular project or to make a specific number of awards. No maximum or minimum funding levels have been established for individual projects or geographic locations. Applicants awarded a partnership agreement for an amount that is less than the amount requested may be required to modify their application to conform to the reduced amount before execution of the partnership agreement. It is expected that awards will be made approximately 75 days after the application deadline.

B. Types of Applications

Applicants must specify whether the application is a new, renewal, or resubmitted application.

1. New Application—This is an application that was been previously submitted to the RMA Outreach Program. All new applications will be reviewed competitively using the selection process and evaluation criteria described in this RFA.

2. Renewal Application—This is an application that requests additional funding for a project beyond the period that was approved in an original or amended award. Applications for renewed funding must contain the same information as required for new applications, and additionally must contain a Progress Report. Renewal applications must be received by the relevant due dates, will be evaluated in competition with other pending applications, and will be reviewed according to the same evaluation criteria as new applications.

3. Resubmitted Application—This is an application previously submitted to the RMA Outreach office, but was not funded. Resubmitted applications must be received by the relevant due dates, and will be evaluated in competition with other pending applications and will be reviewed according to the same evaluation criteria as new applications.

III. Eligibility/Funding

A. Eligible Applicants

Educational institutions, community based organizations, associations of farmers and ranchers, state departments of agriculture, and other non-profit organizations with demonstrated capabilities in developing and implementing risk management and other marketing options for priority commodities are eligible to apply. Individuals are not eligible applicants. Applicants are encouraged to form partnerships with other entities that complement, enhance, and/or increase the effectiveness and efficiency of the proposed project. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.* debarment and suspension; a determination of non-

performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Project Period

Each project will be funded for a period of up to one year from the project starting date for the activities described in this announcement.

C. Non-Financial Benefits

To be eligible, applicants must also demonstrate that they will receive a non-financial benefit as a result of a partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applications that do not demonstrate a non-financial benefit will be rejected.

D. Cost Sharing or Matching

Cost sharing, matching, in-kind contribution, or cost participation is not required.

E. Funding Restrictions

Indirect costs for projects submitted in response to this solicitation are limited to 10 percent of the total direct costs of the agreement. Partnership agreement funds may not be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;
2. To purchase, rent, or install fixed equipment;
3. Repair or maintain privately owned vehicles;
4. Pay for the preparation of the partnership application;
5. Fund political activities;
6. Pay costs incurred prior to receiving this partnership agreement;
7. Fund any activities prohibited in 7 CFR parts 3015 and 3019, as applicable.

IV. Application and Submission Information

A. Address to Submit an Application Package

The address for submissions is USDA/RMA, Community Outreach, and Assistance Partnership Program, c/o Marie Buchanan, 1400 Independence Avenue, SW., Room 6709, Stop 0805, Washington, DC 20250–0805. All applications must be submitted by the deadline. Late or incomplete applications will not be considered and will be returned to the applicant. Applications will be considered as meeting the announced deadline if they are received in the mailroom at the following address on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington, DC. area now requires. Failure of the selected delivery services will not extend the deadline. Applicants are strongly encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt.

B. Content and Form of Application Submission

1. *General*—Use the following guidelines to prepare an application. Each application must contain the following elements in the order indicated. Proper preparation of applications will assist reviewers in evaluating the merits of each application in a systematic, consistent fashion.

(a) Prepare the application on only one side of the page using standard size (8½″ x 11″) white paper, one-inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable front face (*e.g.*, Geneva, Helvetica, Times Roman).

(b) Number each page of the application sequentially, starting with the Project Description, including the budget pages, required forms, and any appendices.

(c) Staple the application in the upper left-hand corner. Do not bind. An original and two copies of the completed and signed application (3 total) and one electronic copy (Microsoft Word format preferred) on diskette or compact disc must be submitted in one package. Only hard copies of OMB Standard Forms should be submitted. Do not include the standard forms on the diskette.

(d) Include original illustrations (photographs, color prints, etc.) in all copies of the application to prevent loss of meaning through poor quality reproduction.

2. *Application for Federal Assistance, OMB Standard Form 424*—Please complete this form in its entirety. The original copy of the application must contain a pen-and-ink signature of the authorized organizational representative (AOR), individual with the authority to commit the organization's time and other relevant resources to the project. The Catalog of Federal Domestic Assistance Number (block 10) is ''10–455—Community Outreach and Assistance''.

3. *Table of Content*—Each application must contain a detailed Table of Contents immediately following OMB SF 424.

4. *Project Summary*—(Limited to one page, placed after the Table of Contents) The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: overall project goals(s) and supporting objectives; plans to accomplish project goals; and relevance of the project to the goals of the community outreach and assistance program.

5. *Progress Report*—(Limited to three pages, placed immediately after the Project Summary) Renewal applications of an existing project supported under the same program should include a clearly identified summary progress report describing the results to date. The progress report should contain a comparison of actual accomplishments with the goals established for the project.

6. *A Project Description*—(Limited to twenty-five single-sided pages) that describes the outreach project in detail, including the program delivery plan and a Statement of Work. The description should provide reviewers with sufficient information to effectively evaluate the merits of the application under the criteria contained in Part V. The description should include the circumstances giving rise to the proposed activity; a clear, concise statement of the objectives; the steps necessary to implement the program to attain the objectives; an evaluation plan for the activities; and a program delivery plan and statement of work that describes how the activities will be implemented and managed by the applicant.

The statement of work in table format should identify each objective and the key tasks to achieve the objective, the entity responsible for the task, the completion date, the task location, and RMA's role. Applicants are strongly encouraged to refer to the sample table in the application package when preparing a delivery plan and to use this table format in that portion of the application narrative that addresses the delivery plan.

7. *Budget, OMB Standard Form 424–A*, ''Budget Information, Non-Construction Program'' Indirect costs allowed for projects submitted under this announcement will be limited to 10 percent of the total direct cost of the partnership or cooperative agreement. Applicants should include reasonable travel costs associated with attending at least two RMA designated two-day events, which will include a Project Directors' meeting and civil rights training.

8. *Budget Narrative*—detailed narrative in support of the budget should show all funding sources and itemized costs for each line item contained on the SF–424A. All budget categories must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the SF–424A. There must be a detailed breakdown of all costs, including indirect costs. Include budget notes on each budget line item detailing how each line item was derived. Also provide a brief narrative description of any costs that may require explanation (*i.e.*, why a specific cost may be higher than market costs). Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act, the applicable Federal Cost principles, and are not prohibited under any other Federal statute. Salaries of project personnel should be requested in proportion to the effort that they would devote to the project.

9. *Key Personnel*—The roles and responsibilities of each PD and/or collaborator should be clearly described; and the vitae of the PD and each co-PD, senior associate and other professional personnel.

10. *Collaborative Arrangements (including Letters of Support)*—If it will be necessary to enter into formal consulting or collaborative arrangements, such arrangements should be fully explained and justified. If the consultants or collaborators are known at the time of application, a vitae or resume should be provided. Evidence (*e.g.*, letter of support) should be included if the collaborators involved have agreed to render these services. Additional information on consultants and collaborators are required in the budget portion of the application.

11. *Current and Pending Support*—All applications must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

12. *Disclosure of Lobbying Activities, OMB Standard Form LLL*—All applications must contain a signed copy of this form (See Part VI (F)). Applicants who are not engaging in lobbying activities should write ''Not Applicable'' and sign the form.

13. A completed and signed ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions), AD 1047''.

14. A completed and signed ''Certifications Regarding Drug-Free Workplace, AD–1049''.

15. Appendices are allowed if they are directly germane to the proposed project.

C. Acknowledgement of Applications

Applications submitted by facsimile or through other electronic media, regardless of the date or time of submission or the time of receipt, will not be considered and will be returned to the applicant. Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide an e-mail address in the application. If an e-mail address is not indicated on an application, receipt will be acknowledged in writing. There will be no notification of incomplete, unqualified, or unfunded applications until the awards have been made. RMA will assign an identification number to the application when received. This number will be provided to applicants when the receipt of application is acknowledged. Applicants should reference the assigned identification number in all correspondence regarding the application.

If receipt of application is not acknowledged by RMA within 15 days of the submission deadline, the applicant should contact Marie Buchanan at (202) 690–2686 or electronically at *Marie.Buchanan@rma.usda.gov*.

V. Application Review Process

A. General

Each application will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration.

Second, a review panel will consider the merits of all applications that meet the requirements in the announcement. A panel of not less than three independent reviewers will evaluate each application. Reviewers will be drawn from USDA, other federal agencies, and others representing public and private organizations, as needed. The project description and any appendices submitted by applicant will be used by the review panel to evaluate the merits of the project being proposed for funding. The panel will examine and score applications based on each of the four criteria contained in paragraph B of this part ''Evaluation Criteria and Weights''.

The panel will be looking for the specific elements listed with each criterion when evaluating the applications and scoring them. For each application, panel members will assign a point value up to the maximum for each criterion. After all reviewers have evaluated and scored each of the applications, the scores for the entire panel will be averaged to determine an application's final score. After assigning points for each criterion, applications will be listed in initial rank order and presented, along with funding level recommendations, to the Manager of FCIC, who will make the final decision on awarding of a partnership agreement. Applications will then be funded in final rank order until all available funds have been expended. Applicants must score 50 points or more to be considered for funding. If there are unused remaining funds, RMA may conduct another round of competition through the announcement of another RFA.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the programs described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding under this announcement is sufficiently similar to a project that has been funded or has been recommended to be funded under another FCIC or RMA education or outreach program, then the Manager may elect to not fund that application in whole or in part.

B. Evaluation Criteria and Weights

1. Project Benefits—Maximum 45 Points

The applicant must demonstrate that the project benefits to women, limited resource, socially disadvantaged and other traditionally underserved producers warrant the funding

requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the number of producers reached through the project; (b) justify the estimates with clear specifics related to the delivery plan; (c) identify the actions producers will likely be able to take as a result of the project; and (d) identify specific measures for evaluating the success of the project. Reviewers' scoring will be based on the scope and reasonableness of the applicants' estimate of the number of producers reached through the project, clear descriptions of specific expected project benefits for producers, and well-constructed plans for measuring the project's effectiveness.

2. Project Management—Maximum 25 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist women, limited resource, socially disadvantaged and other traditionally underserved producers. If the applicant has been a recipient of other Federal or other government grants, cooperative agreements, or contracts, the applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. Applicants that will employ, or have access to, personnel who have experience in directing agricultural programs or providing educations programs that benefit producers will receive higher rankings. Higher scores will be awarded to applicants with no more than two on-going projects funded by RMA under this program in previous years.

3. Collaborative Partnering—Maximum 15 Points

The applicant must demonstrate experience and capacity to partner with and gain the support of other agencies, grower organizations, agribusiness professionals, and agricultural leaders to enhance the quality and effectiveness of the program. Applicants will receive higher scores to the extent that they can document and demonstrate: (a) that partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad and diverse group of farmers and ranchers will be reached; and (c) that a substantial effort has been made to partner with organizations that can meet the needs of producers that are small, have limited resources, are minorities, or are beginning farmers and ranchers.

4. Delivery Plan—Maximum 15 Points

The applicant must demonstrate that its program delivery plan is clear and specific. For each of the applicant's responsibilities contained in the description of the program, the applicant must demonstrate that it can identify specific tasks and provide reasonable time lines that further the purpose of this program. Applicants will obtain a higher score to the extent that the tasks of the project are specific, measurable, and reasonable, have specific periods for completion, relate directly to the required activities, and program objectives described in this announcement.

5. Diversity—Maximum 20 Points

Management reserves the right to award applications up to 20 additional points to promote the broadest geographic diversity.

VI. Award Administration

A. Notification of Cooperative or Partnership Agreement Awards

Following approval by the RMA awarding official, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into partnership or cooperative agreements with applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement. The agreements provide the amount of Federal funds for use in the project period, the terms, and conditions of the award and the time period for the project.

The effective date of the agreement is the date the agreement is executed by both parties. RMA will extend to award recipients, in writing, the authority to draw down funds for conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Applicants that are not funded will be notified within 90 days after the submission deadline. Reasons for denial of funding can include incomplete proposals, scored low or duplicative.

B. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

C. Confidential Aspects of Proposals and Awards

When an application results in a partnership agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of proposals not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

D. Reporting Requirements

Applicants awarded partnership agreements will be required to submit quarterly progress and financial reports (OMB Standard Form 269) throughout the project period, as well as a final program and financial report no later than 90 days after the end of the project period.

E. Administration

All partnership agreements are subject to the requirements of 7 CFR part 3015.

F. Prohibitions and Requirements with Regard to Lobbying

All partnership agreements are subject to the requirements of 7 CFR part 3018. A copy of the certification and disclosure forms must be submitted with the application.

G. Applicable OMB Circulars

All partnership and cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

H. Confidentiality

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations

of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application

I. Requirement To Participate in Civil Rights Training

All recipients of federally assisted programs are required to comply with Federal civil rights laws and regulations. USDA/RMA policies and procedures requires recipients of federally assisted programs to attend mandatory civil rights training sponsored by RMA, to become fully aware of civil rights requirements and responsibilities. Applicants should include in their budgets reasonable travel costs associated with attending at least two two-day RMA designated events that includes a Project Directors meeting and required civil rights training.

VII. Additional Information

A. Requirement to Use Program Logo

Applicants awarded partnership agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

B. Requirement to Provide Project Information to an RMA-Selected Contractor

Applicants awarded partnership agreements will be required to assist RMA in evaluating the effectiveness of its outreach program by providing documentation of outreach activities and related information to any contractor selected by RMA for program evaluation purposes. This requirement also includes providing demographic data on program participants.

C. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under either of the two educational programs described in this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Such entities will also not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

D. DUNS Number

A Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. A Federal Register notice of final policy issuance (68 FR 38402) requires a DUNS number in every application (*i.e.*, hard copy and electronic) for a grant or cooperative agreement. Therefore, potential applicants should verify that they have a DUNS number or take steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov*. Please note that the registration may take up to 14 business days to complete.

E. Required Registration for Grants.gov

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications via grants.gov (a DUNS number is needed for CCR registration). For information about how to register in the CCR, visit *http://www.grants.gov*. Allow a minimum of 5 days to complete the CCR registration.

Signed in Washington, DC on May 3, 2005.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

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BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Request for Applications (RFA): Research and Development Risk Management Research Partnerships

Announcement Type: Announcement of availability of funds and request for application for risk management research partnerships.

Catalog of Federal Domestic Assistance Number (CFDA): 10.456.

Dates: The closing date and time for receipt of an application is 5 p.m. CDT on July 5, 2005. Applications received after the deadline will not be evaluated by the technical review panel and will not be considered for funding. All awards will be made and agreements completed no later than September 30, 2005.

Overview: The purpose of the Risk Management Research Partnerships is to fund the development of non-insurance risk management tools that will be utilized by agricultural producers to assist them in mitigating the risks inherent in agricultural production. The proposals must address at least one of the ten objectives listed in part I.D. In addition, all proposals must clearly demonstrate the usefulness and benefits of the tool to producers of priority commodities and provide a plan for ongoing maintenance and support as described in part I.D. Approximately $4 million is available to fund an undetermined number of partnerships. Projects may be funded for a period of up to three years. Applications are accepted from public and private entities; individuals are not eligible to apply. No cost sharing by the applicant is required. There are no limitations on the number of applications each applicant may submit.

I. Funding Opportunity Description

A. Background

The Risk Management Agency (RMA), on behalf of the Federal Crop Insurance Corporation (FCIC), is committed to meeting the risk management needs and improving or developing risk management tools for the nation's farmers and ranchers. It does this by offering Federal crop insurance and other risk management products and tools through a network of private-sector entities and by overseeing the creation of new products, seeking enhancements in existing products, and by expanding the use of a variety of risk management tools. Risk management tools include a variety of risk management options and strategies developed to assist producers in mitigating the risks inherent in agricultural production. Risk management tools may include: financial management tools to mitigate price and production risks; tools to enhance measurement and prediction of risks in order to facilitate risk diversification; tools to improve production management, harvesting, record keeping or marketing. For the

purposes of this announcement, risk management tools do not include insurance products, plans of insurance, policies, modifications thereof or any related material.

B. Purpose

The purpose of this program is to fund partnership agreements that assist producers, minimize their production risks, and/or develop risk management tools. The agreements are for the development of risk management tools for use directly by agricultural producers. To aid in meeting these goals each partnership agreement awarded through this program will provide the recipient with funds, guidance, and the substantial involvement of RMA to carry out these risk management initiatives. Applications requesting funding for the development of insurance products, plans of insurance, policies, modifications thereof or related materials are excluded from consideration under this announcement.

C. Authorization

In accordance with section 522(d) of the Federal Crop Insurance Act (Act), FCIC announces the availability of funding for risk management research activities. Priority will be given to those activities addressing the need for risk management tools for producers of the following agricultural commodities (For purposes of this announcement, these commodities are collectively referred to as ''Priority Commodities''):

- *Agricultural commodities covered by section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333) (Noninsured Assistance Program (NAP)).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.
- *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.
- *Underserved commodities.* This group includes: (a) Commodities, including livestock that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock, with inadequate crop insurance coverage.

D. Objectives

Proposals must meet two major objectives to be eligible for funds under the Risk Management Research Partnerships. The first objective is that the proposal must meet at least one of the project objectives stated below.

The project objectives listed below highlight the research priorities of RMA. The objectives are listed in priority order, with the most important objective designated as 1, the second most important designated as 2, etc. The order of priority will be considered in making awards. The suggested emphasis discussed within each objective is not meant to be exhaustive. Applicants may propose other topics within any project objective but justification for those topics must be provided.

RMA encourages proposals that address multiple risks and will result in the development of tools that provide an integrated or holistic approach to risk mitigation. Preference will be given to such proposals.

Proposals may address multiple objectives, but each proposal must specify a single primary objective for funding purposes.

In the order of priority, the project objectives are:

1. To develop risk management tools to assist producers in finding alternative products, techniques or strategies related to disease management (*e.g.*, soybean rust) and/or pest mitigation under various farming practices.

2. To develop risk management tools to assist producers in reducing the impact of multiple-year losses, such as the multiple-year losses due to sustained or recurring drought and to increase the economic and production stability of agricultural producers.

3. To develop risk management tools to assist forage and rangeland producers in improving techniques for one or more of the following: Managing production, *e.g.*, optimization of grazing patterns; establishing and maintaining forage production records; drought mitigation; and harvesting or marketing production.

4. To develop risk management tools to assist limited resource and/or traditionally underserved farmers and ranchers and/or producers with limited English language proficiency that traditionally produce agricultural commodities covered by NAP, specialty crops and underserved agricultural commodities. The tools developed under this objective should address risks that may be specific to the targeted producers and/or will assist the targeted producers in gaining meaningful access to existing risk management tools and information. (Definitions: A limited resource farmer is a producer or operator of a farm with an annual gross income of $20,000 or less derived from all sources of revenue or a producer on a farm of less than 25 acres (aggregated for all crops) where a majority of the producer's gross income from farming operations does not exceed $20,000; and/or direct or indirect gross farm sales not more than $100,000 in each of the previous two years adjusted for inflation using Prices Paid by Farmer Index as compiled by the National Agricultural Statistical Service (NASS) and a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years (to be determined annually using Commerce Department Data). Underserved farmers and ranchers include: Women, African Americans, Asians and Pacific Islanders, American Indians, Alaskan Natives, and Hispanics.)

5. To develop risk management tools to assist livestock producers in improving techniques for one or more of the following: Planning and managing the production of livestock, including disease management and control; improving techniques for breeding of livestock; and managing price, revenue, or production and market risks.

6. To develop risk management tools to assist agricultural producers in developing a better understanding of the interaction of financial markets, marketing, crop insurance, and production costs and assist producers in the determination of the optimal combination of risk management strategies.

7. To clarify labor requirements and assist producers in complying with requirements to better meet the physically intense and time-compressed planting, tending, and harvesting requirements associated with the production of specialty crops and underserved agricultural commodities.

8. To develop risk management tools encouraging self-protection for production agricultural enterprises vulnerable to losses due to terrorism.

9. To provide risk management tools to State foresters or equivalent officials for the prescribed use of burning on private forest land for the prevention, control and suppression of fire.

10. To develop risk management tools to further increase the economic and production stability of wild salmon fishermen.

II. Award Information

A. Award Description

Approximately $4 million is available for partnership agreements that will fund the development of risk management tools and other projects listed in section I.D. Awards under this program will be made on a competitive basis. Projects may be funded for a period of up to three years for the activities described in this announcement. Projects can also be in two parts with the first part including the research and feasibility studies and the second part including the development, implementation, delivery and maintenance of the risk management tool. If the development of the tool is determined not to be feasible, the partnership may be terminated by RMA after completion of the first part with funding reduced accordingly.

There is no commitment by RMA to fund any particular project or to make a specific number of awards. Applicants awarded a partnership agreement for an amount that is less than the amount requested will be required to modify their application to conform to the reduced amount before execution of the partnership agreement. No maximum or minimum funding levels have been established for individual projects. All awards will be made and agreements completed no later than September 30, 2005.

Recipients of awards must demonstrate non-financial benefits from a partnership agreement and must agree to substantial involvement of RMA in the project. RMA encourages collaborative efforts and geographic diversity of proposed projects.

In conducting activities to achieve the purpose of this proposed research, the recipient will be responsible for the activities listed under Section II. A. 1 of this part. RMA will be responsible for the activities listed under Section II. A. 2 of this part.

1. Recipient Activities

The applicant will be required to perform the following activities:

a. Finalize, in cooperation with RMA, the partnership agreement.

b. Finalize, in cooperation with RMA, the plan to administer, maintain and update the risk management tool in the future.

c. Define non-financial benefits and the substantial involvement of the RMA.

d. Coordinate, manage, document and implement the timely completion of the approved research and development activities.

e. Abide by the plans and provisions contained in the partnership agreement.

f. Report on program performance in accordance with the partnership agreement.

g. The recipient may be required to make a presentation to the FCIC Board of Directors.

h. Adhere to RMA guidelines for systems development and information technology development.

2. RMA Activities

RMA will be substantially involved during the performance of the funded activity. Potential types of substantial involvement may include, but are not limited to the following activities:

a. Collaborate on the research plan;

b. Assist in the selection of subcontractors and project staff;

c. Review and approve critical stages of project development before subsequent stages may be started;

d. Provide assistance in the management or technical performance of the project;

e. Collaborate with the recipient in the development of materials associated with the funded project, as it relates to publication or presentation of the results and the distribution of the risk management tools to the public, any producer groups, RMA, and the FCIC Board of Directors;

f. Assist in the collection of data and information that may be available in RMA databases;

g. Collaborate with the recipient in the development of a proposal to administer, maintain and update the risk management tool in the future.

h. Similar type of activities.

B. Other Activities

In addition to the specific activities listed above, the applicant must develop a plan for the delivery of the risk management tool to producers and the ongoing maintenance and support of the risk management tool, including how the applicant will fund the delivery, support, maintenance and updating of the tool to maintain its applicability, benefits, usefulness, and value to producers. The applicant must also deliver the risk management tool to producers and support, maintain and update the tool as applicable. The applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify the objective of the activity, the specific tasks required to meet the objective, specific timelines for performing the tasks, and specific responsibilities of the partners. For any additional activity suggested, the applicant should identify specific ways in which RMA could or should have substantial involvement in that activity.

III. Eligibility Information

A. Eligible Applicants

Proposals are invited from qualified public and private entities. Eligible applicants include colleges and universities, Federal, State, and local agencies, Native American tribal organizations, non-profit and for-profit private organizations or corporations, and other entities. Individuals are not eligible applicants.

Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.* debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards).

B. Cost Sharing or Matching

Cost sharing, matching, in-kind contributions, or cost participation is not required.

C. Other

1. Applicants must demonstrate the usefulness of the proposed risk management tool and the benefits of the tool to producers of priority commodities. Applicants must include information supporting the need for the tool, such as a market analysis, or communications from producers or producer organizations expressing a need for the proposed tool. The proposal must also clearly define how the proposed tool will meet the needs of the producer groups identified. The second objective is that the proposed risk management tool meet specific identified needs of the producer and the proposed risk management tool be supported by the applicant without the need of resources from RMA. Refer to part V.B for the review and selection process.

2. If the project proposed for development requires ongoing maintenance, support and delivery to producers beyond the development stage, the applicant must submit a plan to continue the maintenance, support and delivery of the tool without relying on RMA's resources. If the applicant does not plan to directly support, maintain and deliver the tool using non-award funds after the development period funded by this award is completed, then the proposal should identify a third party sponsor who will

do so. For example, if a proposed tool would require constant updating of data and availability on a Web site in order to be utilized by producers, then a sponsor should be identified that would be able to provide the funds necessary to maintain and host the tool. Third party sponsors may include government agencies, grower organizations, industry organizations, private sector entities, etc. If the tool proposed does not require support, maintenance, updating or revisions to maintain applicability or value or does not require continued delivery to producers, the proposal should so state and provide the basis why such actions are not required. Refer to part V.B for the review and selection process.

3. Applicants must be able to demonstrate they will receive non-financial benefits as a result of the partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete educational programs). Refer to part V.A.2 for evaluation criteria.

IV. Application and Submission Information

A. Address To Request Application Package

Applicants may download an application package from the Risk Management Agency Web site at: *http://www.rma.usda.gov.* Applicants may also request an application package from: USDA, RMA/RED, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676, phone: (816) 926–6343, fax: (816) 926–7343, e-mail: *RMARED.Application@rma.usda.gov.*

Completed and signed application packages sent via the U.S. Postal Service must be sent to the same address. Applicants using the U.S. Postal Service should allow for extra security-processing time for mail delivered to government offices.

B. Content and Form of Application Submission

A complete and valid application package must include an original, twelve complete paper copies are requested, three copies are required, and one copy (Microsoft Word format preferred) of the application package on diskette or compact disc, and:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance''.

2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs''. Reviewers will need sufficient information to effectively evaluate the budget. Indirect cost for projects submitted in response to this solicitation are limited to 10 percent of the total direct cost of the agreement. A sample budget narrative, including suggestions for format and content, is available on the RMA Web site *(http://www.rma.usda.gov)* or upon request.

3. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-construction Programs''.

4. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''

5. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters (Primary Covered Transactions.'')

6. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.''

7. A statement of the non-financial benefits of any partnership agreement to the recipient. (Refer to Part II.B ''Non-financial Benefits'').

8. A completed Form R&D–1, ''Title Page and Proposal Summary.'' Each proposal must specify the single primary objective for evaluation and funding purposes. The same or similar proposals cannot be submitted multiple times with different primary objectives specified. If the same or similar proposals are submitted, the first received will be the only one evaluated.

9. A proposal narrative submitted with the application package should be limited to 10 single-sided pages. Reviewers will need sufficient information to effectively evaluate the application under the criteria contained in part V. A sample narrative, including suggestions for format and content, is available on the RMA Web site *(http://www.rma.usda.gov)* or upon request.

10. An appendix containing any attachments that may support information in the narrative (Optional).

11. A completed Form R&D–2, ''Statement of Work.''

Applicants are responsible for ensuring the application materials are received by the closing date. Incomplete application packages will not receive further consideration.

C. Submission Dates and Times

The closing date and time for receipt of an application is 5 p.m. CDT on July 5, 2005. Applications received after the deadline will not be evaluated by the technical review panel and will not be considered for funding.

D. Funding Restrictions

No maximum or minimum funding levels have been established for individual projects or for categories of objectives. The funding level by category of objective will be determined by FCIC. Indirect cost for projects submitted in response to this solicitation are limited to 10 percent of total direct cost of the agreement. Each project may be funded for a period of up to three years for the activities described in this announcement.

Partnership agreement funds may not be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

2. To purchase, rent, or install fixed equipment;

3. Repair or maintain privately owned vehicles;

4. Pay for the preparation of the partnership application;

5. Fund political activities;

6. Pay costs incurred prior to receiving this partnership agreement;

7. Fund any activities prohibited in 7 CFR parts 3015 and 3019, as applicable.

E. Other Submission Requirements

1. An original and twelve (12) paper copies are requested, three copies are required, of the complete and signed application, and one copy (Microsoft Word format preferred) on diskette or compact disc must be submitted in one package at the time of initial submission.

2. Applicants are encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt by the USDA. The applicable address for such submissions is: RMA/RED Partnership Agreement Program, USDA, RMA/RED, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676.

3. All applications must be submitted and received by the deadline. Applications that do not meet all of the requirements in this announcement are considered incomplete applications. Late or incomplete applications will not be considered in this competition and will be returned to the applicant.

4. Applications submitted through express, overnight mail or another delivery service will be considered as

meeting the announced deadline if they are received in the mailroom at the address stated above for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. The address must appear on the envelope or package containing the application with the note ''Attention: RMA/RED Partnership Application.''

Mailed applications will be considered meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated above for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants should be aware that there may be significant delays in delivery if applications are mailed using the U.S. Postal Service due to the additional security measures that mail delivered to government offices now require.

5. RMA cannot accommodate transmissions of applications by facsimile or through other electronic media. Therefore, applications transmitted electronically will not be accepted regardless of the date or time of submission or the time of receipt.

V. Application Review Information

A. Criteria

1. Research Objectives—Maximum 40 Points

The application must receive a minimum score of 24 points under this criterion in order to be considered for further evaluation and funding. Applications receiving less than 24 points will be eliminated and will not be evaluated under criteria 2 through 4.

The proposal must clearly define the development, management and implementation of a risk management tool designed to meet the needs of the producers outlined for at least one of the objectives listed in part I.D. Proposals that best meet the objective and are innovative, clear, concise, useful, easy to understand, and address multiple risks that result in the development of tools that provide an integrated or holistic approach to risk mitigation will be given the highest score. The proposal will be reviewed to determine if it is similar to a project that has been funded, has been recommended for funding, or is currently under development through other means.

2. Indication of RMA Involvement and Non-Financial Benefits—Maximum 10 Points

The proposal clearly indicates areas of substantial involvement by RMA and clearly indicates benefits derived from the partnership that extend beyond the financial benefits or funding of the research proposal. Those proposals that clearly outline the involvement of RMA in all aspects of the project and demonstrate non-financial benefit will receive the highest score. Examples of non-financial benefits would be the benefits derived by an educational institution by providing research opportunities to students or benefits derived through the furtherance of an organization's mission.

3. Research Approach, Methodology, Development and Implementation—Maximum 40 Points

The proposal clearly demonstrates a sound research approach and defines the methodology to be used as well as describes the development and implementation of the risk management tool. Proposals that demonstrate a clear, concise and generally accepted research methodology and innovative approach will receive the highest number of points.

4. Management—Maximum 10 Points

The proposal clearly demonstrates the applicant's ability and resources to coordinate and manage all aspects of the proposed research project. The applicant whose approach is the most cost effective and optimizes the use and effective application of the funding will receive the highest score.

B. Review and Selection Process

Each application will be evaluated using a five-part process. First, each application will be screened by RMA to ensure that each proposal specifies a single primary objective for evaluation and funding purposes and the proposal meets the objectives stated in part I.D. The same or similar proposals cannot be submitted multiple times with different primary objectives specified. If the same or similar proposals are submitted, the first received will be the only one evaluated. Applications that do not meet the objectives stated in part I.D and all other requirements in this announcement or are incomplete will not receive further consideration.

Second, the proposal must clearly demonstrate the usefulness of the tool and the benefits of the tool to producers of priority commodities and demonstrate that there is a reasonable expectation that the tool will actually be used by a substantial number of such producers. Any proposal that does not do this will not receive further consideration.

Third, the plan will be evaluated to ensure that the risk management tool can be delivered to producers and will be supported, maintained, updated or revised as necessary. Any proposal where the plan does not adequately address each of these issues will not receive further consideration. If the plan states that particular such actions are not necessary, the basis for such a determination will be evaluated and the proposal reviewed to determine if such determination is reasonable. If it is determined that any such actions are required and they are not contained in the plan, the proposal will not receive further consideration.

Fourth, all eligible applications will be evaluated using the criterion in part V.A.1. Applications must score at least 24 points under this criteria in order to be to be evaluated further.

Fifth, all applications scoring the required 24 points will be evaluated further under part V.A.2 through 4.

For the second, third steps, a review panel will consider all applications that are complete and meet the objectives in part I.D. and all other requirements in this announcement. If the panel determines that an application is eligible to be reviewed under steps four and five, the review panel will review the merits of the applications. The evaluation of each application will be conducted by a panel of not less than three independent reviewers. The panel will be comprised of representatives from USDA, other Federal agencies, and others representing public and private organizations, as needed. The narrative and any appendixes provided by each applicant will be used by the review panel to evaluate the merits of the project that is being proposed for funding.

The panel will examine and score applications based on the evaluation criteria and weights contained in part V.A.

In order to be considered for funding, a proposal must score at least 75 points.

For the last step, those applications meeting the minimum number of points will be listed in initial rank order by objective. The highest-ranking proposal for each objective will be funded in the order of priority (the highest ranking proposal meeting objective 1 will be funded first and the highest ranking proposal meeting objective 2 will be funded second, etc.). It is possible that funds could be exhausted before funding projects for every objective. If there are funds remaining, the process will be repeated until the funds are

obligated. The projects selected for funding will be presented, along with funding level recommendations, to the Manager of FCIC, who will make the final decision on awarding of a partnership agreement.

If the Manager of FCIC determines that any application is sufficiently similar to a project that has been funded or has been recommended to be funded under this announcement or any other research and development program, then the Manager may elect to not fund that application in whole or in part.

VI. Award Administration Information

A. Award Notices

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, each applicant is encouraged to provide an e-mail address in the application. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made.

When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should contact the Research and Development Division at (816) 926–6343.

B. Administrative and National Policy Requirements

1. Access to Panel Review Information

Upon written request, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

2. Notification of Partnership Agreement Awards and Notification of Non-Selection

Following approval of the applications selected for funding, notice of project approval and authority to draw down funds will be made to the selected applicants in writing. Within the limit of funds available for such purpose, the awarding official of RMA shall enter into partnership agreements with those applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement. The partnership agreement provides the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project.

The effective date of the partnership agreement shall be the date the agreement is executed by both parties. All funds provided to the applicant by FCIC must be expended solely for the purpose for which funds are obligated in accordance with the approved application and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied, as a result of any award made pursuant to this announcement.

Notification of denial of funding will be sent to applicants after final funding decisions have been made. Reasons for denial of funding can include incomplete proposals, proposals that did not meet the objectives, scored low or were duplicative.

3. Confidential Aspects of Proposals and Awards

When an application results in a partnership agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within the application, including the basis for such designation. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

4. Audit Requirements

Applicants awarded the partnership agreements are subject to audit.

5. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors (1) to certify that they have neither used nor will use any appropriated funds for payments of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or subcontractors will pay with profit or other nonappropriated funds on or after December 22, 1989; (3) to file quarterly updates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available from David Fulk at the above stated address and telephone number.

6. Applicable OMB Circulars

All partnership and cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

C. Reporting

Applicants awarded a partnership agreement will be required to submit quarterly progress and financial reports (SF–269) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

VII. Agency Contact

If applicants have any questions they may contact: USDA, RMA/RED, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676, or phone: (816) 926–6343, or fax: (816) 926–7343, or e-mail: *RMARED.Application@rma.usda.gov.*

VIII. Other Information

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However,

panelists will not be identified with the review of any particular application.

Signed in Washington, DC on May 3, 2005.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 05–9111 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Wildland Fire Foams

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on extending the information collection, Wildland Fire Foams.

DATES: Comments must be received in writing on or before July 5, 2005, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Victoria Henderson, Branch Director, National Interagency Fire Center, Equipment and Chemicals, State and Private Forestry, Forest Service, USDA, 3833 S. Development Avenue, Boise, Idaho 83705.

Comments also may be submitted via facsimile to (208) 387–5971 or e-mail to *thenderson@fs.fed.us.* Comments received may be viewed at: *http://www.fs.fed.us.fire/chemicals/comments.html.*

The public may inspect comments received at the Office of the Branch Director, National Interagency Fire Center (NIFC), Equipment and Chemicals, State and Private Forestry, Forest Service, USDA, Jack Wilson Building, 3833 S. Development Avenue, Boise, Idaho, Monday through Friday between 10 a.m. and 3 p.m. Visitors are encouraged to call ahead to (208) 387–5348 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Les Holsapple, Missoula Technology and Development Center (MTDC), at (406) 829–6761; Cecilia Johnson, MTDC, at (406) 329–4819; or Tory Henderson, National Interagency Fire Center, at (208) 387–5348. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service determined a need, ''To have available and utilize adequate types and quantities of qualified fire chemical products to accomplish fire management activities safely, efficiently, and effectively.'' (Forest Service Manual 5192.02). To accomplish this objective the Forest Service needs to evaluate and approve manufacturer's wildland fire foam products that may be used in direct wildland fire suppression operations prior to being used on lands managed by the Forest Service and its Federal cooperators.

Evaluation and qualification is based upon meeting the standards identified in the specifications maintained by staff at the Missoula Technology and Development Center. Specification taken from the ''List of Known and Suspected Carcinogens'' and the U.S. Environmental Protection Agency's ''List of Highly Hazardous Materials'' are utilized in the evaluation, qualification, and approval process.

Safe products will not include ingredients that create an enhanced risk in typical use to either the firefighters involved or the public in general. A risk analysis may be required to determine if any products or ingredients in wildland fire foam pose an increased health risk to humans. The effects are based upon acute toxicity determinations of the products and a review of lists of known and suspected carcinogens. The safety of the firefighters equipment, either ground-based or aircraft, such as uniform corrosion tests or intergrandular, is considered. Safety to the environment also is considered in terms of aquatic environments (fish and clean water) and terrestrial environments (wildlife and plants).

Risk determinations are undertaken to identify products which do not enhance risk to those environments in typical use. Toxicity determinations are done for acute toxicity concerns. Efficiency evaluations are based upon such items as (1) the range of mix ratios of concentrate products with water appropriate for storage and handling in typical wildland fire operations to provide products that are storable and/or can be kept available on fire equipment and (2) can be mixed and used with readily available equipment and facilities. Effectiveness tests for wildland fire foam products are based upon the products ability to reduce fire spread and intensity even after the water carrier has evaporated away.

The information is collected by manufacturers and submitted on two completed forms, the Confidential Disclosure Sheets and Technical Data Sheets. The manufacturers submit the completed forms to staff at the Missoula Technology and Development Center, located in Missoula, Montana. These forms are available electronically via e-mail or paper via surface mail. The manufacturers may submit the completed forms electronically or via surface mail to the Missoula Technology and Development Center.

The following describes the information collection to be extended:

Title: Wildland Fire Foams.

OMB Number: 0596–0183.

Expiration Date of Approval: 09/30/2005.

Type of Request: Extension.

Abstract: The collected information includes listings of specific individual ingredients and the quantity of these ingredients in the formulation of the products, identification of the specific sources of supply for each ingredient, and the specific mixing requirements.

If a risk analysis is necessary, the Forest Service will request the manufacturer send a copy of the product labeling. In these cases a third party (either contractor or other Federal agency) is utilized to assess the specific levels of products or ingredients expected to occur in typical applications relative to human and environmental health. Once the manufacturers (and/or their suppliers) have submitted their information and payment (approximately $15,000 to the USDA Forest Service and an additional approximate $15,000 to third party laboratories in accordance with Federal Acquisition Regulation 9.202(a)(2)(ii)) for analysis and evaluation, the Missoula Technology and Development Center staff will begin to test the safety, efficiency, and effectiveness of the wildland fire foam products.

The one-time collection of this information for each product submitted for evaluation is necessary (1) because it takes over a year to test the wildland fire foam products for safety, effectiveness and efficiency and (2) Forest Service needs to ensure the safety, effectiveness, and efficiency of wildland fire foam products prior to their use. If this information is not collected and foam fire suppressant products are not analyzed and evaluated on an on-going basis, the ability of the Forest Service to solicit and award wildland fire foam contracts in a timely manner would not be possible.

Estimate of Annual Burden: 2.8 hours.

Type of Respondents: Manufacturers (and their suppliers) of wildland fire foam products which suppress combustion of wildland fires and which

may meet the requirements of the appropriate USDA FS Specification that may be viewed at *http://www.fs.fed.us/rm/fire/wildland_chemicals.htm.*

Estimated Annual Number of Respondents: 5.

Estimated Annual Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 28 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 29, 2005.

Robin L. Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 05–9049 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Long-Term Fire Retardants

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on extending the information collection, Long-Term Fire Retardants.

DATES: Comments must be received in writing on or before July 5, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Victoria Henderson, Branch Director, National Interagency Fire Center, Equipment and Chemicals, State and Private Forestry, Forest Service, USDA, 3833 S. Development Avenue, Boise, Idaho 83705.

Comments also may be submitted via facsimile to (208) 387–5971 or by e-mail to: *thenderson@fs.fed.us.* They may be viewed at: *http://www.fs.fed.us.fire/chemicals/comments.html.*

The public may inspect comments received at the Office of the Branch Director, National Interagency Fire Center, Equipment and Chemicals, State and Private Forestry, Forest Service, USDA, Jack Wilson Building, 3833 S. Development Avenue, Boise, Idaho, Monday through Friday between 10 a.m. and 3 p.m. Visitors are encouraged to call ahead to (208) 387–5348 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Les Holsapple, Missoula Technology and Development Center (MTDC), at (406) 829–6761, Cecilia Johnson, MTDC, at (406) 329–4819, or Tory Henderson, National Interagency Fire Center, at (208) 387–5348.

SUPPLEMENTARY INFORMATION

Background

The Forest Service determined a need, ''To have available and utilize adequate types and quantities of qualified fire chemical products to accomplish fire management activities safely, efficiently, and effectively.'' (Forest Service Manual 5192.02). To accomplish this objective the Forest Service needs to evaluate and approve manufacturer's long-term fire retardant products that may be used in direct wildland fire suppression operations prior to being used on lands managed by the Forest Service and its Federal cooperators.

Evaluation and qualification is based upon meeting the standards identified in the specifications maintained by staff at the Missoula Technology and Development Center. Specifications taken from the ''List of Known and Suspected Carcinogens'' and the U.S. Environmental Protection Agency's ''List of Highly Hazardous Materials'' are utilized in the evaluation, qualification, and approval process.

Safe products will not include ingredients that create an enhanced risk in typical use to either the firefighters involved or the public in general. A risk analysis may be required to determine if any products or ingredients in Long-term Fire Retardants pose an increased health risk to humans. The effects are based upon acute toxicity determinations of the products and a review of lists of known and suspected carcinogens. The safety of the firefighters equipment, either ground-based or aircraft, such as uniform corrosion tests or intergrandular, is considered. Safety to the environment also is considered in terms of aquatic environments (fish and clean water) and terrestrial environments (wildlife and plants).

Risk determinations are undertaken to identify products, which do not enhance risk to those environments in typical use. Toxicity determinations are done for acute toxicity concerns. Efficiency evaluations are based upon such items as (1) the range of mix ratios of concentrate products with water appropriate for storage and handling in typical wildland fire operations to provide products that are storable and/or can be kept available on fire equipment and (2) can be mixed and used with readily available equipment and facilities. Effectiveness tests for these products are based upon those products ability to reduce fire spread and intensity even after the water carrier has evaporated away.

The information is collected by manufacturers and submitted on two completed forms, the Confidential Disclosure Sheets and Technical Data Sheets. The manufacturers submit the completed forms to staff at the Missoula Technology and Development Center, located in Missoula, Montana. These forms are available electronically via e-mail or paper via surface mail. The manufacturers may submit forms electronically or via surface mail to the Missoula Technology and Development Center.

The following describes the information collection to be extended:

Title: Long-Term Fire Retardants.

OMB Number: 0596–0184.

Expiration Date of Approval: 09/30/2005.

Type of Request: Extension.

Abstract: The collected information includes listings of specific individual ingredients and the quantity of these ingredients in the formulation of the products, identification of the specific sources of supply for each ingredient, and the specific mixing and hydration requirements of gum-thickened retardants.

If a risk analysis is needed, the Forest Service will request the manufacturer send a copy of the product labeling. In these cases a third party (either contractor or other Federal agency) is utilized to assess the specific levels of products or ingredients expected to occur in typical applications relative to human and environmental health. Once the manufacturers (and/or their

suppliers) have submitted their information and payment (approximately $15,000 to the USDA Forest Service and an additional approximate $15,000 to third party laboratories in accordance with Federal Acquisition Regulation 9.202(a)(2)(ii)) for the analysis and evaluation, the Missoula Technology and Development Center staff will begin to test the safety, efficiency, and effectiveness of the long-term fire retardant products.

The one-time collection of this information for each product submitted for evaluation is necessary (1) because it takes over a year to test the long-term fire retardant products for safety, efficiency, and effectiveness and (2) the need to ensure the safety, effectiveness, and efficiency of long-term fire retardant products prior to their use. If this information is not collected and long-term fire retardant products are not analyzed and evaluated on an on-going basis, the ability of the Forest Service to solicit and award long-term fire retardant fire contracts in a timely manner would not be possible.

Estimate of Annual Burden: 3.6 hours.

Type of Respondents: Manufacturers (and their suppliers) of long-term fire retardant products which suppress and retard combustion of wildland fires and which may meet the requirements of the appropriate USDA FS Specification that may be viewed at: *http://www.fs.fed.us/rm/fire/wildland_chemical.htm.*

Estimated Annual Number of Respondents: 3.

Estimated Annual Number of Responses per Respondent: 6.

Estimated Total Annual Burden on Respondents: 65.5 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 29, 2005.

Robin L. Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 05–9050 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Water Enhancers

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of the information collection, Water Enhancers.

DATES: Comments must be received in writing on or before July 6, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Victoria Henderson, Branch Director, National Interagency Fire Center, Equipment and Chemicals, State and Private Forestry, Forest Service, USDA, 3833 S. Development Avenue, Boise, Idaho 83705.

Comments also may be submitted via facsimile to (208) 387–5971 or by e-mail to *thenderson@fs.fed.us.* Comments received may be viewed at: *http://www.fs.fed.us.fire/chemicals/comments.html.*

The public also may inspect comments received at the Office of the Branch Director, National Interagency Fire Center (NIFC), Equipment and Chemicals, State and Private Forestry, Forest Service, USDA, Jack Wilson Building, 3833 S. Development Avenue, Boise, Idaho, Monday through Friday between 10 a.m. and 3 p.m. Visitors are encouraged to call ahead to (208) 387–5348 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Les Holsapple, Missoula Technology and Development Center (MTDC), at (406) 829–6761, Cecilia Johnson, MTDC, at (406) 329–4819, or Tory Henderson, National Interagency Fire Center, at (208) 387–5348. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service determined a need, ''To have available and utilize adequate types and quantities of qualified fire chemical products to accomplish fire management activities safely, efficiently, and effectively.'' (Forest Service Manual 5192.02). To accomplish this objective Forest Service personnel need to evaluate and approve manufacturer's water enhancer products that may be used in direct wildland fire suppression operations prior to being used on lands managed by the Forest Service and its Federal cooperators.

Evaluation, qualification, and approval are based upon meeting the standards identified in the specifications maintained by staff at the Missoula Technology and Development Center. Specifications, taken from the ''List of Known and Suspected Carcinogens'' and the U.S. Environmental Protection Agency's ''List of Highly Hazardous Materials,'' are utilized in the evaluation, qualification, and approval process.

Safe products will not include ingredients that create an enhanced risk in typical use to either the firefighters involved or the public in general. A risk analysis may be required to determine if any products or ingredients in water enhancers pose an increased health risk to humans. The effects are based upon acute toxicity determinations of the products and a review of lists of known and suspected carcinogens. The safety of the firefighters equipment, either ground-based or aircraft, such as uniform corrosion tests or intergrandular, is considered. Safety to the environment also is considered in terms of aquatic environments (fish and clean water) and terrestrial environments (wildlife and plants).

Risk determinations are undertaken to identify products, which do not enhance risk to those environments in typical use. Toxicity determinations are done for acute toxicity concerns. Efficiency is evaluated based upon such items as (1) the range of mix ratios of concentrate products with water appropriate for storage and handling in typical wildland fire operations to provide products that are storable and/or can be kept available on fire equipment and (2) can be mixed and used with readily available equipment and facilities. Effectiveness tests for water enhancer products are based upon the products ability to reduce fire spread and intensity, even after the water carrier has evaporated away.

The information will be collected by manufacturers and submitted on two

completed forms, the Confidential Disclosure Sheets and Technical Data Sheets. The manufacturers will submit the completed forms to staff at the Missoula Technology and Development Center located in Missoula, Montana. These forms are available electronically via e-mail or paper via surface mail. The manufacturers may submit the completed forms to the Missoula Technology and Development Center electronically or via surface mail.

The following describes the information to be extended:

OMB Number: 0596–0182.

Expiration Date of Approval: 09/30/2005.

Type of Request: Extension.

Abstract: The collected information will include listings of specific individual ingredients and the quantities of the ingredients in the formulation of the products, identification of specific sources of supply for each ingredient, and the specific mixing and hydration requirements of gum-thickened products.

If a risk analysis is necessary, Forest Service personnel will request that the manufacturer send a copy of the product labeling. When a risk analysis is necessary, a third party (either contractor or Federal agency) is utilized to assess the specific levels of products or ingredients expected to occur in typical application relative to human and environmental health. Once the manufacturers (and/or their suppliers) have submitted their information and payment (approximately $15,000 to the USDA Forest Service and an additional approximate $15,000 to third party laboratories in accordance with Federal Acquisition Regulation 9.0202(1)(2)(ii)) for the analysis and evaluation, the Missoula Technology and Development Center staff will begin to test the safety, efficiency, and effectiveness of the water enhancer products.

The one-time collection of this information for each product submitted for evaluation is necessary (1) because it takes over a year to test the water enhancer products and perform the analysis and evaluation of the products and (2) the Forest Service needs to ensure the safety, effectiveness, and efficiency of water enhancer products prior to their use. If this information is not collected and water enhancer products are not analyzed and evaluated on an on-going basis, our ability to solicit and award water enhancer contracts in a timely manner would not be possible.

Estimate of Annual Burden: 5.75 hours.

Type of Respondents: Manufacturers (and their suppliers) of water enhancer products which suppress or retard combustion of wildland fires and which may meet the requirements of the appropriate USDA FS Specification that may be viewed at *http://www.fs.fed.us/rm/fire/wildland_chemicals.htm.*

Estimated Annual Number of Respondents: 3.

Estimated Annual Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 34.5 hours.

Comment is invited on (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for the Office of Management and Budget approval.

Dated: April 28, 2005.

Robin L. Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 05–9051 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northeast Oregon Forests Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463), the Northeast Oregon Forests Resource Advisory Committee (RAC) will meet on June 2–3, 2005, in Pendleton, Oregon. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payment to States'' Act and tour Title II project sites on the Umatilla National Forest.

DATES: The meeting will be held on June 2, 2005, from 8 a.m. to 5 p.m. and June 3, 2005, from 8 a.m. until 3 p.m.

ADDRESSES: The June 2, 2005, meeting will be held at the Oxford Inn and Suites Motel conference room, located at 2400 SW Court Place, Pendelton, Oregon. The June 3, 2005, Title II project tour will start at 8 a.m., Oxford Inn and Suites Motel, located at 2400 SW Court Place, Pendleton, Oregon and proceed through the Umatilla National Forest.

FOR FURTHER INFORMATION CONTACT: Jennifer Harris, Designated Federal Official, USDA, Malheur National Forest, P.O. Box 909, John Day, Oregon 97845. Phone: (541) 575–3000.

SUPPLEMENTARY INFORMATION: At the June 2 meeting the RAC will review and recommend FY 2006 Title II project proposals and receive an update on how previous fiscal year projects are progressing. A public comment period will be provided at 1 p.m. and individuals will have the opportunity to address the committee at that time. On June 3 the committee will tour the Umatilla National Forest and review completed Title II projects.

Dated: April 25, 2005.

Jennifer L. Harris,

Designated Federal Official.

[FR Doc. 05–9027 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–DK–M

DEPARTMENT OF AGRICULTURE

Forest Service

Okanogan and Wenatchee National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of alternate meeting date.

SUMMARY: The Okanogan and Wenatchee National Forests Resource Advisory Committee will meet on Wednesday, May 18, 2005, at the Okanogan and Wenatchee National Forests Headquarters office, 215 Melody Lane, Wenatchee, Washington. The meeting will begin a 9 a.m. and continue until 3 p.m. Committee members will review Kittitas County and Yakima County projects proposed for Resource Advisory Committee consideration under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000. All Okanogan and Wenatchee National Forests Resource Advisory Committee

meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, (509) 664–9200.

Dated: May 2, 2005.

James L. Boynton,

Forest Supervisor Okanogan and Wenatchee National Forests.

[FR Doc. 05–9061 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: June 5, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions. If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Accustamp.
7510–01–207–3959—Refill Ink (Blue);
7510–01–207–3960—Refill Ink (Blue);
7510–01–207–3961—Refill Ink (Black);
7520–01–207–4118—Top Secret (Red);
7520–01–207–4150—C.O.D. (Red);
7520–01–207–4151—2000 plus 6 band number Stamp S–226;
7520–01–207–4188—2000 plus R40 time stamp 12 hours—(Blue & Red);
7520–01–207–4190—Stamper 2000 6 Stamp Tray;
7520–01–207–4194—Copy (Blue);
7520–01–207–4196—Approved (Blue);
7520–01–207–4202—Entered (Blue);
7520–01–207–4204—Priority (Red);
7520–01–207–4205—Expedite (Red);
7520–01–207–4206—Special (Red);
7520–01–207–4207—Posted (Red);
7520–01–207–4209—File (Red);
7520–01–207–4211—Draft (Black);
7520–01–207–4212—Copy for your Information (Red);
7520–01–207–4213—Official (Red);
7520–01–207–4216—Urgent (Red);
7520–01–207–4222—Original (Blue);
7520–01–207–4228—Cancelled (Blue);
7520–01–207–4231—Received (Red);
7520–01–207–4242—Unclassified (Red).
NPA: The Arbor School, Houston, Texas.
Contracting Activity: GSA/Office Supplies & Paper Products Acquisition Center, New York, New York.

Services

Service Type/Location: Administrative Services, Anniston Army Depot, 7 Frankford Avenue, Bldg 221, Anniston, Alabama.
NPA: Opportunity Center Easter Seal Rehabilitation Facility, Anniston, Alabama.
Contracting Activity: Directorate of Contracting—Anniston Army Depot, Anniston, Alabama.
Service Type/Location: Custodial Services, VA Consolidated Mail Outpatient Pharmacy (VA MOP), 2962 South Longhorn Drive, Lancaster, Texas.
NPA: On Our Own Services, Inc., Houston, Texas.
Contracting Activity: VA—Medical Center—Dallas, Dallas, Texas.
Service Type/Location: Custodial Services, Veterans Primary Care Center, Sarasota, Florida.
NPA: Abilities, Inc. of Florida, Clearwater, Florida.
Contracting Activity: VISN 8, Sunshine Network, Bay Pines, Florida.
Service Type/Location: Grounds Maintenance, Basewide, Schriever AFB, Colorado.
NPA: Professional Contract Services, Inc., Austin, Texas.
Contracting Activity: USAF, 50 CONS/LGC, Schriever AFB, Colorado.

G. John Heyer,

General Counsel.

[FR Doc. 05–9102 Filed 5–5–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 5, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION: On March 11, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 12179) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the

products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Net, Cargo, Tiedown
1670–00–969–4103—Top Net
1670–00–996–2780—Side Net
NPA: TAC Industries, Inc., Springfield, Ohio.
Contracting Activity: Support Equipment & Vehicle Contracting Division, Robins AFB, Georgia.

Services

Service Type/Location: Custodial & Grounds Maintenance, Richard L. Roudebush VA Medical Center (At the following Locations), Basement, 2nd Floor, Outbuildings, Parking Garage 1481 W. Tenth Street, Indianapolis, Indiana, and Building 7, 2669 Cold Springs Road, Indianapolis, Indiana.
NPA: GW Commercial Services, Inc., Indianapolis, Indiana.
Contracting Activity: VA Medical Center, Indianapolis, Indiana.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

G. John Heyer,

General Counsel.

[FR Doc. 05–9103 Filed 5–5–05; 8:45 am]

BILLING CODE 6353–01–P

BROADCASTING BOARD OF GOVERNORS

Meetings; Sunshine Act

DATE AND TIME: May 10, 2005, 1 p.m.–5:45 p.m.

PLACE: Cohen Building, 330 Independence Avenue, SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 203–4545.

Dated: May 3, 2005.

Carol Booker,

Legal Counsel.

[FR Doc. 05–9207 Filed 5–4–05; 1:02 pm]

BILLING CODE 8230–01–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Public Hearing: Combustible Dust Hazards

AGENCY: U.S. Chemical Safety and Hazard Investigation Board (CSB).

ACTION: Notice announcing Sunshine Act public hearing and requesting public comment and participation.

SUMMARY: The CSB is planning to hold a public hearing to solicit public input on its investigation of combustible dust hazards. This notice provides information regarding the CSB investigation, a request for comments on specific issues raised by the investigation, and the date, time, location and format for the public hearing.

DATES: The Public Hearing will be held on Wednesday, June 22, 2005, beginning at 8:30 a.m. at the Horizon Ballroom, Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. Meeting will end at 4:30 p.m.

Pre-registration: The event is open to the public and there is no fee for attendance. However, attendees are strongly encouraged to pre-register, to ensure adequate seating arrangements. Seating is limited to 90; those planning on attending are strongly urged to pre-register early. To pre-register, please e-mail your name and affiliation by June 10, 2005, to *dust@csb.gov*.

Written Comments: The public is encouraged to submit written comments. Individuals, organizations, businesses, or local, State or Federal government agencies may submit written comments on the questions to be addressed at the Public Hearing. Such comments must be filed on or before August 1, 2005. For further instructions on submitting comments, please see the ''Form and Availability of Comments'' section below.

Verbal Comments: The public is encouraged to present verbal comments at the Public Hearing. Those wishing to make verbal comments should pre-register by June 10th. To pre-register, send your name and a brief outline of your comments to the person listed in **ADDRESSES.** Verbal comments must be limited to 5 minutes.

ADDRESSES: Written comments and requests to provide oral comments at the Public Hearing should be submitted to: Ms. Angela S. Blair, P.E., U.S. Chemical Safety and Hazard Investigation Board, 2175 K Street, NW., Suite 400, Washington, DC 20037. Alternatively, they may be e-mailed to *dust@csb.gov.*

FOR FURTHER INFORMATION CONTACT: Angela Blair, Office of Investigations and Safety Programs, 202.261.3607 or e-mail at: *dust@csb.gov.* Detailed information on the hearing agenda and panelists will be posted soon at *http://www.csb.gov.*

SUPPLEMENTARY INFORMATION:

A. Introduction

In 2003, the CSB investigated three accidents involving combustible dust

explosions. The CSB found that issues related to hazard awareness, regulatory oversight, and effectiveness of fire code enforcement were common to these three accidents. CSB's preliminary data indicate that a significant number of combustible dust fires and explosions have occurred in industry in the last twenty-five years. The data will be presented at the hearing. Additionally, individuals knowledgeable about dust explosion hazards will present information to the Board and respond to Board questions. Following these presentations there will be an opportunity for public comment.

B. Background

In 2003 the CSB investigated 3 combustible dust explosions. A total of 14 individuals were killed and 81 injured in these events. In January 2003, an explosion and fire at the West Pharmaceutical Services facility in Kinston, North Carolina resulted in the deaths of six workers and injuries to 38 others. CSB investigated this accident and concluded that the explosion was the result of the deflagration of polyethylene powder that had accumulated above a suspended ceiling in the processing area of the facility.

In February 2003, a combustible dust explosion occurred at the CTA Acoustics facility in Corbin, Kentucky, killing 7 workers and injuring 37. CSB found that the fuel for the explosion was phenolic resin used to produce insulation materials for the automotive industry. The explosion began near a curing oven, where routine cleaning lofted accumulated resin dust that was ignited by fire in an oven on which the doors were left open. Numerous secondary deflagrations caused damage and injuries throughout the facility.

In October 2003, one worker was killed and six others injured when an aluminum dust explosion occurred at Hayes Lemmerz International in Huntington, Indiana. The report of CSB's investigation into this accident is expected to be approved by the Board soon.

The occurrence of three fatal combustible dust explosions within one calendar year prompted the Board to commence a broader study of the extent, nature and prevention of combustible dust fire and explosion hazards.

C. CSB Hazard Investigation

The objectives of CSB's investigation include:

1. Determining the number and effects of combustible dust fires and explosions in the United States during the twenty-five-year period beginning in 1980. CSB is excluding the following types of incidents for the purposes of this study:

(a) Those occurring in grain-handling or other facilities that are currently regulated by OSHA's grain handling standard.

(b) Those occurring in coal mines or other facilities covered by MSHA regulations. Incidents involving coal dust at power generation plants and other facilities not covered by MSHA regulations are not excluded.

(c) Incidents occurring in non-manufacturing facilities such as hospitals, military installations and research institutes.

(d) Incidents involving transportation or transportation vehicles.

(e) Incidents occurring outside the United States or U.S. territories.

2. Evaluating the extent and effectiveness of efforts by state and local officials to prevent combustible dust fires and explosions.

3. Evaluating the effectiveness of existing hazard communication programs and regulations in making facility managers and workers aware of the fire and explosion hazards of combustible dusts.

4. Determining what additional state, federal or private sector activities may be necessary to prevent future combustible dust fires and explosions.

D. Request for Comments

CSB solicits written or verbal comments on the following issues. The public hearing will address a selection of these issues, pending level of public interest and available time.

1. The CSB is currently researching and cataloging combustible dust incidents that have occurred in the United States since 1980. This survey has identified nearly 200 combustible dust incidents involving approximately 100 fatalities and 600 injuries. The sources of data include: the Occupational Safety and Health Administration (OSHA) incident database; the Institute of Chemical Engineers (ICHEME) accident base; Lexis/Nexus; and the National Fire Protection Association (NFPA). The CSB will consult other data resources as the research continues.

a. Are there other sources of data on combustible dust incidents that may not have been captured in these databases?

b. Regarding any specific combustible dust incident(s) that you are aware of, were the causes of the incident(s) determined? If yes, what were they?

c. Are you aware of any materials or conditions that have contributed to the causation of major combustible dust incidents that may not have been identified in the technical literature or addressed in existing codes or guidelines?

2. A preliminary survey by the CSB has found that approximately 25% of identified incidents occur in the plastics, pharmaceuticals, paints and other industries addressed within the scope of NFPA 654 (*Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids*), approximately 23% each in metal and wood industries, and 20% in the food (excluding grain handling) industry, with 10% involving coal dust (not including mines).

a. Should the CSB investigation examine only those industries within the scope of NFPA 654, or also address combustible dust hazards in metal, food, coal (other than mining) and wood industries?

b. To what extent do the problems described below (lack of awareness, poor enforcement of existing codes, etc.) exist in each of these industries?

c. Are there significant differences in the causes or the means of preventing explosions in industries handling combustible plastic, metal, wood, food, coal or other dusts?

3. Both the NFPA and the International Code Council (ICC) have developed codes that address combustible dust hazards.

a. What are the strengths and weaknesses of the NFPA and ICC standards for combustible dust?

b. Are changes necessary in any of these standards to better prevent combustible dust fires and explosions?

4. In two investigations, the CSB found that Material Safety Data Sheets (MSDSs) for materials that may form combustible dusts did not adequately communicate explosion hazards. In addition, many MSDSs do not communicate the potential hazards of materials that may generate combustible dust as a result or byproduct of processing.

a. Does OSHA's Hazard Communication Standard clearly address combustible dust hazards?

b. Should OSHA provide better guidance on how combustible dust hazards should be addressed under the Hazard Communication Standard?

c. How effective are current MSDSs in communicating combustible dust hazard warnings?

d. Are there examples of MSDSs that communicate these hazards better than others?

e. What can be done to improve the ability of MSDSs to communicate more effectively the hazards of combustible dusts and information on how to control those hazards?

f. Are there other written materials that more effectively communicate the hazards of combustible dusts to downstream users?

g. How effective is hazard labeling in communicating the hazards of combustible dusts?

5. Is additional research needed to resolve any technical issues or barriers, or issues around which no industry consensus has been reached in order to better control or prevent combustible dust explosions?

6. How do states address combustible dust hazards?

a. Do most states cover combustible dust hazard in some manner under their fire codes?

b. Do some states have occupational safety standards that address combustible dust hazards?

c. Are there examples of state occupational safety programs that have used the General Duty Clause to address combustible dust hazards?

d. Are there other examples that show how state governments have effectively addressed combustible dust hazards?

7. The CSB has found that the primary regulatory mechanism for controlling or eliminating combustible dust hazards is enforcement of fire codes by local fire code officials. CSB found that awareness of combustible dust hazards among local fire code officials in several states is generally low.

a. What are the barriers to enforcement of fire codes?

b. Is the establishment and enforcement of state building and fire codes effective in preventing combustible dust incidents?

c. Are there examples of states where there is effective enforcement of fire codes addressing combustible dust hazards?

8. CSB has found that some facilities that have experienced serious dust explosions had been inspected by their insurers, but that these inspections had not identified combustible dust hazards.

a. Do/should insurers play a role in preventing dust explosions?

b. Are there barriers inherent in the structure of the insurance industry that prevent the industry from effectively addressing dust hazards?

c. What can be done to encourage the insurance industry to address these hazards more effectively?

d. What training, inspection protocols and educational curricula are available to risk insurance inspectors?

9. CSB has found that awareness about combustible dust hazards throughout industry, including occupational health and safety professionals, is generally low.

a. What forms and methods of outreach, training, education guidelines or regulations have been successful in raising awareness of combustible dust hazards and explosion prevention among safety professionals, facility owners, managers and workers?

b. How can local and national safety or fire officials identify, target and reach at-risk industrial establishments with preventive information?

10. Are there model programs for managing combustible dust hazards in industry?

a. Are there examples of effective combustible dust safety training programs?

b. Are there examples of effective products (brochures, guidelines, alerts, training material, etc.) or campaigns that have successfully communicated preventive information about dust explosions to different affected sectors?

c. Is there a means to make these programs available across the affected industries?

11. Is there a role for the federal government in preventing combustible dust explosions?

a. Is the OSHA Grain Handling Facilities standard (CFR 1910.272) a model for a general industry combustible dust standard?

b. Do data exist to evaluate how the number and severity of combustible dust incidents in the grain industry have been affected by the OSHA Grain Handling Facilities standard?

c. Would an OSHA standard addressing combustible dust hazards be effective in preventing explosions?

d. Are there other federal government agencies that could play a role in issuing regulations or raising awareness?

F. Form and Availability of Comments

Comments should address any of the questions listed above. CSB will accept verbal comments at the public hearing. Verbal comments must be limited to 5 minutes. Those wishing to make verbal comments should pre-register by June 10th. To pre-register, send your name and a brief outline of your comments to the person listed in **ADDRESSES.**

The CSB requests that interested parties submit written comments on the above questions to facilitate greater understanding of the issues. Of particular interest are any studies, surveys, research, and empirical data. Comments should indicate the number(s) of the specific question(s) being answered, provide responses to questions in numerical order, and use a separate page for each question answered. Comments should be captioned ''Combustible Dust Hazard Study—Comments,'' and must be filed on or before August 1, 2005.

Parties sending written comments should submit an original and two copies of each document. To enable prompt review and public access, paper submissions should include a version on CD–ROM in PDF, ASCII, WordPerfect, or Microsoft Word format. Diskettes should be labeled with the name of the party, and the name and version of the word processing program used to create the document. Alternatively, comments may be e-mailed to dust@csb.gov. Written comments will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and CSB regulations. This notice and all comments will be posted on the CSB Web site: *http://www.csb.gov*.

G. Registration Information

The Public Hearing will be open to the public, and there is no fee for attendance. As discussed above, pre-registration is strongly encouraged, as seating may be limited. To pre-register, please e-mail your name and affiliation to *dust@csb.gov* by June 10, 2005. A detailed agenda and additional information on the hearing will be posted on the CSB's Web site at *http://www.csb.gov*.

H. Sunshine Act Notice

The United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning on Wednesday June 22, 2005, beginning at 8:30 a.m. at the Horizon Ballroom, Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. Topics will include: CSB's investigation into combustible dust hazards. The meeting will be open to the public and will end at 4:30 p.m. Please notify CSB 10 business days prior to the public meeting if a translator or interpreter is needed. For more information, please contact: Dr. Daniel Horowitz, CSB Director of Congressional, Public, and Board Affairs at (202) 261–7613/(202) 441–6074 cell or Sandy Gilmour Communications, (202) 261–7614 or (202) 251–5496 cell, or visit our Web site at: *http://www.csb.gov*.

Christopher W. Warner,

General Counsel.

[FR Doc. 05–9238 Filed 5–4–05; 2:30 pm]

BILLING CODE 6350–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 12 p.m. (c.d.t.) and adjourn at 1 p.m. (c.d.t.), on Thursday, May 12, 2005. The purpose of the conference call is to provide orientation for new committee members, discuss status of commission and regional programs, and discuss current status of regional project: Confronting Discrimination in Reservation Border Town Communities.

This conference call is available to the public through the following call-in number: 1–800–473–8694; call-in ID#: 409–01828. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting John F. Dulles, Rocky Mountain Regional Office, (303) 866–1040 (TDD 303–866–1049), by 3 p.m. (m.d.t.) on Monday, May 9, 2005.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 28, 2005.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 05–9014 Filed 5–5–05; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 04–BIS–10]

In the Matter of: Petrochemical Commercial Co. Ltd., NIOC House, 4 Victoria Street, London, UK SW1H One, Respondent; Decision and Order

On March 31, 2004, the Bureau of Industry and Security (''BIS'') filed a charging letter against the respondent, Petrochemical Commercial Co. (UK) Ltd. (''PCC''), that alleged one violation of Section 764.2(b) of the Export Administration Regulations (Regulations),[1] which were issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (''Act'').[2]

Specifically, the charging letter alleged that on or about August 28, 2002, PCC, a British company, forwarded a bid by Chemical Industries Consolidated b.v. (''CIC''), of the Netherlands, for gas compression spare parts (''compressor parts'') to be exported from the United States to Tabriz Petrochemical Company in Iran (''Tabriz''). CIC was attempting to arrange for the export of the items from the United States to Iran without authorization from the U.S. Department of Treasury's Office of Foreign Assets Control (''OFAC'') as required by § 746.7 of the Regulations. The compressor parts are items subject both to the Regulations and the Iranian Transactions Regulations administered by OFAC. In forwarding the bid, BIS charged that PCC aided the solicitation of that attempted export to Tabriz in violation of the Regulations, thereby committing one violation of Section 746.2(b) of the Regulations.

On May 3, 2004, PCC filed a Statement of Answer (''Answer'') denying the formal charge. As ordered by the Administrative Law Judge (''ALJ''), on November 8, 2004, BIS filed a Memorandum and Submission of Evidence to Supplement the Record and, on January 18, 2005, it filed a Memorandum of Proposed Findings of Fact and Conclusions of Law. PCC did not submit any further filings to the ALJ.

Based on the record before it, on March 30, 2005, the ALJ issued a Recommended Decision and Order in which he found that PCC committed the violation described above. First, based on uncontested evidence, the ALJ determined that CIC solicited certain compressor parts for export to Tabriz in Iran in violation of the Regulations. On July 15, 2002, CIC faxed a request for bid for the compressor parts to a company in the United States, and subsequently indicated to the U.S. company that the items were destined for Iran. A CIC representative was eventually arrested and pled guilty to a violation of IEEPA for his attempt to export the compressor parts to Iran in violation of the U.S. embargo on that country. Second, also based on uncontested evidence, the ALJ determined that PCC assisted in CIC's solicitation of the spare compressor parts. On or about July 11, 2002, PCC originated the transaction at issue by forwarding a request from Tabriz to CIC seeking quotations for space parts associated with certain ''Joy compressors.'' By letter dated August 27, 2002, CIC provided PCC with price quotations for the requested parts, indicating that the parts were of U.S.-origin. On August 28, PCC forwarded the quotations to Tabriz, which subsequently confirmed the transaction with PCC by facsimile. PCC stated during the underlying administrative proceeding that it was fully aware of the U.S. embargo on trade with Iran and also knew that the U.S. Government had not authorized the export of the space parts in question. In light of these facts, the ALJ held that PCC committed one violation of Section 764.2(b) of the Regulations. He also recommended the penalty proposed by BIS—denial of PCC's export privileges for three years.

Pursuant to § 766.22 of the Regulations, the ALJ's Recommended Decision and Order has been referred to me for final action. Based on my review of the entire record, I find that the record supports the ALJ's findings of fact and conclusions of law regarding the above-referenced charge. I also find that the penalty recommended by the ALJ is appropriate give the nature of the violation and the importance of preventing future unauthorized exports to Iran, a country against which the United States maintains an economic embargo because of its support for international terrorism. In light of these circumstances, I affirm the findings of fact and conclusions of law of the ALJ's Recommended Decision and Order.

It is hereby ordered,

First, that, for a period of three years from the date on which this Order takes effect, Petrochemical Commercial Company (UK) Ltd. (''PCC''), NIOC House, 4 Victoria Street, London, UK SW1H One, and all of its successors or

[1] The violation charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 CFR Parts 730–774 (2002)). The 2005 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (IEEPA). On November 13, 2000, the Act was reauthorized by Pub. L. 106–508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 FR 48763, August 10, 2004), continues the Regulations in effect under IEEPA.

assigns, and when acting for or on behalf of PCC, its officers, representatives, agents, and employees (individually referred to as ''a Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but no limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in connection with any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations:

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession, or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition form a Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed, or controlled by a Denied Person, or service any item, or whatever origin, that is owned, possessed, or controlled by a Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, ''servicing'' means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to a Denied Persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register.** In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Dated: May 2, 2005.

Peter Liehtenbaum,

Acting Under Secretary of Commerce for Industry and Security.

Recommended Decision and Order

Before:

Honorable Walter J. Brudzinski
Administrative Law Judge
United States Coast Guard

Appearances:

For the Bureau of Industry and Security

Philip K. Ankel, Esq.
Office of Chief Counsel
Bureau of Industry and Security

For the Respondent

Petrochemical Commercial Co., Ltd.
Managing Director: Mr. M. Beirami
Pro se

Preliminary Statement

On March 31, 2004, the Bureau of Industry and Security (''BIS'' or ''Agency'') filed a formal Complaint against Petrochemical Commercial Co., Ltd., (''Petrochemical'' or ''Respondent'') charging one count of violation of the Export Administration Regulations (''EAR'') under 15 CFR 764.2(b). The Charging Letter asserts that on or about August 28, 2002, Petrochemical forwarded a bid for Chemical Industries Consolidated, b.v. (''CIC'') for the unauthorized procurement of gas compressor parts that are subject to the EAR concerning exports from the United States to the Islamic Republic of Iran (''Iran''). In so doing, Petrochemical aided or abetted in the solicitation of an unauthorized export in violation of the Export Administration Act of 1979 (''EAA'') and the Export Administration Regulations.[1] *See* 50 U.S.C. App. 2401–20 (1991), *amended* by Pub. L. 106–508, 114 Stat. 2360 (Supp. 2002); 15 CFR parts 730–774. the EAA and its underlying regulations were created to establish a ''system of controlling exports by balancing national security, foreign policy and domestic supply needs with the interest of encouraging export to enhance * * * the economic well being'' of the United States. *See Times Publ'g Co.* v. *United States Dep't of Commerce*, 236 F.3d 1286, 1290 (11th Cir. 2001); *see also* 50 U.S.C. App. 2401–02.[2]

On May 3, 2004, Petrochemical filed a Statement of Answer (''Answer'') with documentation denying the formal charge. In its Answer, Petrochemical did not formally demand a hearing. Therefore, this matter was assigned to the Undersigned to render a decision on the record pursuant to 15 CFR 766.15. BIS regulations provide that a written demand for hearing must be expressly provided. As in this case, Respondent's failure to formally demand a hearing is deemed a waiver of Respondent's right to a hearing and this Recommended Decision and Order is hereby issued on the basis of the submitted record.[3] *See id.* and § 766.6(c).

On June 3, 2004, the undersigned issued an Order to File Briefs directing the parties to file the necessary, ''Affidavits or declarations, depositions, admissions, answers to interrogatories and stipulations.'' Following the grant of several procedural stays, the time period to file the necessary briefs was extended up to and including, November 8, 2004. In keeping with the original time frame associated with the June 3, 2004 Order, the parties were provided with an opportunity to file rebuttal evidence to be due by the close of business November 30, 2004. On November 8, 2004, BIS filed its Memorandum and Submission of Evidence to Supplement the Record (''BIS Memorandum'').

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[1] Due to the nature of this transaction, the items in question are also subject to the Iranian Transactions Regulations under the jurisdiction of the Department of Treasury's Office of Foreign Assets Control (OFAC).

[2] The EAA and all regulations under it expired on August 20, 2001. *See* 50 U.S.C. App. 2419. Three (3) days before its expiration, the President declared that the lapse of the EAA constitutes a national emergency. *See* Exec. Order No. 13222, *reprinted in* 3 CFR at 783–784, (2002). Exercising authority under the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1701–06 (2002), the President maintained the effectiveness of the EAA and its underlying regulations throughout the expiration period by issuing Exec. Order No. 13222 (Aug. 17, 2001). The effectiveness of the export control laws and regulations were further extended by Notice issued by the President on August 14, 2002 and August 7, 2003. *See* Notice of August 14, 2002: Continuation of Emergency Regarding Export Control Regulations, *reprinted in* 3 CFR at Part 306 (2003) and 68 FR 47833, August 11, 2003. Courts have held that the continued operation and effectiveness of the EAA and its regulations through the issuance of Executive Orders by the President constitutes a valid exercise of authority. *See Wisconsin Project on Nuclear Arms Control* v. *United States Dep't of Commerce*, 317 F.3d 275, 278–79 (D.C. Cir. 2003).

[3] No witness testimony was received in this proceeding. The case Index of the official record provides the exclusive listing of documents received in this matter. A copy of the Index is provided as Attachment A.

On January 3, 2005, an Order to File Pre-decisional Briefs was issued to provide the parties with an opportunity to file any:

1. Exceptions to any ruling made by this Administrative Law Judge or to the admissibility of evidence proffered in this matter;

2. Proposed findings of fact and conclusions of law;

3. Supporting legal arguments for the exceptions and proposed findings and conclusions submitted; and

4. A proposed order.

On January 18, 2005, BIS filed its Memorandum of Proposed Findings of Fact and Conclusions of Law (''Pre-decisional Memorandum'') which also included a proposed Recommended Decision and Order. The Pre-decisional memorandum and proposed Recommended Decision and Order are made part of this Recommended Decision and Order and are included by reference.[4] As of this date, Respondent has not filed any other documentation in this matter other than the original Statement of Answer that was received on May 3, 2004. Given that the parties have been provided an ample amount of time and opportunity to supplement the record, and in keeping with the procedures set forth in 15 CFR part 766, I find that this matter is now ripe for decision.

For the reasons that follow, I hereby find that the Bureau of Industry and Security has met its burden as shown in the written record by the preponderance of substantial, reliable, and probative evidence in that Petrochemical Commercial Co., Ltd. aided and abetted in the solicitation of an unlicensed export to the Islamic Republic of Iran in violation of 49 CFR 764.2(b).

Findings of Fact

The Underlying Solicitation [5]

1. On July 15, 2005, Chemical Industries Consolidated, b.v. (''CIC'') a company registered and located in the Dutch Netherlands made an inquiry addressed to ''Joy Compressor'' for a quotation of compressor spare parts. (Exhibit D, BIS Memorandum).

2. The company listed in the inquiry as ''Joy Compressor'' and as referenced by the facsimile number and subsequent documentation was Cooper Turbocompressor, Inc. (''Cooper''), a United States company located in Buffalo, New York. (Exhibit D & F, BIS Memorandum).

3. Upon receipt of the request, Cooper then requested further information from CIC and specifically, sought the serial numbers of the affected compressors. On July 23, 2002, CIC forwarded this information by facsimile to Cooper. (Exhibit E, BIS Memorandum).

4. Cooper verified that the serial numbers were registered to compressors; model TAQ–70M4C/30 that are located in Iran at Tabriz Petrochemical. (Exhibit E & G BIS Memorandum, Answer Appendix 2).

5. The spare parts and specifically the rotors listed in the inquiry request are classified under the title of ''EAR99,'' which in turn are subject to review under the Export Administration Regulations for both, the Department of Treasury's Office of Foreign Assets Control (''OFAC'') and the Bureau of Industry and Security. (Exhibit A, BIS Memorandum).

6. The Export and Anti-boycott Coordinator from Cooper notified the Office of Export Enforcement regarding CIC's inquiry for the compressor parts. The destination for the listed parts was the Islamic Republic of Iran. (Exhibit F, BIS Memorandum).

7. Based on this information, an undercover company, IMC Global (''IMC'') sent a facsimile to CIC dated July 24, 2002. The facsimile stated that Cooper had forwarded CIC's bid request to IMC for further action. (Exhibit G, BIS Memorandum).

8. The facsimile provided that the spare parts concerned two compressors, serial numbers X0–0484, and 85, located in the Islamic Republic of Iran. IMC stated, ''Unfortunately, Cooper cannot sell these items directly to you once they know that they are destined for Iran'' but ''we can offer you these items as a domestic US sale * * * and will only ship to a company in the United States.'' (Exhibit G, BIS Memorandum).

9. As represented by BIS, the potential sale of the spare compressor parts was ''aggressively pursued'' by CIC, which eventually led to the arrest and subsequent conviction of a CIC representative in connection with this matter. (Exhibit B, BIS Memorandum).

10. No authorization was obtained from the United States Government to allow the export of the spare parts to Iran. (Exhibit K, BIS Memorandum).

The Relation Between Petrochemical, CIC, and the Islamic Republic of Iran

11. Petrochemical Commercial Company, Ltd. is registered and domiciled in the United Kingdom and ''provide procurement and shipping services to all NPC [National Petrochemical Company] organization, namely, Iranian petrochemical companies and complexes * * *'' (Exhibit L, BIS Memorandum, Answer at 4).

12. Petrochemical is a ''subsidiary'' of the National Petrochemical Company which itself is a subsidiary of the Iranian Petroleum Ministry owned by the Islamic Republic of Iran. (Exhibit C, L, & M, BIS Memorandum).

13. Tabriz Petrochemical Company of Iran (''Tabriz'') is a ''producing company'' that is also a subsidiary of the NPC. (Exhibit C, BIS Memorandum).

14. On or about July 11, 2002, Petrochemical originated the transaction at issue by forwarding a request from Tabriz to CIC seeking quotations for spare parts (bull gear and shaft, and rotor assemblies) associated with ''Joy compressors.'' (Exhibit H & K, BIS Memorandum, Answer Appendix 2).

15. By letter dated August 27, 2002, CIC provided Petrochemical with price quotations for the requested parts. In that letter, the stated country of origin for the listed spare parts was the ''USA.'' (Exhibit I, BIS Memorandum).

16. By facsimile dated September 26, 2002, Petrochemical received confirmation from Tabriz regarding Petrochemical's offer for CIC's procurement of the spare compressor parts. (Exhibit J, BIS Memorandum).

17. Petrochemical was fully aware of the United States embargo on trade with Iran and also knew that the United States Government had not authorized the export of parts in question.[6] (Exhibit K, BIS Memorandum).

Ultimate Findings of Fact and Conclusions of Law

1. Petrochemical Commercial Company, Ltd. and the subject matter of this case are properly within the jurisdiction of the Bureau of Industry and Security in accordance with the Export Administration Act of 1979 (50 U.S.C. App. 2401–20) and the Export Administration Regulations (15 CFR parts 730–774).

2. The Bureau of Industry and Security has established by preponderance of the evidence that Respondent violated 15 CFR 764.2(b) by aiding and abetting in the solicitation of an unlicensed export to the Islamic Republic of Iran.

3. The Bureau of Industry and Security proposed civil penalty assessment for the denial of export privileges against Petrochemical Commercial Company, Ltd. for the period of three (3) years is justified and reasonable.

Discussion

The Export Administration Act and supporting Export Administration Regulations provide extensive and broad authority for the control of exports from the United States to foreign countries. *See In the Matter of: Abdulamir Madhi, et al.*, 68 FR 57406, (October 3, 2003); *see also* 50 U.S.C. App. 2402(92)(A), 2404(a)(1) and 2405(a)(1). Also, the President of the United States provides additional authority and explicit controls with regard to exports to Islamic Republic of Iran. In 1987, the President invoked import sanctions against Iran by issuance of an Executive Order which in general prohibits the export of any goods, technology, or services from the United States to Iran without express authorization. *See* Exec. Order No. 12613, *reprinted in* 52 FR 41940 (Oct. 30, 1987); *see also* Exec. Order No. 12959, *reprinted in* 60 FR 24757 (May 6, 1995) (expanding sanctions imposed against Iran); Exec. Order No, 12957, *reprinted in* 60 FR 14615 (Mar. 15, 1995) (declaring actions and policies with respect to the Iranian Government to be a national emergency); *see also* 31 CFR 560.204, 560.501.

The burden in this Administrative Proceeding lies with the Bureau of Industry and Security to prove the charged violation by the preponderance of the evidence. The preponderance of evidence standard is demonstrated by reliable, probative, and substantial evidence. *See Steadman* v. *S.E.C.,* 450 U.S. 91, 102 (1981). The Agency, in

[4] The Agency's Proposed Findings of Fact and Conclusions of Law are ACCEPTED and INCORPORATED.

[5] The citations provided hereunder reference the exhibit numbers associated with the Agency's Memorandum and Submission of Evidence to Supplement the Record (''BIS Memorandum'') and Respondent's Statement of Answer (''Answer'').

[6] No OFAC license was obtained for the proposed export as the purported buyer was apprehended before any license could be applied for.

simple terms, must demonstrate ''that the existence of a fact is more probable than it nonexistence.'' *Concrete Pipe and Products* v. *Construction Laborers Pension Trust,* 508 U.S. 602, 622 (1993).

In this matter, Petrochemical is charged with aiding and abetting the solicitation of an attempted unauthorized export. As a general rule, ''No person may engaged in any conduct prohibited by or contrary to * * * any conduct required by, the EAA, the EAR * * *.'' 15 CFR 764.2(a). It is a violation of the EEA and the EAR to solicit or attempt a violation of the rules. *Id.* at § 764.2(c). As charged in this matter, ''No person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the EAA, the EAR, or any order, license or authorization issued thereunder.'' *Id.* at § 764.2(b).

The term ''Export means an actual shipment or transmission of items subject to the EAR from the United States * * *.'' *Id.* at § 734.3(b)(1). In this case, an actual export did not occur as CIC was thwarted in its bid to carry out the unauthorized export of the spare parts in question. However, as indicated above, it remains a violation to attempt an unauthorized export in contravention of the rules.

BIS has jurisdiction for all items ''subject to the EAR,'' which generally can be found listed on the Commerce Control List (CCL). However, ''For ease of reference and classification purposes, items subject to the EAR which are not listed on the CCL are designated as 'EAR99.' '' *Id.* at § 734.3(c). The spare parts at issue are classified as ''EAR99'', *see* Exhibit A, BIS Memorandum, and are ''subject to the EAR'' pursuant to 15 CFR 734.3(c). It is also important to note that the rules provide that a person, whether or not she or he is complying with foreign laws or regulations ''is not relieved of the responsibility of complying with U.S. laws and regulations, including the EAR.'' *Id.* at § 734.12.

Upon review of Respondent's Statement of Answer and the record taken as a whole, the basic tenant argued to by Respondent is that Petrochemical only acted as an agent with no liability or responsibility in the procurement of items for CIC. Petrochemical argues that CIC, ''as exporter of the materials'' was responsible ''for all required export customs, formalities, and obtaining all necessary permits for the shipment.'' Petrochemical further asserts that BIS lacks jurisdiction as it is a private company incorporated and domiciled under the laws of the United Kingdom. Finally, Petrochemical attempts to apply criminal elements to this administrative proceeding by arguing that it lacked the requisite intent or ''*mens rea*'' necessary to commit the charged violation.

I find that Petrochemical's Answer to be unavailing and lacking legal foundation. Given the regulations and statements of law, including the findings of fact as provided above, Petrochemical was involved in the solicitation process with CIC that resulted in the failed attempt to procure unauthorized spare parts that were subject to the EAR, for shipment from the United States to Iran. Certainly, Petrochemical cannot argue otherwise. The August 27, 2002 quotation from CIC to Petrochemical clearly indicated the country of origin as the ''USA.'' *See* Exhibit I, BIS Memorandum. Petrochemical's argument that it was not aware of, or did not order, procure or attempt to procure any spare parts from the United States because it was dealing strictly with CIC, a European country, is nothing more than a veiled attempt to circumvent the exports laws of the United States.

Further, it is clear that Petrochemical cannot shield itself from the EAA or EAR by the simple fact that it is a United Kingdom corporation, *see In the Matter of Abdulamir Madhi,* et al., 68 FR 57406 (October 3, 2003); 15 CFR 734.12, and that intent, criminal or otherwise, is an element with regard to the Charge brought in this matter. *See In the matter of: Aluminum Company of America,* 64 FR 42641–42651 (Aug. 5, 1999) (finding that ''liability and administrative sanctions are imposed on a strict liability basis once the Respondent commits the proscribed act'') *Iran Air* v. *Kugelman,* 996 F.2d 1253 (D.C. Cir. 1993) (reaffirming the Agency's position that knowledge is not an ''essential element of proof for the imposition of civil penalties''). In the Agency's Memorandum of Proposed Findings of Fact and Conclusions of Law, it stated, ''to prove that [Petrochemical] committed a violation of Section 764.2(b), BIS need not prove intent or knowledge. Rather, BIS must prove that: (1) the items in question were subject to the Regulations, (2) a proposed transaction in violation of the Regulations was solicited, and (3) [Petrochemical] aided such solicitation.'' I agree with the Agency's analysis and hold that the Charge for the violation of 15 CFR 764.2(b) is hereby found PROVED by the preponderance of the evidence as contained in the written record. Petrochemical forwarded the bid for the procurement of compressor spare parts that were subject to the EAR and aided and abetted CIC in the unlawful solicitation for an attempted and unauthorized export of U.S. origin equipment to Iran.

Basis of Sanction

The Bureau of Industry and Security has authority to assess civil penalties and to issue suspensions from practice, including the denial of export privileges before the Department of Commerce. *See* 15 CFR 764.3. Here, BIS recommends a three (3) year period of denial of export privileges be assessed against Petrochemical for its unlawful conduct in this matter. BIS argues that Petrochemical disregarded U.S. export laws and regulations with the knowledge that a major embargo existed between the United States and Iran.

The record shows that Petrochemical know that U.S. Government authorization had not been given for the transaction at issue. BIS notes that employees of CIC, in connection with this transaction, accepted settlement agreements that resulted in the assessment of denial privileges ranging from five (5) to fifteen (15) years. BIS proposes that a three (3) year period for the denial of export privileges for Petrochemical is appropriate and is consistent with other cases of this nature. *See In the Matter of: Arian Transportvermittlungs Gmbh,* 69 FR 28120, (May 18, 2004) (assessing a ten (10) year denial period in connection with an Iranian transaction); *In the Matter of: Abdulamir Madhi,* et al, 68 FR 57406, (October 3, 2003) (assessing a twenty (20) year denial period in connection with an Iranian transaction); *In the Matter of: Jubal Damavand General Trading Co.,* 67 FR 32009, (May 13, 2002) (assessing a ten (10) year denial period in connection with an Iranian transaction). Without any countervailing evidence to the contrary, I agree with the Agency's proposed assessment and hold that a three (3) year period for the denial of export privileges against Petrochemical is reasonable and justified.

[''Recommended Order'' Section—Redacted]

This Recommended Decision and Order is being referred to the Under Secretary for review and final action by express mail as provided under 15 CFR 766.17(b)(2). Due to the short period of time for review by the Under Secretary, all papers filed with the Under Secretary in response to this Recommended Decision and Order must be sent by personal delivery, facsimile, express mail, or other overnight carrier as provided in § 766.22(a). Submissions by the parties must be filed with the Under Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Room H–3808, 14th Street and Constitution Avenue, NW., Washington, DC 20230, within twelve (12) days from the date of issuance of this Recommended Decision and Order. Thereafter, the parties have eight (8) days from receipt of any response(s) in which to submit replies.

Within thirty (30) days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order, affirming, modifying or vacating the Recommended Decision and Order. *See* § 766.22(c). A copy of the agency regulations for Review by the Under Secretary is attached.

Done and dated this 30th day of March, 2005 at New York, New York.

Walter J. Brudzinski,

Administrative Law Judge, U.S. Coast Guard.

Certificate of Service

I hereby certify that I have served the foregoing *RECOMMENDED DECISION & ORDER by Federal Express to the following persons.*

Under Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Room H–3839, 14th & Constitution Avenue, NW., Washington, DC 20230, Phone: 202–482–5301.

Philip K. Ankel, Esq., Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, Room H–3839, 14th Street & Constitution Avenue, NW., Washington, DC 20230, Phone (202) 482–5301, Facsimile: (202) 482–0085, (via Federal Express).

Petrochemical Commercial Co., Ltd., Attn: M. Beirami, NIOC House, 4 Victoria Street, London, UK SWIH One, Phone: 020 7799 1717, Facsimile: 020 7233 0024, (via Federal Express—International).

ALJ Docketing Center, Baltimore, 40 S. Gay Street, Room 412, Baltimore, Maryland 21202–4022, Phone: 410–962–7434.

Done and dated this 30th day of March, 2005, at New York, New York,

Done and dated this 30th day of March 2005, at New Udate Dated:

Shaniqua Jenkins,

Paralegal Specialist to the Administrative Law Judge.

[FR Doc. 05–9118 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–848

Freshwater Crawfish Tail Meat from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In March 2005, the Department of Commerce (''the Department'') received three requests to conduct new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (''PRC''). We have determined that each of these requests meet the statutory and regulatory requirements for the initiation of a new shipper review.

EFFECTIVE DATE: May 6, 2005.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton at (202) 482–1386 or Kristina Boughton at (202) 482–8173; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department received timely requests from Shanghai Sunbeauty Trading Co., Ltd., (''Shanghai Sunbeauty'') (March 18, 2005), Jiangsu Jiushoutang Organisms–Manufactures Co., Ltd., (''Jiangsu JOM'') (March 18, 2005), and Qingdao Wentai Trading Co., Ltd., (''Qingdao Wentai'') (March 21, 2005) in accordance with 19 CFR 351.214 (c), for new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC, which has a March semiannual anniversary month. Jiangsu JOM identified itself as the producer and exporter of freshwater crawfish tail meat. Shanghai Sunbeauty identified itself as the exporter and Wuwei Xinhua Food Co., Ltd., (''Wuwei Xinhua'') as the producer of subject merchandise. Qingdao Wentai identified itself as the exporter and Nanxian Shunxiang Aquatic Food Products Co., Ltd., as the producer of subject merchandise. As required by 19 CFR 351.214(b)(2)(i), and (iii)(A), Shanghai Sunbeauty, Jiangsu JOM, and Qingdao Wentai certified that they did not export freshwater crawfish tail meat to the United States during the period of investigation (''POI''), and that each company has never been affiliated with any exporter or producer which exported freshwater crawfish tail meat to the United States during the POI. Furthermore, Shanghai Sunbeauty, Jiangsu JOM, and Qingdao Wentai have also certified that their export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to 19 CFR 351.214(b)(2)(iv), Shanghai Sunbeauty, Jiangsu JOM, and Qingdao Wentai submitted documentation establishing the date on which the subject merchandise was first entered for consumption in the United States, the volume of that first shipment and any subsequent shipments, and the date of the first sale to an unaffiliated customer in the United States. The Department conducted Customs database queries to confirm that each company's shipment had officially entered the United States via assignment of an entry date in the Customs database by U.S. Customs and Border Protection (''CBP'').

Initiation of Reviews

In accordance with section 751(a)(2)(B) of the Tariff Act of 1930 (''the Act''), as amended, and 19 CFR 351.214(d)(1), and based on information on the record, we are initiating new shipper reviews for Shanghai Sunbeauty, Jiangsu JOM, and Qingdao Wentai. See Memoranda to the File through James C. Doyle, ''New Shipper Initiation Checklist,'' all dated April 29, 2005. We intend to issue the preliminary results of this review not later than 180 days after the date on which this review was initiated, and the final results of this review within 90 days after the date on which the preliminary results were issued.

Pursuant to 19 CFR 351.214(g)(1)(i)(B), the period of review (''POR'') for a new shipper review, initiated in the month immediately following the semiannual anniversary month, will be the six-month period immediately preceding the semiannual anniversary month. Therefore, the POR for the new shipper reviews of Shanghai Sunbeauty, Jiangsu JOM, and Qingdao Wentai will be September 1, 2004, through February 28, 2005.

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue questionnaires to Shanghai Sunbeauty, Jiangsu JOM, and Qingdao Wentai, including a separate rates section. The reviews will proceed if the responses provide sufficient indication that Shanghai Sunbeauty, Jiangsu JOM, and Qingdao Wentai are not subject to either de jure or de facto government control with respect to their exports of freshwater crawfish tail meat. However, if the exporter does not demonstrate the company's eligibility for a separate rate, then the company will be deemed not separate from the PRC-wide entity, which exported during the POI and its new shipper review will be rescinded. *See,* 19 CFR 251.214(2)(iii)(A), *see also Notice of Preliminary Results of Antidumping Duty New Shipper Review and Rescission of New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China,* 69 FR 53669 (September 2, 2004) and *Brake Rotors From the People's Republic of China: Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review,* 64 FR 61581 (November 12, 1999). In accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e), we will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a single entry bond or security in lieu of a cash deposit for certain entries of the merchandise exported by either Shanghai Sunbeauty, Jiangsu JOM, or Qingdao Wentai. We will apply the bonding option under 19 CFR 351.107(b)(1)(i) only to entries from these three exporters for which the respective producers under review are the suppliers. Interested parties that need access to proprietary information in these new shipper reviews should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: April 29, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–2214 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–201–827

Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico: Notice of Intent To Rescind Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent To Rescind Administrative Review.

SUMMARY: On September 22, 2004, we published the notice of initiation of this antidumping duty review with respect to Tubos de Acero de Mexico, S.A. (''TAMSA''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part*, 69 FR 56745 (September 22, 2004). We have preliminarily determined that the review of TAMSA should be rescinded.

EFFECTIVE DATE: May 6, 2005.

FOR FURTHER INFORMATION CONTACT: James Terpstra or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3965 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 2004, the Department of Commerce (''the Department'') published in the **Federal Register** the notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (''SLP'') from Mexico, for the period August 1, 2003, through July 31, 2004 (69 FR 46496). On August 31, 2004, we received a request from the petitioner[1] to review TAMSA. On September 22, 2004, we published the notice of initiation of this antidumping duty administrative review with respect to TAMSA. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part*, 69 FR 56745 (September 22, 2004). On November 23, 2004, TAMSA submitted a letter certifying that neither TAMSA, nor its U.S. affiliate, Tenaris Global Services USA (''Tenaris''), directly or indirectly, exported or sold for consumption in the United States any subject merchandise during the period of review (''POR'').

Scope of the Order

The products covered are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes produced, or equivalent, to the American Society for Testing and Materials (''ASTM'') A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and the American Petroleum Institute (''API'') 5L specifications and meeting the physical parameters described below, regardless of application, with the exception of the exclusions discussed below. The scope of this order also includes all other products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification, with the exception of the exclusions discussed below. Specifically included within the scope of this order are seamless pipes greater than 4.5 inches (114.3 mm) up to and including 16 inches (406.4 mm) in outside diameter, regardless of wall–thickness, manufacturing process (hot finished or cold–drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to this order are currently classifiable under subheadings 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.31.60.50, 7304.39.00.36 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.60, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (''HTSUS'').

Specifications, Characteristics, and Uses: Large diameter seamless pipe is used primarily for line applications such as oil, gas, or water pipeline, or utility distribution systems. Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (''ASME'') code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes in large diameters is for use as oil and gas distribution lines for commercial applications. A more minor application for large diameter seamless pipes is for use in pressure piping systems by refineries, petrochemical plants, and chemical plants, as well as in power

[1] The petitioner is United States Steel Corporation.

generation plants and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

The scope of this order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the exclusions discussed below, whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of this review.

Specifically excluded from the scope of this order are:

A. Boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications.

B. Finished and unfinished oil country tubular goods (''OCTG''), if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

C. Products produced to the A–335 specification unless they are used in an application that would normally utilize ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications.

D. Line and riser pipe for deepwater application, *i.e.*, line and riser pipe that is (1) used in a deepwater application, which means for use in water depths of 1,500 feet or more; (2) intended for use in and is actually used for a specific deepwater project; (3) rated for a specified minimum yield strength of not less than 60,000 psi; and (4) not identified or certified through the use of a monogram, stencil, or otherwise marked with an API specification (*e.g.*, ''API 5L'').

With regard to the excluded products listed above, the Department will not instruct U.S. Customs and Border Protection to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being utilized in a covered application. If such information is provided, the Department will require end–use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in a covered application as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–335 specification is being used in an A–106 application, it will require end-use certifications for imports of that specification. Normally the Department will require only the importer of record to certify to the end–use of the imported merchandise. If it later proves necessary for adequate implementation, the Department may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

Intent To Rescind Fourth Administrative Review

TAMSA submitted a letter on November 23, 2004, certifying that neither TAMSA, nor its U.S. affiliate, Tenaris, directly or indirectly, exported or sold for consumption in the United States any subject merchandise during the POR. The petitioner did not comment on TAMSA's no–shipment claim.

We conducted an internal customs data query on December 9, 2004. The data query indicated TAMSA and its U.S. affiliate, Tenaris, had customs entries/shipments during the POR, some of which entered under the HTSUS numbers for subject merchandise. Subsequent to our analysis of the internal customs data, we requested an external customs data query. *See* Memorandum dated February 24, 2005, entitled ''Request for U.S. Entry Documents—Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico from Mexico, Customs Case Number A–201–827.'' We reviewed the customs entry documents which included bills of lading, entry summaries, entry/immediate delivery forms, invoices, and mills certificates. Based on the product specifications and the information contained in the documents, which confirmed that AD/CVD duties were not assessed on the shipments, we were able to confirm that TAMSA had no entries, exports, or sales to the United States of subject mrchandise during the POR.

Based on our analysis of the shipment data, we are treating TAMSA as a non-shipper for the purpose of this review. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations, and consistent with our practice, we preliminarily determine to rescind this review. *See e.g., Stainless Steel Bar from India; Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review, and Partial Rescission of Administrative Review*, 65 FR 12209 (March 8, 2000); *Persulfates From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review*, 65 FR 18963 (April 10, 2000).

Public Comment

An interested party may request a hearing within 30 days of publication of this preliminary notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs no later than 30 days after the date of publication of this preliminary notice. *See* 19 CFR 351.309. Rebuttal briefs, limited to issues raised in such briefs, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final notice, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested,

within 120 days of publication of this preliminary notice.

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d).

Dated: May 2, 2005.

Barbara Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–2221 Filed 5–5–05; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–504

Petroleum Wax Candles from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 6, 2005.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0413.

SUPPLEMENTARY INFORMATION:

Background

On September 22, 2004, the Department published its notice of initiation of an antidumping administrative review on petroleum wax candles from the People's Republic of China (''PRC''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004). The Department subsequently received a timely withdrawal request from one of the exporters that requested a review: Shangyu City Garden Candle Factory (''Garden Candle''). On March 30, 2005, the Department published a notice of rescission, in part, of antidumping duty administrative review for Garden Candle. *See Petroleum Wax Candles from the PRC: Rescission, in Part, of Antidumping Duty Administrative Review*, 70 FR 16217 (March 30, 2005). The Department is not rescinding its review of Shanghai R&R Import/Export Co., Ltd. (''Shanghai R&R''), another exporter that requested review. The preliminary results of this administrative review are currently due no later than May 3, 2005.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

The Department finds that it is not practicable to complete the preliminary results in the administrative review of petroleum wax candles from the PRC within the originally anticipated time limit (*i.e.*, by May 3, 2005), because we are currently analyzing factors of production information that has required numerous supplemental questionnaires. Therefore, the Department is extending the time limit for completion of the preliminary results no later than August 11, 2005, in accordance with Section 751(a)(3)(A) of the Act. The deadline for the final results of this administrative review continues to be 120 days after the publication of the preliminary results. We are issuing and publishing this notice in accordance with Section 751(a)(1) and 777(i)(1) of the Act.

Dated: April 29, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–2215 Filed 5–5–05; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–489–807)

Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Notice of Intent To Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by the petitioners and two producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey. This review covers four producers/exporters of the subject merchandise to the United States. This is the sixth period of review (POR), covering April 1, 2003, through March 31, 2004.

We have preliminarily determined that one of the respondents, Habas Tibbi ve Sinai Gazlar Istihsal Endustrisi A.S. (Habas), has made sales below normal value (NV). If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. In addition, we have preliminarily determined to rescind the review with respect to the following companies because these companies had no shipments of subject merchandise during the POR: Cebitas Demir Celik Endustrisi A.S. (Cebitas), Cemtas Celik Makina Sanayi ve Ticaret A.S. (Cemtas), Demirsan Haddecilik Sanayi ve Ticaret A.S. (Demirsan), Ege Celik Endustrisi Sanayi ve Ticaret A.S. (Ege Celik), Ege Metal Demir Celik Sanayi ve Ticaret A.S. (Ege Metal), Ekinciler Holding A.S. and Ekinciler Demir Celik San A.S. (collectively ''Ekinciler''), Iskenderun Iron & Steel Works Co. (Iskenderun), Izmir Demir Celik Sanayi A.S. (Izmir), Kaptan Demir Celik Endustrisi ve Ticaret A.S. (Kaptan), Kardemir--Karabuk Demir Celik Sanayi ve Ticaret A.S. (Karabuk), Kroman Celik Sanayi A.S. (Kroman), Kurum Demir Sanayi ve Ticaret Metalenerji A.S. (Kurum), Metas Izmir Metalurji Fabrikasi Turk A.S. (Metas), Nurmet Celik Sanayi ve Ticaret A.S. (Nurmet), Nursan Celik Sanayi ve Haddecilik A.S. (Nursan), Sivas Demir Celik Isletmeleri A.S. (Sivas), Tosyali Demir Celik Sanayi A.S. (Tosyali), and Ucel Haddecilik Sanayi ve Ticaret A.S. (Ucel). Finally, we have preliminarily determined to revoke the antidumping duty order with respect to ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. (ICDAS). We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: May 6, 2005.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Alice Gibbons, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230;

telephone (202) 482–0656 or (202) 482–0498, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2004, the Department published in the **Federal Register** a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order on rebar from Turkey (69 FR 17129). In accordance with 19 CFR 351.213(b)(2), on April 30, 2004, the Department received requests from both Colakoglu and ICDAS to conduct an administrative review of the antidumping duty order on rebar from Turkey. As part of its request, ICDAS also requested that the Department revoke the dumping order with regard to it, in accordance with 19 CFR 351.222(b). In accordance with 19 CFR 351.213(b)(1), on April 30, 2004, the petitioners, Gerdau AmeriSteel Corporation, Commercial Metals Company (SMI Steel Group), and Nucor Corporation, also requested an administrative review for the following 23 producers/exporters of rebar: Cebitas; Cemtas; Colakoglu Metalurji A.S. (Colakoglu); Demirsan; Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Ticaret A.S. (Yazici), and Diler Dis Ticaret A.S. (collectively ''Diler''); Ege Celik; Ege Metal; Ekinciler; Habas; ICDAS; Iskenderun; Izmir; Kaptan; Kardemir; Kroman; Kurum; Metas; Nurmet; Nursan; Sivas; Tosyali; and Ucel. In May 2004, the Department initiated an administrative review for each of these companies and issued questionnaires to them. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 30282 (May 27, 2004). In May and June 2004, the following companies informed the Department that they had no shipments or entries of subject merchandise during the POR: Cebitas, Cemtas, Demirsan, Ege Celik, Ekinciler, Iskenderun, Izmir, Kaptan, Metas, Nurmet, Nursan, Sivas, and Tosyali. We reviewed CBP data and confirmed that there were no entries of subject merchandise from any of these companies. We also confirmed with CBP data that Ege Metal, Karabuk, Kroman, Kurum, and Ucel did not have entries of subject merchandise during the POR. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are preliminarily rescinding our review for Cebitas, Cemtas, Demirsan, Ege Celik, Ege Metal, Ekinciler, Iskenderun, Izmir, Kaptan, Karabuk, Kroman, Kurum, Metas, Nurmet, Nursan, Sivas, Tosyali, and Ucel. In July 2004 Colakoglu requested that the Department modify its reporting requirements with respect to its home market sales. Specifically, Colakoglu requested that it be excused from reporting home market sales and cost data for coiled rebar. In its request, Colakoglu stated that it sold only straight–length rebar in the U.S. market and noted that this was produced in a separate facility from coiled rebar. The Department granted Colakoglu's request on July 6, 2004. In August 2004 we received responses to sections A through C of the questionnaire (i.e., the sections regarding sales to the home market and the United States) and section D of the questionnaire (i.e., the section regarding cost of production (COP) and constructed value (CV)) from Colakoglu, Diler, Habas, and ICDAS. On November 4, 2004, the Department postponed the preliminary results of this review until no later than May 2, 2005. *See Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Extension of Time Limits for Preliminary Results in Antidumping Duty Administrative Review*, 69 FR 65151 (Nov. 10, 2004). From November 2004 through March 2005, we issued supplemental questionnaires to the participating respondents. We received responses to these questionnaires between December 2004 and March 2005. We verified the sales and cost information submitted by ICDAS in February and March 2005.

Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot–rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low–alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Review

The POR is April 1, 2003, through March 31, 2004.

Partial Rescission of Review

As noted above, Cebitas, Cemtas, Demirsan, Ege Celik, Ekinciler, Iskenderun, Izmir, Kaptan, Metas, Nurmet, Nursan, Sivas, and Tosyali informed the Department that they had no shipments of subject merchandise to the United States during the POR. We have confirmed this with CBP. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding our review with respect to these companies. *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part*, and Determination Not To Revoke in Part, 69 FR 64731, 64732 (Nov. 8, 2004) *(2002–2003 Rebar Review*) and *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part*, 68 FR 53127, 53128 (Sep. 9, 2003) (*2001–2002 Rebar Review*). We have also confirmed with CBP that Ege Metal, Karabuk, Kroman, Kurum, and Ucel did not have entries of subject merchandise during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are also preliminarily rescinding our review with respect to Ege Metal, Karabuk, Kroman, Kurum, and Ucel.

Notice of Intent To Revoke, in Part

As noted above, on April 30, 2004, ICDAS submitted a letter to the Department requesting revocation of the antidumping duty order with respect to its sales of the subject merchandise, pursuant to 19 CFR 351.222(b). ICDAS's request was accompanied by a certification that it has sold the subject merchandise at not less than NV during the current POR and will not sell the merchandise at less than NV in the future. ICDAS further certified that it sold the subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. The company also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the revocation, ICDAS sold the subject merchandise at less than NV.

Pursuant to section 751(d) of the Tariff Act of 1930, as amended (the Act), the Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751(a) of the Act. While Congress has not specified the procedures the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. Section 351.222(b)(2) of the Department's regulations explains that the Secretary may revoke an

antidumping duty order in part if the Secretary concludes, *inter alia*, that one or more exporters or producers covered by the order have sold the subject merchandise in commercial quantities at not less than NV for a period of at least three consecutive years. *See Notice of Final Results of the Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742, 743 (Jan. 6, 2000).

We preliminarily determine that the request from ICDAS meets all of the criteria under 19 CFR 351.222(b). With regard to the criteria of subsection 19 CFR 351.222(b)(2), our preliminary margin calculations show that ICDAS sold rebar at not less than NV during the current review period. See the dumping margins below. In addition, ICDAS sold rebar at not less than NV in the two previous administrative reviews in which it was involved (i.e., ICDAS's dumping margin was zero or *de minimis*). *See 2002–2003 Rebar Review* and *2001–2002 Rebar Review*.

Based on our examination of the sales data submitted by ICDAS, we preliminarily determine that ICDAS sold the subject merchandise in the United States in commercial quantities in each of the consecutive years cited by ICDAS to support its request for revocation. See the memorandum to the file from Irina Itkin entitled ''Analysis of Commercial Quantities for ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S.'s Request for Revocation,'' dated May 2, 2005. Thus, we preliminarily find that ICDAS had zero or *de minimis* dumping margins for its last three administrative reviews and sold in commercial quantities in each of these years. Also, we preliminarily determine that application of the antidumping duty order to ICDAS is no longer warranted for the following reasons: (1) the company had zero or de minimis margins for a period of at least three consecutive years; (2) the company has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and (3) the continued application of the order is not otherwise necessary to offset dumping. Therefore, we preliminarily determine that ICDAS qualifies for revocation of the order on rebar pursuant to 19 CFR 351.222(b)(2) and that the order with respect to merchandise produced and exported by ICDAS should be revoked. If these preliminary findings are affirmed in our final results, we will revoke this order in part for ICDAS and, in accordance with 19 CFR 351.222(f)(3), terminate the suspension of liquidation for any of the merchandise in question that is entered, or withdrawn from warehouse, for consumption on or after April 1, 2004, and instruct CBP to refund any cash deposits for such entries.

Affiliated Producers

ICDAS has an affiliated rolling mill, Demir Sanayi ve Celik Ticaret ve Sanayi A.S. (Demir Sanayi). ICDAS has argued that, in accordance with 19 CFR 351.401(f), it is appropriate to collapse these entities for purposes of this review because: (1) the two entities have the same shareholders and managers; (2) Demir Sanayi and ICDAS have the same production capacities for rebar; and (3) Demir Sanayi sold rebar in the home market for its own account. Based on the information on the record of this review, we preliminary find that it is appropriate to collapse ICDAS with Demir Sanayi, consistent with our treatment of these entities in the previous segment of this proceeding. For further discussion, see the memorandum to Louis Apple from the team entitled ''Concurrence Memorandum,'' dated May 2, 2005 (concurrence memo).

Comparisons to Normal Value

To determine whether sales of rebar from Turkey were made in the United States at less than NV, we compared the export price (EP) to the NV. When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of the Order'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade based on the characteristics listed in sections B and C of our antidumping questionnaire, or CV, as appropriate.

Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to compare products produced by the same company and sold in the U.S. and home markets that were identical with respect to the following characteristics: form, grade, size, and American Society for Testing and Materials specification. Where there were no home market sales of foreign like product that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority.

Export Price

For all U.S. sales made by Colakoglu, Diler, Habas, and ICDAS, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price methodology was not otherwise warranted based on the facts of record. Regarding the date of sale, three of the respondents (i.e., Colakoglu, Habas, and ICDAS) argued in their questionnaire responses that we should use the date of either single–shipment contracts or purchase orders as the date of sale for their U.S. sales in this review. However, we determined that it is appropriate to continue to follow our normal practice of using invoice date as the date of sale for all U.S. sales reported by all of the respondents in this review because the material terms of sale are established on that date. For further discussion, see the concurrence memo.

A. Colakoglu

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for inspection fees, lashing and loading expenses, demurrage expenses (offset by freight commission revenue, wharfage revenue, despatch revenue, demurrage commission revenue, agency fee revenue, attendance fee revenue, and other freight–related revenue), ocean freight expenses, marine insurance expenses, U.S. customs duties, and U.S. brokerage and handling expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

B. Diler

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight expenses, brokerage and handling expenses, loading expenses (including charges for loading supervision), and ocean freight expenses (offset by despatch revenue), where appropriate, in accordance with section 772(c)(2)(A) of the Act. Regarding foreign inland freight expenses, Diler reported that these expenses were provided by an affiliated party. Because Diler was not able to demonstrate that these expenses were charged on an arm's–length basis, we adjusted the reported amounts to be equivalent to the market price. For further discussion, see the concurrence memo.

C. Habas

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made adjustments for billing adjustments. We also made deductions for foreign inland freight expenses, customs overtime fees, forklift charges, loading charges, surveying expenses, and ocean freight expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

D. ICDAS

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight expenses, surveying expenses, customs overtime fees, loading expenses, ocean freight expenses, marine insurance expenses, U.S. customs duties, and U.S. brokerage charges, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the POR. Consequently, we based NV on home market sales.

For each respondent, in accordance with our practice, we excluded home market sales of non–prime merchandise made during the POR from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POR. (*See, e.g., Final Determinations of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products, Certain Cold–Rolled Carbon Steel Flat Products, Certain Corrosion–Resistant Carbon Steel Flat Products, and Certain Cut–to-Length Carbon Steel Plate from Korea*, 58 FR 37176, 37180 (July 9, 1993); *Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke in Part*, FR 25066, 25066 (May 5, 2004); *Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 21634, 21636 (May 1, 2002) (unchanged by the final results); *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review*, 66 FR 56274 (Nov. 7, 2001) and accompanying Issues and Decision Memorandum at Comment 1.)

B. Affiliated Party Transactions and Arm's-Length Test

Diler and ICDAS made sales of rebar to affiliated parties in the home market during the POR. Consequently, we tested these sales to ensure that they were made at ''arm's-length'' prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing expenses. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (LOT), we determined that the sales made to the affiliated party were at arm's length. *See Modification Concerning Affiliated Party Sales in the Comparison Market*, 67 FR 69186 (Nov. 15, 2002).

C. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act, for Colakoglu, Diler, Habas, and ICDAS, there were reasonable grounds to believe or suspect that these respondents had made home market sales at prices below their COPs in this review because the Department had disregarded sales that failed the cost test for these companies in the most recently completed segment of this proceeding in which these companies participated (i.e., the 2001–2002 administrative review for Habas and the 2002–2003 administrative review for Colakoglu, Diler, and ICDAS). As a result, the Department initiated an investigation to determine whether these companies had made home market sales during the POR at prices below their COPs. *See 2001–2002 Rebar Review and 2002–2003 Rebar Review*.

In this review, Habas and ICDAS reported their costs on both a quarterly basis and a POR basis. These respondents argued that the Department should base its analysis on their quarterly cost data because the world price of scrap experienced a significant increase during the POR. The Department has used monthly or quarterly costs in non–inflationary cases only when there was a single primary input product and that input experiences a significant and consistent decline or rise in its cost during the reporting period. Conversely, when there are inconsistent fluctuations in both directions we use a single weighted-average cost for the entire POR. *See Certain Pasta from Italy; Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (Dec. 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18. In this case, because we do not find that the price of scrap experienced a significant and consistent increase during the POR, we have continued to follow the Department's normal practice of using weighted–average POR costs for all respondents. For further discussion, see the concurrence memo.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the respondents' cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses. See the ''Test of Comparison Market Sales Prices'' section below for treatment of home market selling expenses.

We relied on the COP information provided by each respondent in its questionnaire responses, except for the following instances where the information was not appropriately quantified or valued:

A. Diler

1. We excluded the value of purchased rebar from the COP database.

2. We disallowed certain income items reported as offsets to G&A expenses because Diler failed to provide an explanation for them, despite the Department's request that it do so.

3. We recalculated the financial expense ratio for Diler based on the company–specific financial statements. However, because the resulting ratios are negative, we set them to zero in accordance with the Department's practice. *See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8933 (Feb. 23, 1998) (*SRAMs from Taiwan*).

For further discussion of these adjustments, see the memorandum from Ji Young Oh to Neal Halper entitled ''Cost of Production and Constructed Value Adjustments for the Preliminary Results - Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi

ve Ticaret A.S., and Diler Dis Ticaret A.S.,'' dated May 2, 2005.

B. Habas

1. We increased the POR weighted–average fixed overhead for each control number to include the difference between the total depreciation expenses recorded in Habas's general ledger and the amount included in the reported costs.

For further discussion of this adjustment, see the memorandum from Alice Gibbons to the file entitled ''Calculations performed for Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas) for the Preliminary Results in the 2003–2004 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey,'' dated May 2, 2005.

2. Because the financial expense ratio for Habas is negative, we set it to zero in accordance with the Department's practice. *See SRAMs from Taiwan*, 63 FR at 8933.

C. ICDAS

1. We adjusted ICDAS's reported cost of manufacturing to include an unreconciled difference between the POR total cost of manufacturing recorded in the company's accounting system and the total cost of manufacturing reported in the COP/CV file.

2. We increased the POR weighted–average total cost of manufacturing of each control number as follows: a) we eliminated a credit for recycled scrap because this amount was overstated; b) we included the difference between the total depreciation expenses recorded in ICDAS's general ledger and the amount included in the reported costs; and c) we disallowed the claimed start–up adjustment for ICDAS's Biga melt shop.

3. We recalculated the weighted–average material costs for rebar in coil and consequently adjusted the weighted–average total cost of manufacturing for several products.

4. We recalculated ICDAS's submitted G&A expense ratio as follows: a) we included in the numerator expenses that are non–deductible for tax purposes and a contingent liability related to a legal dispute; b) we excluded from the numerator rental income received from the rental of a vessel and income related to the reversal of prior period expenses; c) we adjusted the gain on the sale of a vessel to an affiliated company to reflect a market price, in accordance with section 773(f)(2) of the Act; and d) we excluded from the denominator the total 2003 scrap sales used as an offset in the calculation of the reported costs, as well as adjustments for depreciation and start–up costs.

5. We adjusted the reported total cost of sales used as the denominator of the financial expense ratio to exclude the total 2003 scrap sales used as an offset to the reported costs, as well as the adjustments to depreciation expenses and start–up costs noted in items 2.b. and c., above. Because the ratio remains negative, we set it to zero in accordance with the Department's practice. *See SRAMs from Taiwan*, 63 FR at 8933.

For further discussion of these adjustments, see the memorandum from Ji Young Oh to Neal Halper entitled ''Cost of Production and Constructed Value Adjustments for the Preliminary Results,'' dated May 2, 2005.

2. Test of Home Market Sales Prices

We compared the weighted–average COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product–specific basis, we compared the COP to home market prices, less any applicable movement charges, selling expenses, and packing expenses. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) in substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time. *See* sections 773(b)(2)(B), (C), and (D) of the Act.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in ''substantial quantities'' within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded these below-cost sales for Colakoglu, Diler, Habas, and ICDAS and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as EP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, G&A expenses, and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the unaffiliated U.S. customer.

To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

All respondents claimed that they made home market sales at only one LOT. We analyzed the information on the record for each company and found that three of the respondents, Colakoglu, Diler, and Habas, performed essentially the same marketing functions in selling to all of their home market and U.S. customers, regardless of customer category (*e.g.*, end-user, distributor). Therefore, we determine that these sales are at the same LOT. We further determine that no LOT adjustment is warranted for these respondents.

Regarding ICDAS, we found that this company performs additional selling functions on certain home market sales. Specifically, we found that ICDAS performs an additional layer of selling functions on its sales through affiliated distributors which are not performed on its sales to unaffiliated customers. Because these additional selling functions are significant, we find that ICDAS's sales through affiliated distributors are at a different LOT than its direct sales to unaffiliated parties. We further find that the LOT for U.S. sales is the same as the home market LOT for ICDAS's direct sales to unaffiliated parties because the selling functions performed by ICDAS are essentially the same in both markets. Consequently, we compared ICDAS's EP sales to sales at the same LOT in the home market (*i.e.*, ICDAS's direct home market sales). For further discussion,

see the concurrence memo. Because all comparisons were made at the same LOT, no LOT adjustment is warranted.

E. Calculation of Normal Value

1. Colakoglu

We based NV on the starting prices to home market customers. For those home market sales negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the Turkish lira (TL) price adjusted for *kur farki* (*i.e.*, an adjustment to the TL invoice price to account for the difference between the estimated and actual TL value on the date of payment), because the only price agreed upon was a U.S.-dollar price, and this price remained unchanged; the buyer merely paid the TL-equivalent amount at the time of payment. This treatment is consistent with our treatment of these transactions in the most recently completed segment of this proceeding. *See Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke in Part*, 69 FR 25063, 25067 (May 5, 2004) (unchanged in the final results). Where appropriate, we made deductions from the starting price for foreign inland freight expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses (offset by interest revenue), bank charges, exporter association fees, and commissions. Regarding commissions, Colakoglu incurred commissions only in relation to U.S. sales. Therefore, pursuant to 19 CFR 351.410(e), we offset U.S. commissions by the lesser of the commission amount or home market indirect selling expenses. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

2. Diler

We based NV on the starting prices to home market customers. For those home market sales negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the TL price adjusted for *kur farki*, because the only price agreed upon was a U.S.-dollar price, and this price remained unchanged. For further discussion, see above. Where appropriate, we made deductions from the starting price for foreign inland freight expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses, bank fees, and exporter association fees.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

3. Habas

We based NV on the starting prices to home market customers. For those home market sales negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the TL price adjusted for kur farki, because the only price agreed upon was a U.S.-dollar price, and this price remained unchanged. For further discussion, see above. Where appropriate, we made deductions from the starting price for foreign inland freight expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses, exporter association fees, and commissions.Regarding commissions, Habas incurred commissions only in relation to U.S. sales. Therefore, pursuant to 19 CFR 351.410(e), we offset U.S. commissions by the lesser of the commission amount or home market indirect selling expenses. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

4. ICDAS

We based NV on the starting prices to home market customers. For those home market sales negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the TL price adjusted for *kur farki*, because the only price agreed upon was a U.S.-dollar price, and this price remained unchanged. For further discussion, see above. Where appropriate, we made deductions from the starting price for foreign inland freight expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses, bank charges, and exporter association fees. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

Currency Conversion

We made currency conversions into U.S. dollars pursuant to sections 773A(a) of the Act and 19 CFR 351.415. Although the Department's preferred source for daily exchange rates is the Federal Reserve Bank, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira. Therefore, we made currency conversions based on exchange rates from the Dow Jones Reuters Business Interactive LLC (trading as Factiva).

Preliminary Results of the Review

We preliminarily determine that the following margins exist for the respondents during the period April 1, 2003, through March 31, 2004:

Manufacturer/Producer/Exporter	Margin Percentage
Colakoglu Metalurji A.S.	0.01
Diler Demir Celik Endustrisi ve Ticaret A.S.,. Yazici Demir Celik Sanayi ve Ticaret A.S.,. and Diler Dis Ticaret A.S.	0.33
Habas Sinai ve Tibbi Gazlar Istithsal Endustrisi A.S.	26.07
ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S.	0.47

The Department will disclose to parties the calculations performed in

connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the date rebuttal briefs are filed. Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for all of Habas's sales and certain of ICDAS's sales, because we have the reported entered value of the U.S. sales, we have calculated importer–specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Regarding all of Colakoglu's and Diler's sales, as well as certain of ICDAS's sales, we note that these companies did not report the entered value for the U.S. sales in question. Accordingly, we have calculated importer–specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer–specific *ad valorem* ratios based on the EPs.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appraisement instructions directly to CBP.

We are preliminarily revoking the order with respect to ICDAS's exports of subject merchandise. If this revocation becomes final, we will instruct CBP to terminate the suspension of liquidation for exports of such merchandise entered, or withdrawn from warehouse, for consumption on or after April 1, 2004, and to refund all cash deposits collected.

Further, the following deposit requirements will be effective for all shipments of rebar from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: 1) the cash deposit rates for the reviewed companies will be the rates established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, de minimis within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; 2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, or the less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the All Others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 2, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2222 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of Modifications with Request for Comment.

SUMMARY: This notice provides for changes to the existing provisions of the National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) published October 21, 1997, (62 FR 54606), primarily to strengthen the link between pay and performance, to simplify the pay-for-performance system, and to broaden the link between performance and retention service credit for reduction in force.

DATES: This notice is effective on May 6, 2005. Comments must be received no later than June 6, 2005.

ADDRESSES: Send or deliver comments to Robert Kirkner, Human Resources Management Division, National Institute of Standards and Technology, Building 101, Room A–133, 100 Bureau Drive, Gaithersburg, MD 20899–3550, FAX: (301) 948–6107, or e-mail comments to *robert.kirkner@nist.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Kirkner at the National Institute of Standards and Technology, (301) 975–3005; Joan Jorgenson at the U.S. Department of Commerce, (202) 482–4233; Jill Rajaee at the U.S. Office of Personnel Management, (202) 606–0836.

SUPPLEMENTARY INFORMATION:

Background

In accordance with Public Law 99–574, the NIST Authorization Act for 1987, the Office of Personnel Management (OPM) approved a demonstration project plan, ''Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology (NIST),'' and published the plan in the **Federal Register** on October 2, 1987, (52 FR 37082). The project plan has been modified twice to clarify certain NIST authorities (54 FR 21331 of May 17, 1989, and 55 FR 39220 of September 25, 1990). The project plan and subsequent amendments were consolidated in the final APMS plan, which became permanent on October 21, 1997, (62 FR 54604).

The plan provides for modifications to be made as experience is gained,

results are analyzed, and conclusions are reached on how the system is working. This notice formally changes the APMS plan to further strengthen the links between pay and performance, and performance and retention service credit. Comments will be considered and any changes deemed necessary will be made.

Dated: April 28, 2005.

Hratch G. Semerjian,

Acting Director.

Table of Contents

I. Executive Summary

The National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) is designed to (1) improve hiring and allow NIST to compete more effectively for high-quality researchers through direct hiring, selective use of higher entry salaries, and selective use of recruiting allowances; (2) motivate and retain staff through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention allowances; (3) strengthen the manager's role in personnel management through delegation of personnel authorities; and (4) increase the efficiency of personnel systems through installation of a simpler and more flexible classification system based on pay banding through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

Since implementing the APMS, according to findings in the Office of Personnel Management's ''Summative Evaluation Report National Institute of Standards and Technology Demonstration Project: 1988–1995,'' NIST is more competitive for talent; NIST retained more top performers than a comparison group; and NIST managers reported significantly more authority to make decisions concerning employee pay. This modification builds on this success by strengthening the link between pay and performance and streamlining the current system.

This amendment replaces the current 100-point rating scale with six performance ratings. Pay increases will be based on an annually determined percentage of the mid-point salary for each pay band in the career path and linked directly to the top three performance ratings, strengthening the pay-for-performance link, increasing transparency, and reducing potential payout variations among employees in the same career path and pay band and with the same performance ratings. This amendment also implements a required bonus for high-performing employees who cannot receive a pay increase because they are at the cap of their pay band, or their adjusted salaries would exceed the maximum rate for their pay band. Finally, the provisions on retention service credit for reduction in force and annual adjustments to basic pay are being modified to correspond with these changes.

NIST will continually monitor the effectiveness of this amendment and provide OPM with its findings.

II. Basis for APMS Plan Modification

The need to modify the current Pay for Performance System (PPS) surfaced in the results of both the 2000 and 2002 NIST Employee Surveys, the NIST Research Advisory Committee 2002 Report to the NIST Director, stakeholder focus group feedback, and in discussions of the NIST Senior Management Board. Generally, feedback indicated a need to clarify and simplify the system and suggested ways that this could be accomplished. The suggestions were found to have merit and are incorporated into this modification.

The NIST system proposed modifications include replacing the current 100-point rating scale with six performance ratings and linking pay increases to the ratings. From highest to lowest, the six performance ratings are: Exceptional Contributor, Superior Contributor, Significant Contributor, Contributor, Marginal Contributor, and Unsatisfactory.

Performance ratings are determined based on the cumulative ratings and relative weights of the critical elements. Critical elements are rated using benchmark standards and any supplemental standards. The ratings for the critical elements are: exceeds expectations (E), fully successful (S), minimally meets expectations (M), or unsatisfactory (U).

Performance pay increases will be based on the annually determined percentage of the mid-point salary for each pay band in the career path. When the percentage is applied to the mid-point salary in each pay band, the resulting dollar amount is the unit of salary increase or ''I'' for that pay band and career path. The ''I'' is used to determine salary increases NIST-wide. The Director, however, may authorize an operating unit to use a lower ''I'' for reasons related to solvency.

Actual salary increases based on multiples of ''I'' are granted to employees in the top three performance levels as follows: Exceptional Contributor: ''I'' x 5; Superior Contributor: ''I'' x 3; and Significant Contributor: ''I.'' A salary-capped employee with an Exceptional Contributor or Superior Contributor rating must receive a bonus at least equivalent to the salary increase that would have been received if the employee's salary were not capped.

In addition to receiving a performance pay increase, employees with Exceptional Contributor, Superior Contributor, and Significant Contributor ratings receive the full annual basic pay adjustment (general and locality pay increases) and are eligible for a bonus. Employees with a Contributor rating do not receive a performance pay increase but do receive the full annual basic pay adjustment and are eligible for a bonus. Employees rated Marginal Contributor or Unsatisfactory do not receive a performance pay increase, bonus, or annual basic pay adjustment.

The current provision on additional service credit for reduction-in-force purposes is revised to correspond with these changes. For retention purposes, this modification grants 10 additional years of service for a rating of Exceptional Contributor, eight additional years of service for a rating of Superior Contributor, three additional years of service for a rating of Significant Contributor, and one additional year of service for a rating of Contributor.

III. Changes in the APMS Plan

The APMS at the NIST, published in the **Federal Register** October 21, 1997, (62 FR 54604), is amended as follows:

1. Promotion: The subsection titled ''Promotion'' (62 FR 54609) is replaced with the following:

Promotion

A promotion is a change of an employee to (1) a higher pay band in the same career path or (2) a pay band in another career path in combination with an increase in pay. An employee must have a current performance rating of Contributor or higher to be eligible for promotion. The time-in-pay-band requirement for promotion eligibility is 52 weeks with two exceptions: (1) An employee may be promoted from pay band I to band II in the Support career path without time restriction; and (2) an employee may be promoted from pay band II to band III in the Support career path without time restriction if the employee was not promoted from a band I to band II position during the previous 52 weeks. (For pay provisions related to promotion, see ''Pay Administration.'')

2. Link Between Performance and Retention: The subsection titled ''Link Between Performance and Retention'' (62 FR 54609) is replaced with the following:

Link Between Performance and Retention

An employee with a performance rating of Exceptional Contributor is credited with 10 additional years of service for retention purposes. An employee with a performance rating of Superior Contributor is credited with eight additional years of service for retention purposes. An employee with a performance rating of Significant Contributor is credited with three additional years of service for retention purposes. An employee with a performance rating of Contributor is credited with one additional year of service for retention purposes. The total credit is based on the employee's three most recent annual performance ratings of record received during the four-year period prior to an established cutoff date, for a potential total credit of 30 years. No reduction-in-force credit converts to this system from any other performance appraisal system.

3. Placement in a Lower Pay Band: The subsection titled ''Placement in a Lower Pay Band'' (62 FR 54609) is replaced with the following:

Placement in a Lower Pay Band

An employee whose performance rating is Marginal Contributor or Unsatisfactory does not receive the NIST annual adjustment to basic pay. Because the minimum pay rate for each pay band is increased each year by the amount of the NIST annual adjustment to basic pay, it is possible that the new minimum rate of a pay band will exceed the basic pay of an employee in that pay band who does not receive the NIST annual adjustment to basic pay due to a Marginal Contributor or Unsatisfactory performance rating. When this happens, the employee is placed in the next lower pay band. This placement shall not be considered an adverse action under 5 U.S.C. 7512; nor shall grade (*i.e.*, pay band) retention under 5 U.S.C. 5362 be applicable.

4. Effect of General and Locality Pay Increases on Individual Pay: The subsection titled ''Effect of General and Locality Pay Increases on Individual Pay'' (62 FR 54610) is replaced with the following:

Effect of General and Locality Pay Increases on Individual Pay

Only employees with a current performance rating of Contributor or above may receive the full amount of increase in their basic pay (including locality pay) at the time of pay band adjustments. This increase in basic pay will reflect any applicable general and/or locality pay increase for General Schedule employees. The increase in basic pay for employees with a rating of Contributor or above, whose basic pay is at the ceiling of their pay band, will equal the increase in the ceiling.

The basic pay increase for eligible employees whose basic pay is below the ceiling of their band will be calculated by applying a factor to the employee's rate of pay. The factor is based on the net pay increase for General Schedule employees in the locality, including both the general increase and any applicable locality pay increase. Employees with ratings of Contributor or above will receive the full amount of the net increase, and the factor is equal to 1 plus the net increase percentage (expressed as a decimal). For example, if the net increase for a locality were 3.22 percent, the factor for Contributor or above would be 1.0322. Thus, the new rate of basic pay for an employee with a rating of Contributor or above would be calculated using the following formula:

New pay rate = (1 + net pay increase) x former pay rate

However, a basic pay increase will be applied only to the extent that it does not cause an employee's basic pay to exceed the pay band ceiling.

5. Performance Plans: The subsection titled ''Performance Plans'' (62 FR 54611) is replaced with the following:

Performance Plans

At the beginning of each rating period, supervisors develop and issue performance plans with input from employees. The plans contain from three to six critical performance elements for each position. For performance planning and appraisal purposes, only critical elements are used. The supervisor assigns a weight of 1, 2, 3, or 4 to each element indicating its relative level of importance to the position, so that the total weight of all elements is 10. Benchmark performance standards define the range of performance required to exceed expectations, be fully successful, minimally meet expectations, and be unsatisfactory. A supervisor may supplement the standards to add specificity or clarify expectations.

6. Performance Appraisal: The subsection titled ''Performance Appraisal'' (62 FR 54611) is replaced with the following:

Performance Appraisal

The performance appraisal brings supervisors and employees together to discuss performance and accomplishments during the performance rating cycle. The appraisal leads to decisions affecting performance ratings, performance pay increases, and bonuses. Performance appraisals normally occur at the end of the rating period. However, a supervisor should issue a performance improvement plan and take appropriate follow-up action any time an employee's performance is unsatisfactory.

7. Performance Ratings: The subsection titled ''Performance Ratings'' (62 FR 54612) is replaced with the following:

Performance Ratings

The NIST APMS performance ratings are Exceptional Contributor, Superior Contributor, Significant Contributor, Contributor, Marginal Contributor, and Unsatisfactory. Performance ratings are determined based on the cumulative ratings and weights of the critical elements in the performance plan. Performance in each critical element is evaluated using the benchmark standards and any supplemental standards, and the element is assigned a rating that exceeds expectations (E), fully successful (S), minimally meets expectations (M), or unsatisfactory (U).

The rating of the element is then matched with the weighted value of that critical element to produce a value for the element. For example, if an element is weighted 4 and the element is assigned a rating that exceeds expectations (E), then that element has a value of 4E.

Once this matching is completed and the elements are totaled, performance ratings are assigned using the following table.

Performance rating	Critical element ratings
Exceptional Contributor.	At least 8E; None below S.
Superior Contributor ..	At least 6E; None below S.
Significant Contributor	At least 3E; Up to 2M.
Contributor	Up to 3M.
Marginal Contributor	4 or more M.
Unsatisfactory	1 or more U.

An employee with unsatisfactory performance in one or more critical elements is considered unsatisfactory overall and is given a performance improvement plan and an opportunity to improve. If the employee's performance remains unsatisfactory at the end of an opportunity to improve,

the supervisor initiates appropriate follow-up action; *i.e.*, reassignment, proposed change to a lower pay band, or proposed removal.

8. Performance Scores: The subsection titled ''Performance Scores'' (62 FR 54612) is deleted.

9. Performance Ranking: The subsection titled ''Performance Ranking'' (62 FR 54612) is replaced with the following:

Performance Ranking

Performance ranking has been tested and found to be not appropriate for most positions covered by this modification. The Director may authorize the use of ranking where it is found to be appropriate.

10. Performance Pay Decisions: The subsection titled ''Performance Pay Decisions'' (62 FR 54612) is replaced with the following:

Performance Pay Decisions

Annually, the NIST Director determines the amount of a unit of increase, or ''I,'' based on a percentage of the mid-point salary for each pay band of each career path. The percentage may vary by career path but must be the same for all pay bands within a career path. Performance pay increases are linked directly to performance ratings. An employee with an overall performance rating of Exceptional Contributor receives a performance pay increase equal to five units of increase, or 5 x ''I.'' A Superior Contributor receives a performance pay increase equal to 3 x ''I.'' A Significant Contributor receives a performance pay increase equal to ''I.'' The actual dollar amount of a performance pay increase depends upon an employee's career path and pay band. Employees may not receive an increase that causes their salary to exceed the maximum rate for their pay band.

Employees with Contributor, Marginal Contributor, or Unsatisfactory ratings do not receive performance pay increases.

11. Performance Bonuses: The subsection titled ''Performance Bonuses'' (62 FR 54612) is replaced with the following:

Performance Bonuses

Bonuses are the only cash awards linked to the NIST APMS pay-for-performance system. They are awarded at the end of the performance rating period and may be granted in conjunction with performance pay increases. A pay pool manager may award a bonus to any employee with a performance rating of Contributor or higher. A pay pool manager is a line manager who manages his or her organization's pay increase and bonus fund and has final decision authority over the performance ratings and bonuses of subordinate employees. An employee with an Exceptional Contributor or Superior Contributor rating whose adjusted salary would exceed the maximum rate for the pay band must receive a bonus at least equivalent to the amount of the performance pay increase over the maximum rate but may receive more.

12. Employee Development: The subsection titled ''Employee Development'' (62 FR 54612) is replaced with the following:

Employee Development

The objective of the NIST Employee Development Program is to develop the competence of employees for maximum achievement of NIST mission and goals. The NIST APMS legislation mandates the continuance of an employee development program including, in appropriate circumstances, a sabbatical program. The NIST APMS sabbatical program is consistent with the terms and conditions of the Senior Executive Service sabbatical program. It covers all career appointees under the NIST APMS who have at least seven years of Federal service and a current performance rating of Contributor or higher.

[FR Doc. 05–9116 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of the American Petroleum Institute's Standards Activities

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of intent to develop or revise standards and request for public comment and participation in standards development.

SUMMARY: The American Petroleum Institute (API), with the assistance of other interested parties, continues to develop standards, both national and international, in several areas. This notice lists the standardization efforts currently being conducted by API committees. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of API is being undertaken as a public service. NIST does not necessarily endorse, approve, or recommend the standards referenced.

ADDRESSES: American Petroleum Institute, 1220 L Street, NW., Washington, DC 20005; telephone (202) 682–8000, *http://www.api.org.*

FOR FURTHER INFORMATION CONTACT: All contact individuals listed in the **SUPPLEMENTARY INFORMATION** section of this notice may be reached at the American Petroleum Institute.

SUPPLEMENTARY INFORMATION:

Background

The American Petroleum Institute develops and publishes voluntary standards for equipment, materials, operations, and processes for the petroleum and natural gas industry. These standards are used by both private industry and by governmental agencies. All interested persons should contact the appropriate source as listed for further information.

Pipeline Committee

Std 1163, 1st edition, ILI Systems Qualification.
RP 1133, 1st edition, Guideline for Onshore Hydrocarbon Pipelines Crossing Floodplains.
Std 1165, 1st edition, SCADA Display.
Std 1104, 20th edition, Pipeline Welding.

For Further Information Contact: Andrea Johnson, Standards Department, e-mail: *johnsona@api.org.*

Committee on Marketing

Std 2610, 2nd Edition, Design, Construction, Operation, Maintenance, and Inspection of Terminal and Tank Facilities.
API/IP Std 1529, 7th edition, Aviation Fueling Hose.
RP 1626, 2nd edition, Recommended Practice for Storing and Handling Ethanol and Gasoline-ethanol Blends at Distribution Terminals and Service Stations.
API 15xx, 1st edition, Recommended Practice for Documenting and Testing Aviation Fuel Quality from Manufacture to Airport.
API 15xx, 1st edition, Recommended Practice for Quality Control and Pre-Airfield Storage Terminals.

For Further Information Contact: David Soffrin, Standards Department, e-mail: *soffrind@api.org.*

Committee on Refining

Corrosion & Materials

RP 651, 3rd edition, Cathodic Protection of Aboveground Petroleum Storage Tanks.
RP 652, 3rd edition, Lining of Aboveground Petroleum Storage Tanks.

RP 938–C, 1st edition, Use of Duplex Stainless Steels in the Oil Refining Industry.

Inspection

Std 510, 98th edition, Pressure Vessel Inspection Code.
Std 570, 3rd edition, Piping Inspection Code.
RP 575, 3rd edition, Inspection of Atmospheric and Low Pressure Storage Tanks.

Pressure Vessel and Tanks

Std 620, 11th edition, Design and Construction of Large, Welded, Low-Pressure Storage Tanks.
Std 650, 11th edition, Welded Tanks for Oil Storage.
Std 653, 4th edition, Tank Inspection, Repair, Alteration, and Reconstruction.

Fitness for Service

RP 579, 2nd edition, Fitness for Service.

Electrical Equipment

Std 546, 3rd edition, Brushless Synchronous Machines—500kVA and Larger.
Std 547, 1st edition, General Purpose Form-wound Squirrel-cage Induction Motors larger than 250 HP.

Mechanical Equipment

Std 618, 5th edition, Reciprocating Compressors for Petroleum, Chemical, and Gas Industry Services.
Std 677, 3rd edition, General Purpose Gear Units.
Std 684, 3rd edition, Tutorial on Rotor Dynamics and Balancing.
Std 686, 2nd edition, Machinery Installation and Installation Design.

Heat Transfer Equipment

Publ 535, 2nd edition, Burners for Fired Heaters in General Refinery Services.
RP 536, 2nd edition, Post Combustion Nox Control for Equipment in General Refinery Services.
Std 661, 6th edition, Air Cooled Heat Exchangers (National Adoption of ISO 13706).

Piping

Std 600, 12th edition, Bolted Bonnet Steel Gate Valves (National Adoption of ISO 10434).
Std 602, 8th edition, Compact Steel Gat Valves-Flanged, Threaded, Welding, and Extended Body Ends (National Adoption of ISO 15761).
Std 607, 5th edition, Fire Test for Soft-Seated Quarter-Turn Valves.

Pressure Relieving Systems

RP 521, 5th edition, Guide for Pressure-Relieving and Depressuring Systems.

Instrument & Control Systems

RP 552, 2nd edition, Transmission Systems.
RP 554 Part 1, 2nd edition, Process Instrumentation and Control.

Technical Data Book—Petroleum Refining

Electronic Version of the Technical Data Book—Petroleum Refining, Release 4.0.

For Further Information Contact: David Soffrin, Standards Department, e-mail: *soffrind@api.org.*

Meetings/Conferences: The Spring Refining Meeting will be held at the Hilton New Orleans Riverside, April 18–20, 2005. The Fall Refining Meeting will be held at the Hyatt Regency McCormick Place, Chicago, Illinois, November 14–16, 2005. Interested parties may visit the API Web site at *http://www.api.org/events* for more information regarding participation in these meetings.

Committee on Safety and Fire Protection

RP 2001, 8th edition, Fire Protection in Refineries.
RP 2026, 2nd edition, Safe Access/Egress Involving Floating Roofs of Storage Tanks (probable reaffirmation).
RP 2030, 2nd edition, Application of Water Spray Systems for Fire Protection in the Petroleum Industry (probable reaffirmation).
RP 2207, 5th edition, Preparing Tank Bottoms for Hot Work (probable reaffirmation).
RP 2217A, 3rd edition, Guidelines for Work in Inert Confined Spaces in the Petroleum Industry.
RP 2218, 2nd edition, Fireproofing Practices in Petroleum and Petrochemical Processing Plants (probable reaffirmation).
RP 2219, Safe Operation of Vacuum Trucks in Petroleum Service (possible reaffirmation).
RP 2220, 2nd edition, Improving Owner and Contractor Safety Performance.
RP 2350, 3rd edition, Overfill Protection for Petroleum Storage Tanks.

For Further Information Contact: David Soffrin, Standards Department, e-mail: *soffrind@api.org.*

Committee on Petroleum Measurement

Manual of Petroleum Measurement Standards

Chapter 3.1A, 2nd edition, Manual Gauging of Petroleum and Petroleum Products.
Chapter 4.1, 2nd edition, Introduction to Proving Systems.
Chapter 4.9.1, 1st edition, Introduction to Determination of the Volume of Displacement and Tank Provers.
Chapter 4.9.2, 1st edition, Determination of the Volume of Displacement and Tank Provers by the Waterdraw Method of Calibration.
Chapter 4.9.3, 1st edition, Determination of the Volume of Displacement and Tank Provers by the Master Meter Method of Calibration.
Chapter 4.9.4, 1st edition, Determination of the Volume of Displacement and Tank Provers by the Gravimetric Method.
Chapter 5.1, 4th edition, General Consideration for Measurement by Meters.
Chapter 5.2, 3rd edition Measurement of Liquid Hydrocarbons by Displacement Meters.
Chapter 5.3, 5th edition, Measurement of Liquid Hydrocarbons by Turbine Meters.
Chapter 5.4, 4th edition, Accessory Equipment for Liquid Meters.
Chapter 5.5, 2nd edition, Fidelity and Security of Flow Measurement Pulsed-Data Transmission Systems.
Chapter 5.8, 1st edition, Measurement of Liquid Hydrocarbons by Ultrasonic Flowmeters Using Transit Time Technology.
Chapter 14.10, 1st edition, Flare Metering.
Chapter 12.1.3, 1st edition, Calculation Procedures for Liquefied Petroleum Gases.
Chapter 17.9, 1st edition, Vessel Experience Factors.
Chapter 17.10, 1st edition, Measurement of Refrigerated and Pressurized Cargo on Marine Tank Vessels.
Chapter 22.2, 1st edition, Testing Protocols for Pressure Differential Flow Measurement Devices.

For Further Information contact: Andrea Johnson, Standards Department, e-mail: *johnsona@api.org.*

API/ASTM/GPA Standards

MPMS Ch. 8.4/ASTM D5842, 2nd edition, Manual Sampling and Handling of Fuels for Volatility Measurement.
MPMS Ch. 10.5/ASTM D95, 4th edition, Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
MPMS Ch. 10.6./ASTM D1796, 4th edition, Water and Sediment in Fuel Oils by Centrifuge.
MPMS Ch. 11.2.4/GPA TP–27/ASTM TBD, 1st edition, Temperature Correction for the Volume of NGL and LPG Tables 23E, 24E, 53E, 54E, 59E, 60E.
MPMS Ch. 11.2.5/GPA TP–15/ASTM TBD, 1st edition, Simplified Vapor

Pressure Correlation for Commercial NGLs.

For Further Information Contact: Paula Watkins, Standards Department, e-mail: *watkinsp@api.org.*

Meetings/Conferences: The Fall Committee on Petroleum Measurement Meeting will take place at the Intercontinental New Orleans, New Orleans, Louisiana October 31–November 3, 2005. Interested parties may visit the API Web site at *http://www.api.org/events* for more information regarding participation in these meetings.

Committee on Exploration and Production

Production Equipment

Spec 6D, Addendum to 22nd edition, Pipeline Valves.

RP 6DR, 1st edition, Repair and Remanufacture of Pipeline Valves.

RP 6HT, 1st edition, Heat Treatment and Testing of Large Cross Section and Critical Section Components.

Spec 14A, 11th edition, Subsurface Safety Valve Equipment (National Adoption of ISO 10432).

RP 14B, 5th edition, Design, Installation, Repair and Operation of Subsurface Safety Valve Systems (National Adoption of ISO 10417).

Oil Country Tubular Goods

Oil Country Tubular Goods Tonnage Report.

Line Pipe Tonnage Report.

Spec 5CT, 8th edition, Casing & Tubing (National Adoption of ISO 11960).

RP 5UE, 2nd edition, Ultrasonic Evaluation of Pipe Imperfections.

Offshore Structures, Drill Through Equipment, and Subsea Production Equipment

RP 2A–WSD, Supplement to 21st edition, Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design.

RP 2SK, 3rd edition, Design and Analysis of Stationkeeping Systems for Floating Structures.

RP 2Z, 4th edition, Preproduction Qualification for Steel Plates for Offshore Structures.

RP 17A, 4th edition, Design and Operation of Subsea Systems (National Adoption of ISO 13628–1).

RP 17G, 2nd edition, Design and Operation of Completion/Workover Riser Systems (National Adoption of ISO 13628–7).

Spec 17K, 2nd edition, Bonded Flexible Pipe (National Adoption of ISO 13628–10).

Drilling Operations and Equipment

Spec 4F, 3rd edition, Drilling and Well Servicing Structures (National Adoption of ISO 13626).

Spec 7K, 4th edition, Drilling and Well Servicing Equipment (National Adoption of ISO 14693).

Spec 7NRV, 1st edition, Drill String Non-Return Valves.

RP 9B, 12th edition, Wire Roper.

RP 10B, 23rd edition, Testing Well Cements (National Adoption of ISO 10426–2).

RP 10B–5, 1st edition, Determination of Shrinkage and Expansion of Well Cement Formulation at Atmospheric Pressure (National Adoption of ISO 10426–5).

RP 13B–2, 4th edition, Standard Procedures for Field Testing Oil-based Drilling Fluids (National Adoption of ISO 10414–2).

RP 13D, 5th edition, Rheology and Hydraulics of Oil Well Drilling Fluids.

Spec 16C, 2nd edition, Choke and Kill Systems.

Spec 16RCD, 1st edition, Drill Through Equipment/Rotating Control Devices.

For Further Information Contact: Mike Spanhel, Standards Department, e-mail: *spanhel@api.org.*

Meetings/Conferences: The 2005 Summer Standardization Conference on Oilfield Equipment & Materials will take place at the Hyatt Regency Calgary, Calgary, Alberta, Canada June 27–July 1, 2005. Interested parties may visit the API Web site at *http://www.api.org/events* for more information regarding participation in this meeting.

Executive Committee on Drilling and Production Operations

RP 2D, 6th edition, Operation and Maintenance of Offshore Cranes.

RP 14G, 3rd edition, Fire Prevention and Control on Open-type Offshore Production Platforms.

RP 59, 1st edition, Well Control.

RP 86 (tentative designation), 1st edition, Well Rate Determination.

For Further Information Contact: Tim Sampson, Upstream Department, e-mail: *sampson@api.org.*

For Additional Information on the overall API standards program, Contact: David Miller, Standards Department, e-mail: *miller@api.org.*

Dated: April 28, 2005.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 05–9117 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 050329086–5086–01]

Proposed Voluntary Product Standard (PS) 20–05 ''American Softwood Lumber Standard''

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice and request for comments.

SUMMARY: This notice advises the public that the National Institute of Standards and Technology (NIST) is distributing a proposed revision of Voluntary Product Standard (PS) 20–99, ''American Softwood Lumber Standard.'' This standard, prepared by the American Lumber Standard Committee, serves the procurement and regulatory needs of numerous federal, state, and local government agencies by providing for uniform, industry-wide grade-marking and inspection requirements for softwood lumber. The implementation of the standard also allows for uniform labeling and auditing of treated wood and, through a Memorandum of Understanding with the U.S. Department of Agriculture, labeling and auditing of wood packaging materials for international trade. As part of a five-year review process, NIST is seeking public comment and invites interested parties to review the revised standard and submit comments.

DATES: Written comments regarding the proposed revision, PS 20–05, should be submitted to the Standards Services Division, NIST, no later than June 20, 2005.

ADDRESSES: An electronic copy (in PDF) of the proposed standard, PS 20–05, can be obtained at the following Web site *http://ts.nist.gov/docvps.* This site also includes an electronic copy of PS 20–99 (the existing standard), a summary of major recommended changes, and a form for submitting comments. Written comments on the standard should be submitted to Ms. JoAnne Overman, Standards Services Division, NIST, 100 Bureau Drive, Stop 2150, Gaithersburg, MD, 20899–2150; fax (301) 975–5414. Electronic comments may be submitted via e-mail to *joanne.overman@nist.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. JoAnne Overman, Standards Services Division, National Institute of Standards and Technology, telephone: (301) 975–4037; fax: (301) 975–5414, e-mail: *joanne.overman@nist.gov*.

SUPPLEMENTARY INFORMATION: Under Department of Commerce procedures

established in Title 15 Code of Federal Regulations Part 10, Procedures for the Development of Voluntary Product Standards, and administered by NIST, the American Lumber Standard Committee acts as the Standing Committee for PS 20–99, American Softwood Lumber Standard, responsible for maintaining, revising, and interpreting the standard. The Committee is comprised of producers, distributors, users, and others with an interest in the standard.

Voluntary Product Standard (PS) 20–05 establishes standard sizes and requirements for developing and coordinating the lumber grades of the various species of lumber, the assignment of design values, and the preparation of grading rules applicable to each species. Its provisions include implementation of the standard through an accreditation and certification program; establishment of principal trade classifications and lumber sizes for yard, structural, and factory/shop use; classification, measurement, grading, and grade-marking of lumber; definitions of terms and procedures to provide a basis for the use of uniform methods in the grading inspection, measurement, and description of softwood lumber; commercial names of the principal softwood species; definitions of terms used in describing standard grades of lumber; and commonly used industry abbreviations. The standard also includes the organization and functions of the American Lumber Standard Committee, the Board of Review, and the National Grading Rule Committee.

In addition to format, terminology, updates and general clarification, this revision makes the following major recommendations: (1) Section 2.2, Board measure, adds calculation of board feet for pieces of lumber less than 1″ in thickness; (2) Section 2.12, Heat treated (HT), adds a definition for heat treated lumber; (3) Table 3, Nominal and minimum-dressed sizes of boards, dimensions, and timbers, adds dry timber sizes as shown in amended Table 3; (4) Sections 6.2.3.1, and 6.2.5.1, on dry and green size requirements, respectively, adds language that recognizes that lumber shrinks or expands depending on its moisture content; (5) Section 7.3.3, concerning grade marking, defines bundled lumber; (6) Section 10, Board of Review, is reformatted; (7) Section 11.3, Composition of National Grading Rule Committee, deletes old building code organizations and adds new building code organizations represented on the Committee and adds membership to the Committee as indicated; and (8) Appendix A, Commercial Names of the Principal Softwood Species, deletes species groups and adds additional species.

All public comments will be reviewed and considered. The American Lumber Standard Committee and NIST will revise the standard accordingly.

Dated: April 28, 2005.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 05–9115 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040805A]

Small Takes of Marine Mammals Incidental to Specified Activities; Movement of Barges through the Beaufort Sea between West Dock and Cape Simpson or Point Lonely, Alaska

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

ACTION: Notice of receipt of application and proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from FEX L.P. (FEX), a subsidiary of Talisman Energy, Inc for an authorization to take small numbers of marine mammals by harassment incidental to conducting a barging operation within the U.S. Beaufort Sea. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize FEX to incidentally take, by harassment, small numbers of bowhead whales, beluga whales, ringed seals, bearded seals, and spotted seals in the above mentioned area between approximately July 1 and November 30, 2005.

DATES: Comments and information must be received no later than June 6, 2005.

ADDRESSES: Comments on the application should be addressed to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed here. The mailbox address for providing email comments is *PR1.040805A@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here and is also available at: *http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at this address.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713–2289, ext 128, or Brad Smith, Alaska Region, NMFS, (907) 271–3023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On March 29, 2005, NMFS received an application from FEX for the taking of several species of marine mammals incidental to the movement of two tugs towing barges from West Dock, Prudhoe Bay, Alaska to Cape Simpson or Point Lonely in the U.S. Beaufort Sea. The Kavik River (1100 horsepower (h.p.)) and the Sag River (1100 h.p.) or comparable class tugs, will each tow a single barge to Cape Simpson or Pt. Lonely. Approximately 8 round-trips will be required for project mobilization. Actual barging would be completed in an approximate 20–day period depending on ice conditions and sea states. Two barges would make the initial run to Cape Simpson/Point Lonely, and one would be left at one of those locations to serve as a temporary dock-head. The other barge would then make approximately 6 round trips. At the end of the barging operation, the barge serving as a temporary dockhead and the second barge would return to West Dock. FEX will make every effort to avoid periods of whale migration and subsistence activities and to complete the barging by August 15th, but no later than September 1st. If necessary, a late season barging effort may be required between October 15 and November 30, 2005.

Marine barge transit of a drilling rig, consumables, fuel, essential construction equipment and supplies from West Dock to Cape Simpson or Pt. Lonely is proposed. Equipment will be staged and stored in preparation for the upcoming winter on-shore oil and gas drilling and testing season. All drilling activities and bottom hole locations will be located on Federal Northwest National Petroleum Reserve Oil and Gas Leases.

Description of Marine Mammals Affected by the Activity

The Beaufort Sea supports many marine mammals under NMFS jurisdiction, including bowhead whales (*Balaena mysticetus*), beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), bearded seals (*Erignathus barbatus*) and spotted seals (*Phoca largha*). A brief description of the biology, distribution, and current status of these species can be found in the FEX application. More detailed descriptions can be found in NMFS Stock Assessment Reports. Please refer to those documents for more information on these species. The latter document can be downloaded electronically from: *http://www.nmfs.noaa.gov/prot__res/PR2/Stock__Assessment__Program/sars.html#Stock Assessment Reports*. The FEX application is also available on-line (see **ADDRESSES**).

Potential Effects of Tug/Barge Operations and Associated Activities on Marine Mammals

Potential harassment of marine mammals will result from the noise generated by the operation of towing vessels during barge movement. The physical presence of the tugs and barges could also lead to disturbance of marine mammals by visual or other cues. The potential for collisions between tug vessels and whales will be essentially zero due to the slow tow speed (2 knots) and visual monitoring by on-board marine mammal observers.

Marine mammal species with the highest likelihood of being harassed during the tug and barge movements are: beluga whales, ringed seals, and bearded seals. Spotted seals are less likely to be harassed during the tug/barge movement because they normally reside closer to the shore. Bowhead whales are the only species listed under the Endangered Species Act (ESA) that could potentially be affected by these activities. However, they are not expected to be encountered in more than very small numbers during the planned period of time for the tug/barge movement because the majority of bowhead whales will be on their summer feeding grounds in Canadian waters. A few transitory whales may be encountered during the transits. Beluga whales occur in the Beaufort Sea during the summer, but are expected to be found near the pack ice edge north of the proposed movement route. Depending on seasonal ice conditions, it is possible that belugas may be encountered during the transits.

Based on past surveys, ringed seals should represent the vast majority of marine mammals encountered during the transits. Ringed seals are expected to be present all along the tug/barge transit routes. There is the possibility that bearded and spotted seals will also be harassed during transit. Spotted seals may be present in the West Dock/Prudhoe Bay, but it is likely that they may be closer to shore and therefore are not expected to be harassed during transit phase.

Numbers of Marine Mammals Expected to Be Taken

The number of marine mammals that may be taken as a result of the tug/barging operation is unpredictable. Operations are scheduled to occur prior to the westward migration and associated subsistence bowhead whale hunts to purposely avoid any take of this species. Noise disturbance from vessels might qualify as harassment to seals, but previous surveys have indicated little behavioral reaction from these animals to slow-moving vessels.

Effects on Subsistence Needs

Residents of the village of Barrow are the primary subsistence users in the activity area. The subsistence harvest during winter and spring is primarily ringed seals, but during the open-water period both ringed and bearded seals are taken. Barrow hunters may hunt year round; however in more recent years most of the harvest has been in the summer during open water instead of the more difficult hunting of seals at holes and lairs (McLaren 1958, Nelson 1969). The Barrow fall bowhead whaling grounds, in some years, includes the Cape Simpson and Point Lonely areas (e.g. the 1990 season, when a large aggregation of feeding bowheads were pursued by Barrow hunters).

The most important area for Nuiqsut hunters is off the Colville River Delta in Harrison Bay, between Fish Creek and Pingok Island (149°40′ W). Seal hunting occurs in this area by snow machine before spring break-up and by boat during summer. Subsistence patterns are reflected in harvest data collected in 1992 where Nuiqsut hunters harvested 22 of 24 ringed seals and all 16 bearded seals during the open water season from July to October (Fuller and George, 1997). Harvest data for 1994 and 1995 show 17 of 23 ringed seals were taken from June to August, while there was no record of bearded seals being harvested during these years (Brower and Opie, 1997).

Due to the transient and temporary nature of the barge operation, impacts upon these seals are not expected to have an unmitigable adverse impact on subsistence uses of ringed and bearded seals because: (1) transient operations would temporarily displace relatively few seals; (2) displaced seals would likely move only a short distance and remain in the area for potential harvest by native hunters; (3) studies at the Northstar development found no evidence of the development activities affecting the availability of seals for subsistence hunters; however, the Northstar vicinity is outside the areas

used by subsistence hunters (Williams and Moulton, 2001); (4) the area where barge operations would be conducted is small compared to the large Beaufort Sea subsistence hunting area associated with the extremely wide distribution of ringed seals; and (5) the barging, as scheduled, will be completed prior to beginning of the fall westward migration of bowhead whales and the associated subsistence activities by the local whalers.

In order to further minimize any effect of barge operations on the availability of seals for subsistence, the tug boat owners/operators will follow U.S. Coast Guard rules and regulations near coastal water, therefore avoiding hunters and the locations of any seals being hunted in the activity area, whenever possible.

While no impact is anticipated on the availability of marine mammal species and stocks for subsistence uses, FEX is currently discussing its proposed barging plan with the Alaska Eskimo Whaling Commission (AEWC). Meeting schedules are being finalized with the subsistence communities, the AEWC and the Whaling Captains Association. FEX plans an interactive dialogue in the communities and will provide project details and specifications during the meetings. The meetings will be conducted to resolve potential conflicts with either the project operation or the plan of cooperation. FEX will provide details of those meetings and will provide a copy of the draft Plan of Cooperation to NMFS.

The FEX's activities will comply with an agreed-upon Conflict Avoidance Agreement (CAA) prior to the autumn bowhead hunt by the residents of Kaktovik (Barter Island), Nuiqsut (Cross Island) and Barrow Native villages. Ice, bad weather conditions, and other possible operational considerations may affect the timing of the barge activity and may require that some activities take place beyond the scheduled target dates, but not during the September 1 - October 15 period.

Mitigation

FEX proposes to mitigate any potential negative impacts from its barging operation by planning the timing of operations in such a way as to reduce the production of noise during the fall bowhead whale migration. This includes not operating barges during the time bowheads are migrating and feeding in the western Beaufort Sea (approximately late-August through mid-October). In addition to these mitigation measures, FEX is working with the AEWC, North Slope Borough, and other whaling communities to complete a new CAA to eliminate impacts to subsistence hunting of bowheads and thereby on bowheads themselves.

Monitoring

During all tug/barging operations, FEX will have on-board marine mammal monitors throughout the transit. As part of its application, FEX proposes to conduct a visual monitoring program for assessing impacts to marine mammals during the barge transits. FEX proposes to initiate a comprehensive training program for all potential marine mammal observers that includes learning the identification and behavior of all local species known to use the areas where FEX will be operating. This training would be conducted by professional marine biologists and experienced Native observers participating in the monitoring program. The observer protocol would be to scan the area around vessels with binoculars of sufficient power. Range finding equipment will be supplied to observers in order to better estimate distances. Observers would collect data on the presence, distribution, and behavior of marine mammals relative to FEX activities as well as climatic conditions at the time of marine mammal sightings. Observations would be made on a nearly 24–hour basis.

Reporting

All monitoring data collected would be reported to NMFS on a weekly basis. FEX must provide a final report on 2005 activities to NMFS within 90 days of the completion of the activity. This report will provide dates and locations of all barge movements and other operational activities, weather conditions, dates and locations of any activities related to monitoring the effects on marine mammals, and the methods, results, and interpretation of all monitoring activities, including estimates of the level and type of take, numbers of each species observed, direction of movement of all individuals, and any observed changes or modifications in behavior.

ESA Consultation

The effects of oil and gas exploration activities in the U.S. Beaufort Sea on listed species, which includes the proposed activity, were analyzed as part of a consultation on oil and gas leasing and exploration activities in the Beaufort Sea, Alaska, and authorization of small takes under the MMPA. A biological opinion on these activities was issued on May 25, 2001. The only species listed under the ESA that might be affected during these activities are bowhead whales. The effects of the proposed IHA on bowhead whales will be compared with the analysis contained in the 2001 biological opinion. If NMFS determines that the effects of the current activity are consistent with the findings of that biological opinion, and if an authorization to incidentally harass marine mammals listed under the ESA is issued for this activity under the MMPA, NMFS will issue an Incidental Take Statement under section 7 of the ESA.

National Environmental Policy Act (NEPA)

On February 5, 1999 (64 FR 5789), the Environmental Protection Agency (EPA) noted the availability of a Final Environmental Impact Statement (Final EIS) prepared by the U.S. Army Corps of Engineers under NEPA on Beaufort Sea oil and gas development at Northstar. NMFS was a cooperating agency on the preparation of the Draft and Final EISs, and subsequently, on May 18, 2000, adopted the Corps' Final EIS as its own document. That Final EIS described impacts to marine mammals from Northstar construction activities, which included vessel traffic similar to the currently proposed action by FEX. NMFS is currently reviewing this Final EIS and will make a final NEPA determination on this action prior to making a determination on the issuance of the IHA to FEX.

Preliminary Conclusions

NMFS has preliminarily determined that the short-term impact of conducting a barging operation between West Dock, Prudhoe Bay and either Cape Simpson or Point Lonely, in the U.S. Beaufort and associated activities will result, at worst, in a temporary modification in behavior by certain species of whales and pinnipeds. While behavioral modifications may be made by these species to avoid the resultant noise or visual cues from the barging operation, this behavioral change is expected to have a negligible impact on the survival and recruitment of marine mammal stocks.

While the number of potential incidental harassment takes will depend on the year-to-year distribution and abundance of marine mammals in the area of operations, due to the distribution and abundance of marine mammals during the projected period of activity and the location of the proposed activity, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and there is no potential for temporary or permanent hearing impairment as a result of the

activities. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the relocation route.

The principal measures undertaken to ensure that the barging operation will not have an adverse impact on subsistence activities are a CAA between FEX, the AEWC and the Whaling Captains Association; a Plan of Cooperation; and an operation schedule that will not permit barging operations during the traditional bowhead whaling season.

Proposed Authorization

NMFS proposes to issue an IHA for the harassment of marine mammals incidental to FEX conducting a barging operation for approximately 20 days from West Dock, Prudhoe Bay Alaska, through the U.S. Beaufort Sea to either Cape Simpson or Point Lonely. This proposed IHA is contingent upon incorporation of the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of bowhead whales, beluga whales, ringed seals, bearded seals and spotted seals; would have no more than a negligible impact on these marine mammal stocks; and would not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses once the Plan of Cooperation is submitted to NMFS and the previously described CAA is signed.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed IHA and the application for regulations request (see **ADDRESSES**).

Dated: May 2, 2005.

P. Michael Payne,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–9127 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050305A]

New England Fishery Management Council; Public Meetings

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

ACTION: Public meeting

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in May, 2005. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Wednesday, May 25, 2005, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: There will be a committee review of several cooperative research project final reports and the development of any associated advice for use by the Council. There will be an update on NOAA Fisheries Service plans to issue a Request for Proposals for short-term research projects; and review of the status of projects affected by the policy to use ''A'' days-at-sea to account for catch and associated fishing mortality during cooperative research efforts.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 3, 2005.

Emily Menashes,

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

[FR Doc. E5–2209 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 2005–P–059]

Changes to the Transitional Procedures for Limited Examination After Final Rejection in Certain Applications Filed Before June 8, 1995

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The Uruguay Round Agreements Act (URAA) provided for a transitional procedure for the limited examination after final rejection in certain applications filed before June 8, 1995. The United States Patent and Trademark Office (Office) is changing its final action practice for the Office action immediately following a submission under the URAA transitional limited examination procedure. The Office is changing this final action practice to conform with the intent of the URAA and to facilitate the completion of prosecution of applications to which the URAA transitional limited examination procedure applies.

DATES: *Effective Date:* The change in practice in this notice applies to any submission under 37 CFR 1.129(a) filed on or after June 8, 2005.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr, Senior Patent Attorney, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272–8800, by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, or by facsimile to (571) 273–7735, marked to the attention of Robert W. Bahr.

SUPPLEMENTARY INFORMATION: The URAA provided (among other things) for the Office to prescribe regulations to provide further limited (re)examination after final rejection of applications that have been pending for two years or longer as of June 8, 1995, taking into account any reference made in such application to any earlier filed applications under 35 U.S.C. 120, 121, or 365(c). *See* Pub. L. 103–465, § 532(a)(2)(A), 108 Stat. 4809, 4985 (1994). The Statement of Administration Action that accompanied the URAA indicated that the purpose of this transitional procedure for the limited examination of certain applications filed before June 8, 1995, was to facilitate the completion of the prosecution of applications pending in the Office as of June 8, 1995. *See Uruguay Round Agreements Act: Statement of Administrative Action,* H.R. Doc. No.

103–316, at 1005 (1994), *reprinted* in 1994 U.S.C.C.A.N. 4040, 4298 (emphasis added). Section 102(d) of the URAA (19 U.S.C. 3512(d)) provides that ''[t]he statement of administrative action approved by the Congress under section 101(a) shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application.'' *See also RHP Bearings, Ltd.* v. *United States,* 288 F.3d 1334, 1344 n.7 (Fed. Cir. 2002).

The Office implemented this provision in the URAA for the further limited examination of certain applications filed before June 8, 1995, in a then new 37 CFR 1.129(a). *See Changes to Implement 20-Year Patent Term and Provisional Applications,* 60 FR 20195 (Apr. 25, 1995), 1174 *Off. Gaz. Pat. Office* 15 (May 2, 1995) (final rule) (Twenty-Year Term Final Rule). With respect to the question of whether the Office action following a submission under 37 CFR 1.129(a) would be made final, the preamble to the Twenty-Year Term Final Rule indicated that: The next [Office] action following timely payment of the fee set forth in [37 CFR] 1.17(r) will be equivalent to a first action in a continuing application. * * * Thus, under [37 CFR] 1.129(a), if the first submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final. Likewise, if the second submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final.

See Changes to Implement 20-Year Patent Term and Provisional Applications, 60 FR at 20199, 1174 *Off. Gaz. Pat. Office* at 18. This statement of Office practice was subsequently incorporated into the *Manual of Patent Examining Procedure* (MPEP). *See* MPEP 706.07(g) (8th ed. 2001) (Rev. 2, May 2004).

It has now been a decade since the change to twenty-year patent term in the URAA. Nevertheless, there are still applications filed before June 8, 1995, pending before the Office in which a second (or both first and second) submission under 37 CFR 1.129(a) may be filed, though the Office now receives fewer than 100 submissions under 37 CFR 1.129(a) each year. This final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) is having a greater than anticipated (in 1995) effect in working against the completion of prosecution of applications filed before June 8, 1995. In addition, a review of the Statement of Administration Action reveals that the final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) (treating such Office action as the equivalent to a first action in a continuing application) was not the contemplated implementation of the transitional procedure provided for in § 532(a)(2)(A) of the URAA. *See Uruguay Round Agreements Act: Statement of Administrative Action,* H.R. Doc. No. 103–316, at 1006, *reprinted in* 1994 U.S.C.C.A.N. at 4298 (''[t]he [Office] will consider the merits of the first and second such submission, to the extent that such submissions would have been entitled to consideration if made prior to final rejection. The [Office] will modify such final rejection or allow such application, as appropriate, based upon consideration of such submissions''). Therefore, the Office is changing its final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) to bring about the completion of prosecution of applications to which the transitional procedure set forth in 37 CFR 1.129(a) applies.

Under the final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) now being adopted by the Office: The next Office action following timely filing of a submission under 37 CFR 1.129(a) (and payment of the fee set forth in 37 CFR 1.17(r)) will be equivalent to the next Office action following a reply to a non-final Office action. Under existing second Office action final practice, such an Office action on the merits shall be made final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). *See* MPEP 706.07(a). Any information disclosure statement submitted under 37 CFR 1.129(a) without the statement specified in 37 CFR 1.97(e) will be treated as though it had been filed within the time period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) (in view of applicant's payment of the fee set forth in 37 CFR 1.17(r)).

Under § 532(a)(2)(A) of the URAA (and the Statement of Administration Action), an applicant whose application is eligible for the transitional further limited examination procedure set forth in 37 CFR 1.129(a) is entitled to consideration of two after final submissions. Thus, if such an applicant has filed one submission under 37 CFR 1.129(a) and the application is again under a final rejection, the applicant is entitled to only one additional submission under 37 CFR 1.129(a). If such an applicant has filed two submissions under 37 CFR 1.129(a) and the application is again under a final rejection, § 532(a)(2)(A) of the URAA (and the Statement of Administration Action) and 37 CFR 1.129(a) do not entitle the applicant to consideration of any additional submissions under 37 CFR 1.129(a). The applicant is, of course, entitled to consideration of an additional submission if the submission meets the conditions set forth in 37 CFR 1.116.

The Office recognizes that its former final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) resulted in some applicants effectively receiving consideration of more than two submissions under 37 CFR 1.129(a). Section 532(a)(2)(A) of the URAA and the Statement of Administration Action, however, provide only for consideration of a first and second submission under 37 CFR 1.129(a), and do not contemplate each such submission being treated as the equivalent of a continuing application. That the Office's former final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) resulted in some applicants effectively receiving consideration of more than two submissions under 37 CFR 1.129(a) does not require the Office to continue to follow an after final practice having a result not contemplated by § 532(a)(2)(A) of the URAA and the Statement of Administration Action. *See In re The Boulevard Entertainment, Inc.,* 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003) (that the Office has followed an improper practice in certain applications does not require the Office to follow that improper practice in all applications).

Finally, the Twenty-Year Term Final Rule also indicated that the Office action following timely payment of the fee set forth in 37 CFR 1.17(r) will be equivalent to a first action in a continuing application due to the amount of the fee specified in 37 CFR 1.17(r). *See Changes to Implement 20-*

Year Patent Term and Provisional Applications, 60 FR at 20199, 1174 *Off. Gaz. Pat. Office* at 18. The fee amount specified in 37 CFR 1.17(r) does not justify a continuation of the final action practice set forth in the Twenty-Year Term Final Rule because: (1) The fee amount at 37 CFR 1.17(r) is no longer equivalent to the fee required for filing an application (the filing, search, and examination fee); and (2) the applications still eligible for submissions under 37 CFR 1.129(a) tend to be more burdensome than the ''usual'' continuing application (*e.g.*, these applications tend to have more claims, have more continuity information, and have more related copending applications). Therefore, the fee amount specified in 37 CFR 1.17(r) is no longer a sufficient justification for treating the Office action following a submission under 37 CFR 1.129(a) as the equivalent to a first action in a continuing application.

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and previously approved by OMB under OMB control number 0651–0031. The Office is not resubmitting any information collection package to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collection under OMB control number 0651–0031.

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

Section 706.07(g) of the *Manual of Patent Examining Procedure* will be revised in due course to reflect this change in practice.

Dated: April 20, 2005.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 05–8876 Filed 5–5–05; 8:45 am]

BILLING CODE 3510–16–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Marci Hunn, at (202) 606–5000, extension 432, (*mhunn@cns.gov*); (TTY/TDD) at (202) 606–5256 between the hours of 9 a.m. and 4 p.m. eastern standard time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Office for the Corporation for National and community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**.

(1) By fax to: (202) 395–6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) Electronically by e-mail to: *Katherine_T._Astrich@omb.eop.gov.*

The initial 60-day **Federal Register** notice for the Challenge Grant Application Instructions was published on February 14, 2005. This comment period ended on April 15, 2005; no comments were received.

SUPPLEMENTARY INFORMATION:

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Challenge Grant Application Instructions.

OMB Number: None.

Agency Number: None.

Affected Public: Organizations who are interested applying for Challenge Grant funding.

Total Respondents: 40.

Frequency: On occasion.

Average Time Per Response: Ten (10) hours.

Estimated Total Burden Hours: 400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Description: The purpose of these Challenge Grants is to assist nonprofit organizations in securing previously untapped sources of private funds to build sustainable national and community service programs. Organizations receiving funds must either greatly expand services by engaging citizens in meeting community needs or offer new services through expanded citizen engagement.

The Application Instructions submitted as part of this public collection request are pertinent only to the Corporation's online application system, eGrants. As noted in the 60-day notice published on February 14, 2005, use of the government-wide grants application system, Grants.gov, for this competition was dependent upon that system's ability to accommodate the Corporation's specific individualized needs. We are continuing to cooperate with Grants.gov in developing the capability to accept applications through that system. Instructions for applying through Grants.gov will be developed and submitted for approval when that system is compatible with our technical application requirements.

Dated: April 29, 2005.

Marlene Zakai,

Director, Office of Grants Policy and Operation.

[FR Doc. 05–9009 Filed 5–5–05; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0055]

Federal Acquisition Regulation; Information Collection; Freight Classification Description

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning freight classification description. The clearance currently expires on July 31, 2005.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 5, 2005.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jeritta Parnell, Contract Policy Division, GSA, at (202) 501-4082.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government purchases supplies that are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply, offerors are requested to indicate the full Uniform Freight Classification or National Motor Freight Classification. The information is used to determine the proper freight rate for the supplies.

B. Annual Reporting Burden

Respondents: 2,640.
Responses Per Respondent: 3.
Annual Responses: 7,920.
Hours Per Response: .167.
Total Burden Hours: 1,323.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0055, Freight Classification Description, in all correspondence.

Dated: April 29, 2005.

Julia B. Wise,

Director, Contract Policy Division.

[FR Doc. 05–9101 Filed 5–5–05; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Information Technology Advisory Committee (PITAC)

ACTION: Notice of meeting.

SUMMARY: This meeting is focused on the deliberation of PITAC's draft report on computational science. A small fraction of the meeting time may be allocated for other PITAC updates at the discretion of the co-chairs and the designated Federal officer.

DATES: Wednesday, May 11, 2005, 5:30–7 p.m. eastern time.

ADDRESSES: By teleconference.

SUPPLEMENTARY INFORMATION: Information about participation by the public will be posted at PITAC's Web site *(http://www.nitrd.gov/pitac)* by April 26, 2005. The agenda for this meeting will be posted at this Web site when it becomes available. Meeting information may also be obtained by calling 703–292–4873 from Monday through Friday, 8 a.m.–5 p.m. eastern time.

FOR FURTHER INFORMATION CONTACT: Alan Inouye at the National Coordination Office for Information Technology Research and Development at 703–292–4873 or by e-mail at *inouye@nitrd.gov.*

Dated: May 4, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–9212 Filed 5–5–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

RIN 0710–AA49

Guidance Memoranda for the Comprehensive Everglades Restoration Plan

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers and the South Florida Water Management District have developed the six guidance memoranda required by the programmatic regulations for the Comprehensive Everglades Restoration Plan for approval by the Secretary of the Army. The public is invited to review and comment on the final draft of the guidance memoranda prepared by the U.S. Army Corps of Engineers and the South Florida Water Management District.

DATES: We will accept comments until June 6, 2005.

ADDRESSES: If you wish to comment on the guidance memoranda, you may submit your comments by either of these methods:

1. You may submit written comments to: U.S. Army Corps of Engineers, ATTN: CESAJ–PD, P.O. Box 4970, Jacksonville, FL 32232–0019.

2. You may send comments by electronic mail (e-mail) to: *GMComments@usace.army.mil.*

If submitting comments by electronic format, please submit them in ASCII file format or Word file format and avoid the use of special characters and any form of encryption. Please include your name and return e-mail address in your e-mail message. Please note that your e-mail address will not be retained at the termination of the public comment period.

FOR FURTHER INFORMATION CONTACT: Stu Appelbaum, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232–0019, phone (904) 232–2238; fax (904) 232–3442.

SUPPLEMENTARY INFORMATION: On November 12, 2003, the Department of the Army published the final rule in the **Federal Register** that established the

programmatic regulations required by the Water Resources Development Act of 2000 as 33 CFR part 385. Section 385.5 of the programmatic regulations requires that the U.S. Army Corps of Engineers and the South Florida Water Management District develop, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, six guidance memoranda for approval by the Secretary of the Army. Guidance memoranda are program-wide procedures and processes needed to guide implementation of the Comprehensive Everglades Restoration Plan and to ensure that the goals and purposes of the Plan are achieved. The programmatic regulations require that the Secretary of the Army afford the public an opportunity to comment on the Guidance Memoranda prior to their approval. The programmatic regulations also require the concurrence of the Secretary of the Interior and the Governor of Florida on the Guidance Memoranda. An electronic copy of the guidance memoranda document is available at: *http://www.evergladesplan.org/pm/progr_regs_guidance_memoranda.cfm*.

Authority: 33 CFR 385.5.

Dated: April 28, 2005.

John Paul Woodley, Jr.,

Principal Deputy Assistant Secretary of the Army (Civil Works), Department of the Army.

[FR Doc. 05–9046 Filed 5–5–05; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Foundations for Learning; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215H.

Dates: Applications Available: May 6, 2005.

Deadline for Transmittal of Applications: June 20, 2005.

Deadline for Intergovernmental Review: August 19, 2005.

Eligible Applicants: (1) Local educational agencies (LEAs); (2) Local councils; (3) Community-based organizations (CBOs), including faith-based organizations; (4) Other public or nonprofit private entities; or (5) A combination of such entities.

Estimated Available Funds: $992,000. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2006 from the list of unfunded applications from this competition.

Estimated Range of Awards: $200,000-$300,000.

Estimated Average Size of Awards: $245,500.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program supports projects to help eligible children become ready for school.

Priority: In accordance with 34 CFR 75.105 (b)(2)(iv), this priority is from section 5542 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, 20 U.S.C. 7269a (ESEA).

Absolute Priority: For FY 2005 and any subsequent year in which we make awards on the basis of the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: Grants to local educational agencies, local councils, community-based organizations, including faith-based organizations, and other public and nonprofit private entities, or a combination of such entities, to assist eligible children to become ready for school.

To be eligible for funding, a project must propose one or more of the following—

(1) To deliver services to eligible children and their families that foster eligible children's emotional, behavioral, and social development;

(2) To coordinate and facilitate access by eligible children and their families to the services available through community resources, including mental health, physical health, substance abuse, educational, domestic violence prevention, child welfare, and social services;

(3) To provide ancillary services such as transportation or child care in order to facilitate the delivery of any other authorized services or activities;

(4) To develop or enhance early childhood community partnerships and build toward a community system of care that brings together child-serving agencies or organizations to provide individualized supports for eligible children and their families;

(5) To evaluate the success of strategies and services provided pursuant to the grant in promoting young children's successful entry to school and to maintain data systems required for effective evaluations; and

(6) To pay for the expenses of administering the grant activities, including assessment of children's eligibility for services.

Program Authority: 20 U.S.C. 7269a.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $992,000.

Estimated Range of Awards: $200,000–$300,000.

Estimated Average Size of Awards: $245,500.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

III. Eligibility Information

1. *Eligible Applicants:* (1) Local educational agencies (LEAs); (2) Local councils; (3) Community-based organizations (CBOs), including faith-based organizations; (4) Other public or nonprofit private entities; or (5) A combination of such entities.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching but does involve supplement-not supplant funding provisions. Sec. 20 U.S.C. 7269a(b)(3)(D).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.215H.

Copies of the application package for this competition can also be found at: *http://www.ed.gov/about/offices/list/osdfs/programs.html.*

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in Section VII of this notice under **FOR FURTHER INFORMATION CONTACT**.

2. *Content and Form of Application Submission:*

a. *Statutory Application Requirements:*

Applications submitted under this program must include the following—

(1) A description of the population that the applicant intends to serve and the types of services to be provided under the grant;

(2) A description of the manner in which services under the grant will be coordinated with existing similar services provided by public and nonprofit private entities within the State; and

(3) An assurance that—

• Services under the grant will be provided by or under the supervision of qualified professionals with expertise in early childhood development;

• These services will be culturally competent;

• These services will be provided in accordance with the permissible uses of funds as described elsewhere in this notice;

• Funds will be used to supplement, and not supplant, non-Federal funds; and

• Parents of students participating in services will be involved in the design and implementation of the services.

b. *Other:*

Other requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times:*

Applications Available: May 6, 2005.

Deadline for Transmittal of Applications: June 20, 2005.

Applications for grants under the Foundations for Learning Grants Program may be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants system, or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV.6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements. Deadline for Intergovernmental review: August 19, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:*

Limitations on Use of Funds

(1) Grant funds may be used only to pay for services that cannot be paid for using other Federal, State, or local public resources or through private insurance.

(2) A grantee may not use more than 3 percent of the amount of the grant to pay the expenses of administering the authorized activities, including assessment of children's eligibility for services.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under the Foundations for Learning Grants Program may be submitted electronically or in paper format by mail or hand delivery.

a. Electronic Submission of Applications

If you choose to submit your application to us electronically, you must use e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov*.

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• Your participation in e-Application is voluntary.

• You must complete the electronic submission of your grant application by 4:30 p.m., e.s.t., on the application deadline date. The e-Application system will not accept an application for the Foundations for Learning Grants Program after 4:30 p.m., e.s.t., on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Any narrative sections of the application should be attached as files in .DOC (document), .RTF (rich text), or .PDF (Portable Document) format.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgement that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., e.s.t., on the application deadline date; or

(b) The e-Application system is unavailable for any period of time

between 3:30 p.m. and 4:30 p.m., e.s.t., on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application.

Extensions referred to in this section apply only to the unavailability of the Department's e-Application system. If the e-Application system is available, and, for any reason, you are unable to submit your application electronically or you do not receive an automatic acknowledgement of your submission, you may submit your application in paper format by mail or hand delivery in accordance with the instructions in this notice.

b. Submission of Paper Applications by Mail

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215H), 400 Maryland Avenue, SW., Washington, DC 20202–4260. Or—

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.215H), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215H), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., e.s.t., except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are in the application package for this competition.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grants.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the Foundations for Learning grants program: (1) The percentage of eligible children served by the grant attaining measurable gains in emotional, behavioral, and social development will increase; and (2) The percentage of eligible children and their families served by the grant receiving individualized support from child-serving agencies or organizations will increase.

Note that in applying the selection criteria to be used in this competition for ''Quality of project services'' and ''Quality of the project evaluation,'' the Secretary will take into consideration the extent to which the applicant demonstrates a strong capacity to provide reliable data on these indicators.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Earl Myers, U.S. Department of Education, 400 Maryland Ave., SW., room 3E254, Washington, DC 20202–6450. Telephone: (202) 708–8846 or by e-mail: *earl.myers@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–888–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the

following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: May 3, 2005.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. 05–9132 Filed 5–5–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Rehabilitation Short-Term Training—Client Assistance Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.246K.

Dates:

Applications Available: May 6, 2005.

Deadline for Transmittal of Applications: June 20, 2005.

Deadline for Intergovernmental Review: August 19, 2005.

Eligible Applicants: States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

Estimated Available Funds: $200,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Rehabilitation Short-Term Training program supports special seminars, institutes, workshops, and other short-term courses in technical matters relating to vocational, medical, social, and psychological rehabilitation programs, independent living services programs, and client assistance programs (CAPs).

Priority: This priority is from the notice of final priority for this program, published in the **Federal Register** on February 15, 2000 (65 FR 7678).

Absolute Priority: For FY 2005 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Client Assistance Program

A project must—

• Provide training to Client Assistance Program (CAP) personnel on an as-needed basis, including—

(1) Management training on skills needed for strategic and operational planning and direction of CAP services;

(2) Advocacy training on skills and knowledge needed by CAP staff to assist persons with disabilities to gain access to and to use the services and benefits available under the Rehabilitation Act of 1973, as amended, with particular emphasis on new statutory and regulatory requirements;

(3) Systematic advocacy training on skills and knowledge needed by CAP staff to address programmatic issues of concern;

(4) Training and technical assistance on CAP best practices; and

(5) Training on skills and knowledge needed by CAP staff to perform additional responsibilities required by the Workforce Investment Act of 1998, as amended.

• Coordinate training efforts with other training supported by the Rehabilitation Services Administration (RSA), as well as with the training supported by the Center for Mental Health Services and the Administration on Developmental Disabilities on common areas such as protection and advocacy, financial management, and trial advocacy.

• Include both national and regional training seminars in each project year.

Program Authority: 29 U.S.C. 772.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, and 99. (b) The regulations for this program in 34 CFR parts 385 and 390.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $200,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

2. *Cost Sharing or Matching:* The Secretary has determined that a grantee must provide a match of at least 10 percent of the total cost of the project (34 CFR 390.40).

Note: Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the eight percent limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.246K.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 45 pages, using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: May 6, 2005.

Deadline for Transmittal of Applications: June 20, 2005.

Applications for grants under this competition must be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: August 19, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically, unless you qualify for an exception to this requirement in accordance with the instructions in this section.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

a. Electronic Submission of Applications

Applications for grants under the Rehabilitation Short-Term Training—Client Assistance Program—CFDA Number 84.246K must be submitted electronically using e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print the ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2) (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this

notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of the Department's e-Application system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the e-Application system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Department's e-Application system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Beverly Steburg, U.S. Department of Education, Rehabilitation Services Administration, 61 S. Forsyth Street, SW., suite 18T91, Atlanta, GA 30303–8934. FAX: (404) 562–6346.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications By Mail

If you qualify for any exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.246K), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center ''Stop 4260, Attention: (CFDA Number: 84.246K), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.246K), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The Government Performance and Results Act (GPRA) of 1993 directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals. The goal of the Rehabilitation Short-Term Training—Client Assistance Program is to upgrade the skills of staff currently employed by CAPs, to educate CAP staff on new program developments, and to develop staff skills in strategic and operational planning and direction of CAP services. In order to measure the success of the grantee in meeting this goal, the CAP training grantee is required to conduct an evaluation of the training activities provided. In annual performance

reports, the grantee is required to provide specific information on the number of training activities, the topics of each training program, the number of participants served, the target groups represented by participants, and summary data from participant evaluations. This information allows the training grantee to measure results against the goal of enhancing the skills and knowledge of personnel currently employed by CAPs. RSA is in the process of developing a uniform data collection instrument for future use to collect these data directly from the grantee.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Beverly Steburg, U.S. Department of Education, Rehabilitation Services Administration, 61 S. Forsyth Street, SW., suite 18T91, Atlanta, GA 30303–8934. Telephone: (404) 562–6336.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: May 3, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–9129 Filed 5–5–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 2, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of conduit exemption.

b. *Project No:* 768–001.

c. *Date Filed:* March 2, 2005.

d. *Applicant:* Colorado Springs City.

e. *Name of Project:* Ruxton Park—Manitou Springs Project.

f. *Location:* The project is located on the Ruxton Creek, El Paso County, Colorado.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 823a.

h. *Applicant Contact:* Mr. Wayne E. Booker, General Manager, Planning and Engineering, Colorado Springs Utilities, 1521 Hancock Expressway, Colorado Springs, CO 80903, (719) 668–3505.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Anumzziatta Purchiaroni at (202) 502–6191, or e-mail address: *anumzziatta.purchiaroni@ferc.gov.*

j. *Deadline for filing comments and or motions:* June 3, 2005.

k. *Description of Request:* The City of Colorado Springs, (City) exemptee, filed an amendment application to make configuration changes at its two facilities. The City proposes to discontinue regular operation and power generation at the existing Ruxton Powerhouse, and to construct a new powerhouse building. The new building would be located adjacent to the existing plant, and would house a new 1,800 kW turbine-generator unit. The City proposes to maintain intact all the existing facilities to preserve historic context of the old powerhouse and its generating equipment. In addition, the City proposes to add an additional 575-kW turbine-generator unit at the Manitou Springs Powerhouse.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web

site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2216 Filed 5–5–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

May 2, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of license.

b. *Project No.:* 1432–007.

c. *Date Filed:* March 28, 2005.

d. *Applicants:* Wards Cove Packing Company (WCPC/Transferor) and Port Bailey Wild Enterprises, LLC (PBWE/Transferee).

e. *Name of Project:* Dry Spruce Bay.

f. *Location of Project:* On Dry Spruce Bay, in the Kodiak Island Borough of Alaska. The project occupies lands of the United States administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicants Contacts:* Robert Hall, Wards Cove Packing Company, 88 East Hamlin Street, P.O. Box 5030, Seattle, WA 98105–0030 (Transferor); Robert S. Shane, II, Port Bailey Wild Enterprises, LLC, P.O. Box KPY, Kodiak, AK 99697–0060, (866) 292–3260 (Transferee).

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for filing comments and motions to intervene:* June 3, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–1432–007) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if any intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

k. *Description of Application:* The Applicants jointly and severally seek Commission approval to transfer the license for the Dry Spruce Bay Project from WCPC to PBWE.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2217 Filed 5–5–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of Licenses and Soliciting Comments, Motions to Intervene, and Protests

May 2, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of licenses.

b. *Project Nos.:* 2391–026, 2425–032, and 2509–028.

c. *Date Filed:* April 15, 2005.

d. *Applicants:* The Potomac Edison Company (Potomac Edison) Green Valley Hydro, LLC (Green Valley).

e. *Name and Location of Projects:* Warren, Project No. 2391: Shenandoah River in Warren County, Virginia; Luray/Newport, Project No. 2425: South Fork of the Shenandoah River in Page County, Virginia; Shenandoah, Project No. 2509: South Fork of the Shenandoah River in Page County, Virginia.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

g. *Applicants Contacts:* Randall B. Palmer, Senior Attorney, Allegheny Energy, Inc., 800 Cabin Hill Drive, Greensburg, PA 15601, (724) 838–6894; John A. Whittaker, IV, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006, (202) 282–5766.

h. *FERC Contact:* James Hunter, (202) 502–6086.

i. *Deadline for filing comments, protests, and motions to intervene:* June 3, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR

385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* The Applicants seek after-the-fact Commission approval to transfer the licenses for the projects listed in item e. from Potomac Edison to Green Valley. The Applicants applied under Part II of the FPA for Commission approval to transfer most of the jurisdictional facilities associated with the projects, received that approval on June 30, 2000, and the facilities and lands were transferred from Potomac Edison to Green Valley on June 1, 2001. However, the application states that, through inadvertence, an application to transfer the licenses for the projects was not filed.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number (P–2391) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g. above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2218 Filed 5–5–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

May 2, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to the project license.

b. *Project No:* 349–097.

c. *Date Filed:* April 14, 2005.

d. *Applicant:* Alabama Power Company (Alabama Power).

e. *Name of Project:* Martin Dam Project.

f. *Location:* The project is located on the Tallapoosa River in Coosa, Elmore, and Tallapoosa Counties, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mr. Alan Peeples, Alabama Power Company, 600 N. 18th Street, P.O. Box 2641, Birmingham, AL 35291–8180, (205) 257–1401.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Robert Shaffer at (202) 502–8944, or e-mail address: *Robert.Shaffer@ferc.gov*

j. *Deadline for filing comments and or motions:* June 3, 2005.

k. *Description of Request:* Alabama Power filed an amendment application that would change the project boundary by removing two narrow strips of land upon which causeways have been built by Russell Lands Inc. at The Ridge on Lake Martin, an existing residential development, and adding to the project two undeveloped islands in the general area of the causeway. The amendment would remove approximately 0.62 acres of land from the project and add approximately 0.67 acres of land to the project in Elmore County, Alabama.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS

AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2219 Filed 5–5–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 2, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary permit.

b. *Project No.:* 12580–000.

c. *Date Filed:* April 1, 2005.

d. *Applicant:* Shenango Dam Hydroelectric Company, LLC.

e. *Name of Project:* Shenango Dam Project.

f. *Location:* On the Shenango River, in Mercer County, Pennsylvania. The dam is administered by the U.S. Army Corps of Engineers (Corps).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Clifford Phillip, Shenango Dam Hydroelectric Company, LLC, 150 North Miller Road, Suite 450C, Fairlawn, OH 44333, (330) 869–8451.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for Filing Comments, Protests, and Motions to Intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would use the existing Corps Shenango Dam and would consist of: (1) proposed intake, (2) a proposed powerhouse containing two generating units having a total installed capacity of 2 megawatts, (3) a proposed 400-foot-long, 14.7 kilovolt transmission line, and (6) appurtenant facilities. The project would have an annual generation of 10 gigawatt-hours that would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under ''e-

filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2220 Filed 5–5–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Washoe Project—Rate Order No. WAPA–119

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rates.

SUMMARY: The Western Area Power Administration (Western) is proposing a minor rate adjustment for non-firm energy from the Stampede Powerplant (Stampede), of the Washoe Project, located in Sierra County, California. The current rates expire September 30, 2005. The rate will provide sufficient revenue to repay all annual costs, including interest expense, and repay required investment within the allowable period. The rate impact is detailed in a rate brochure to be provided to all interested parties. The proposed new rate is scheduled to go into effect October 1, 2005, and will remain in effect through September 30, 2010. Publication of this **Federal Register** notice begins the formal process for the proposed rates.

DATES: The consultation and comment period begins today and will end June 6, 2005. Western will accept written comments any time during the consultation and comment period.

ADDRESSES: Send written comments to Ms. Debbie R. Dietz, Rates Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, e-mail *ddietz@wapa.gov.* Western will post information about the rate process on its Web site at *http://www.wapa.gov/sn/customers/rates/#currentrates/.* Western will post official comments received via letter and e-mail to its Web site after the close of the comment period. Western must receive the written comments by the end of the consultation and comment period to ensure they are considered in Western's decision process.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie R. Dietz, Rates Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4453, e-mail *ddietz@wapa.gov.*

SUPPLEMENTARY INFORMATION: Current rates for the sale of non-firm energy from Stampede consist of floor and ceiling rates and are designed to recover an annual revenue requirement. The proposed floor rate for non-firm energy from Stampede is 17.89 mills/kilowatthour (mills/kWh) and on average for the 5-year rate period provides sufficient revenue to pay for 96 percent of annual expenses, excluding interest expense. The current ceiling rate was set by a power repayment study and provides sufficient revenues to repay all annual costs, including interest expense, and the investment within the allowable period.

The Central Valley Project (CVP) Power Marketing Plan states that the output from the Washoe Project remaining after meeting project use loads will be marketed to CVP preference customers. Beginning January 1, 2005, the costs remaining after meeting project use requirements are included in the CVP power revenue requirement (PRR) on an annual basis. This situation makes it unnecessary to establish a new proposed ceiling rate for Stampede. Western's Contract No. 94–SAO–00010 with the Sierra Pacific Resources (Sierra) sets the floor rate. Based on estimated expenses and projected revenues generated from the floor rate, Western anticipates including an annual average cost of $401,000 in the CVP PRR for the 5-year rate case period (fiscal year 2006–2010).

To serve project use loads and market the energy from Stampede, Western's contract with Sierra provides for the Stampede Energy Exchange Account (SEEA). SEEA is an annual energy exchange account for Stampede energy. Under this contract, Sierra accepts delivery of all energy generated from Stampede into Sierra's electrical system. The dollar value of the Stampede energy received by Sierra during any month is credited into the SEEA at the floor rate. Western can use the SEEA to benefit project use facilities and market energy from Stampede to preference entities. The formula for the proposed floor rate, per the contract with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kilowatts (kW) or less. This proposed floor rate is used to calculate the value of the SEEA and determines the benefit of Stampede power for project use loads. Western applies the ratio of projected project use costs to the projected revenue recorded in the SEEA to determine a non-reimbursable percentage. This non-reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs. The reimbursable costs are reduced by revenues from sales made at the floor rate. Under the 2004 CVP Power Marketing Plan, the remaining reimbursable costs and the estimated energy remaining after meeting project use service are then transferred to the CVP PRR.

The propose rate formula for Stampede power is:

Stampede Annual Transferred PRR = Stampede Annual PRR − Stampede Revenue

Where:

Stampede Annual Transferred PRR = Stampede annual costs (Power Revenue Requirement) and associated energy transferred to the CVP.

Stampede Annual PRR = The total power revenue requirement for Stampede required to repay all annual costs, including interest and the investment within the allowable period.

Stampede Revenue = Revenue generated from the floor rate and project generation.

Western will review the total PRR for Stampede annually in or around April of each year. According to Contract No. 94–SAO–00010 that governs SEEA administration, in April of each year, Western is notified of the balance of the

SEEA. According to the rate procedures for the CVP, Western will review the CVP PRR in March and September of each year. Western will analyze the CVP financial data from October through February, to the extent information is available, as well as forecasted data for March through September. In the case of Stampede, Western will use the disposition of the SEEA account through February and estimate March through September to determine the amount of costs to be included in the CVP PRR. Again, in September when the next review occurs, Western will use the same methodology to include costs in the CVP PRR. Western estimates the Stampede Annual Transferred PRR for October 2005 through September 2006 to be $401,000.

A comparison of existing and proposed rates follows:

COMPARISON OF EXISTING AND PROPOSED RATES

[Washoe Project, Stampede Powerplant]

Non-firm existing rates	Existing rates as of 10/1/00 (Mills/kWh)	Proposed rates (effective 10/1/05)	Percent change
Floor Rate (Mills/kWh)	17.89	17.89	0
Ceiling Rate	90.07	N/A	N/A

Legal Authority

Stampede is a feature of the Washoe Project authorized by Congress in 1956 and is located on the Little Truckee River in Sierra County, California. The powerplant has a maximum operating capability of 3,650 kW with an estimated annual generation of 11 million kilowatthours (kWh). Since Stampede has an installed capacity of less than 20,000 kW and generates less than 100 million kWh annually for sale, the proposed rates constitute a minor rate adjustment. Western has determined that it is not necessary to hold a public information or comment forum for this proposed minor rate adjustment as defined by 10 CFR part 903. After review of public comments, and possible amendments or adjustments, Western will recommend the Deputy Secretary of Energy approve proposed rates for non-firm energy from Stampede on an interim basis.

These proposed rates for non-firm energy for Stampede are being established under the Department of Energy Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect, on an interim basis, to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect, on a final basis, to remand or to disapprove such rates to the Commission. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985 (50 FR 37835).

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed rates are available for inspection and copying at the Sierra Nevada Regional Office, located at 114 Parkshore Drive, Folsom, California. Many of these documents and supporting information are also available on the Web site under the ''Current Rates'' section located at *http://www.wapa.gov/sn/customers/rates/#currentrates/.*

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. This action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; so this notice requires no clearance by the Office of Management and Budget.

Small Business Regulatory Enforcement Fairness Act

Western has determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: April 25, 2005.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 05–9080 Filed 5–5–05; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID No. OECA–2005–0016 to 0051 FRL–7908–6]

Agency Information Collection Activities: Request for Comments on Thirty Six Proposed Information Collection Requests (ICRs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following 36 existing, approved, continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB) for the purpose of renewing the ICRs. Before submitting the ICRs to OMB for

review and approval, EPA is soliciting comments on specific aspects of the information collections as described under **SUPPLEMENTARY INFORMATION**.

DATES: Comments must be submitted on or before July 5, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier service. Follow the detailed instructions as provided under **SUPPLEMENTARY INFORMATION**, section I. B.

FOR FURTHER INFORMATION CONTACT: The contact individuals for each ICR are listed under **SUPPLEMENTARY INFORMATION**, section II. C.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Background

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, *e.g.*, permitting electronic submission of responses.

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

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

B. Public Dockets

EPA has established official public dockets for the ICRs listed under **SUPPLEMENTARY INFORMATION**, section II. B. The official public docket for each ICR consists of the documents specifically referenced in the ICR, any public comments received, and other information related to each ICR. The official public docket for each ICR is the collection of materials that is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is (202) 566–1514. An electronic version of the public docket for each ICR is available through EPA Dockets (EDOCKET) at: *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, to submit or to view public comments, to access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to the listed ICRs above 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.*

II. ICRs To Be Renewed

A. For All ICRs

The listed ICRs address Clean Air Act information collection requirements in standards (*i.e.*, standards) which have mandatory recordkeeping and reporting requirements. Records collected under the New Source Performance Standards (NSPS) must be retained by the owner or operator for at least two years and the records collected under the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years. In general, the required collections consist of emissions data and other information deemed not to be private.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved Information Collection Requests (ICRs) listed in this notice. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the Paperwork Reduction Act.

B. List of ICRs Planned To Be Submitted

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following 36 continuing Information Collection:

(1) NESHAP for Steel Pickling, HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 CFR Part 63, Subpart CCC); Docket ID Number OECA–2005–0047; EPA ICR Number 1821.05; OMB Control Number 2060–0419; expiration date October 31, 2005.

(2) NESHAP for Portland Cement (40 CFR Part 63, Subpart LLL); Docket ID Number OECA–2005–0040; EPA ICR Number 1801.04; OMB Control Number 2060–0416; expiration date October 31, 2005.

(3) NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (40 CFR Part 61, Subpart N); Docket ID Number OECA–2005–0034; EPA ICR Number 1081.08; OMB Control Number 2060–0043; expiration date October 31, 2005.

(4) NSPS for Sulfuric Acid Plants (40 CFR Part 60, Subpart H); Docket ID Number OECA–2005–0025; EPA ICR

Number 1057.10; OMB Control Number 2060–0041; expiration date October 31, 2005.

(5) NSPS for Primary and Secondary Emissions from Basic Oxygen Furnaces (40 CFR Part 60, Subparts N and Na); Docket ID Number OECA–2005–0044; EPA ICR Number 1069.08; OMB Control Number 2060–0029; expiration date October 31, 2005.

(6) NESHAP for Primary Lead Smelters (40 CFR Part 63, Subpart TTT); Docket ID Number OECA–2005–0046; EPA ICR Number 1856.05; OMB Control Number 2060–0414; expiration date October 31, 2005.

(7) NSPS for Petroleum Refineries (40 CFR Part 60, Subpart J); Docket ID Number OECA–2005–0016; EPA ICR Number 1054.09; OMB Control Number 2060–0022; expiration date November 30, 2005.

(8) NESHAP for Source Categories Generic Maximum Achievable Control Technology Standards (40 CFR Part 63, Subpart YY); Docket ID Number OECA–2005–0030; EPA ICR Number 1871.04; OMB Control Number 2060–0420; expiration date December 31, 2005.

(9) NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); Docket ID Number OECA–2005–0029; EPA ICR Number 1557.06; OMB Control Number 2060–0220; expiration date October 31, 2005.

(10) NSPS for Calciners and Dryers in Mineral Industries (40 CFR Part 60, Subpart UUU); Docket ID Number OECA–2005–0024; EPA ICR Number 0746.06; OMB Control Number 2060–0251; expiration date December 31, 2005.

(11) NSPS for Metal Coil Surface Coating (40 CFR Part 60, Subpart TT); Docket ID Number OECA–2005–0037; EPA ICR Number 0660.09; OMB Control Number 2060–0107; expiration date December 31, 2005.

(12) NSPS for Bulk Gasoline Terminals (40 CFR part 60, Subpart XX); Docket ID Number OECA–2005–0017; EPA ICR Number 0664.08; OMB Control Number 2060–0006; expiration date December 31, 2005.

(13) NSPS for Equipment Leaks of VOC in Petroleum Refineries (40 CFR Part 60, Subpart GGG); Docket ID Number OECA–2005–0018; EPA ICR Number 0983.08; OMB Control Number 2060–0067; expiration date December 31, 2005.

(14) NSPS for Glass Manufacturing Plants (40 CFR Part 60, Subpart CC); Docket ID Number OECA–2005–0027; EPA ICR Number 1131.08; OMB Control Number 2060–0054; expiration date December 31, 2005.

(15) NESHAP for Wet-Formed Fiberglass Mat Production (40 CFR Part 63, Subpart HHHH); Docket ID Number OECA–2005–0048; EPA ICR Number 1964.03; OMB Control Number 2060–0496; expiration date December 31, 2005.

(16) NESHAP for Asbestos (40 CFR Part 61, Subpart M); Docket ID Number OECA–2005–0019; EPA ICR Number 0111.11; OMB Control Number 2060–0101; expiration date March 31, 2006.

(17) NSPS for Beverage Can Surface Coating (40 CFR Part 60, Subpart WW); Docket ID Number OECA–2005–0038; EPA ICR Number 0663.09; OMB Control Number 2060–0001; expiration date April 30, 2006.

(18) NSPS for Grain Elevators (40 CFR Part 60, Subpart DD); Docket ID Number OECA–2005–0026; EPA ICR Number 1130.08; OMB Control Number 2060–0082; expiration date April 30, 2006.

(19) NSPS for Kraft Pulp Mills (40 CFR Part 60, Subpart BB); Docket ID Number OECA–2005–0039; EPA ICR Number 1055.08; OMB Control Number 2060–0021; expiration date April 30, 2006.

(20) NSPS for Lime Manufacturing (40 CFR Part 60, Subpart HH); Docket ID Number OECA–2005–0028; EPA ICR Number 1167.08; OMB Control Number 2060–0063; expiration date April 30, 2006.

(21) NSPS for Hot Mix Asphalt Facilities (40 CFR Part 60, Subpart I); Docket ID Number OECA–2005–0045; EPA ICR Number 1127.08; OMB Control Number 2060–0083; expiration date April 31, 2006.

(22) NESHAP for Municipal Solid Waste Landfills (40 CFR Part 63, Subpart AAAA); Docket ID Number OECA–2005–0031; EPA ICR Number 1938.03; OMB Control Number 2060–0505; expiration date April 30, 2006.

(23) NESHAP for the Wood Building Products Surface Coating Industry (40 CFR Part 63, Subpart WWWW); Docket ID Number OECA–2005–0043; EPA ICR Number 2034.03; OMB Control Number 2060–0510; expiration date May 31, 2006.

(24) NESHAP for Reinforced Plastics Composites Production (40 CFR Part 63, Subpart WWWW); Docket ID Number OECA–2005–0049; EPA ICR Number 1976.03; OMB Control Number 2060–0509; expiration date May 31, 2006.

(25) NESHAP for Publicly Owned Treatment Works (40 CFR Part 63, Subpart VVV); Docket ID Number OECA–2005–0035; EPA ICR Number 1891.04; OMB Control Number 2060–0428; expiration date May 31, 2006.

(26) NESHAP for Metal Furniture Surface Coating (40 CFR Part 63, Subpart RRRR); Docket ID Number OECA–2005–0041; EPA ICR Number 1952.03; OMB Control Number 2060–0518; expiration date May 31, 2006.

(27) NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR Part 63, Subpart LLLLL); Docket ID Number OECA–2005–0051; EPA ICR Number 2029.03; OMB Control Number 2060–0520; expiration date May 31, 2006.

(28) NESHAP for Flexible Polyurethane Foam Fabrication 40 CFR Part 63, Subpart MMMMM); Docket ID Number OECA–2005–0033; EPA ICR Number 2027.03; OMB Control Number 2060–0516; expiration date May 31, 2006.

(29) NESHAP for Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ); Docket ID Number OECA–2005–0032; EPA ICR Number 1951.03; OMB Control Number 2060–0511; expiration date May 31, 2006.

(30) NESHAP for Coke Oven Pushing Quenching and Battery Stacks (40 CFR Part 63, Subpart CCCCC); Docket ID Number OECA–2005–0050; EPA ICR Number 1995.03; OMB Control Number 2060–0521; expiration date May 31, 2006.

(31) NESHAP for Printing, Coating and Dyeing of Fabrics and Other Textiles (40 CFR Part 63, Subpart OOOO); Docket ID Number OECA–2005–0023; EPA ICR Number 2071.03; OMB Control Number 2060–0522; expiration date May 31, 2006.

(32) NESHAP for Refractory Products Manufacturing (40 CFR Part 63, Subpart SSSSS); Docket ID Number OECA–2005–0022; EPA ICR Number 2040.03; OMB Control Number 2060–0515; expiration date May 31, 2006.

(33) NESHAP for Brick and Structural Clay Manufacturing (40 CFR Part 63, Subpart JJJJJ); Docket ID Number OECA–2005–0021; EPA ICR Number 2022.03; OMB Control Number 2060–0508; expiration date May 31, 2006.

(34) NESHAP for Benzene Waste Operations (40 CFR Part 61, Subpart FF); Docket ID Number OECA–2005–0020; EPA ICR Number 1541.08; OMB Control Number 2060–0183; expiration date May 31, 2006.

(35) NESHAP for the Surface Coating of Large Household and Commercial Appliances (40 CFR Part 63, Subpart NNNN); Docket ID Number OECA–2005–0042; EPA ICR Number 1954.03; OMB Control Number 2060–0457; expiration date May 31, 2006.

(36) State and Federal Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators (40 CFR Part 60, Subpart Ce and 40 CFR Part 62, Subpart HHH); Docket ID Number OECA–2005–0036; EPA ICR Number 1899.03; OMB Control Number 2060–0422; expiration date May 31, 2006.

C. Contact Individuals for ICRs

(1) NESHAP for Steel Pickling, HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 CFR Part 63, Subpart CCC); María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1821.05; OMB Control Number 2060–0419; expiration date October 31, 2005.

(2) NESHAP for Portland Cement (40 CFR Part 63, Subpart LLL); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 1801.04; OMB Control Number 2060–0416; expiration date October 31, 2005.

(3) NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (40 CFR Part 61, Subpart N); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1081.08; OMB Control Number 2060–0043; expiration date October 31, 2005.

(4) NSPS for Sulfuric Acid Plants (40 CFR Part 60, Subpart H); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1057.10; OMB Control Number 2060–0041; expiration date October 31, 2005.

(5) NSPS for Primary and Secondary Emissions from Basic Oxygen Furnaces (40 CFR Part 60, Subparts N and Na); María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1069.08; OMB Control Number 2060–0029; expiration date October 31, 2005.

(6) NESHAP for Primary Lead Smelters (40 CFR Part 63, Subpart TTT); María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1856.05; OMB Control Number 2060–0414; expiration date October 31, 2005.

(7) NSPS for Petroleum Refineries (40 CFR Part 60, Subpart J); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via e-mail to *chadwick.dan@epa.gov;* EPA ICR Number 1054.09; OMB Control Number 2060–0022; expiration date November 30, 2005.

(8) NESHAP for Source Categories Generic Maximum Achievable Control Technology Standards (40 CFR Part 63, Subpart YY); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1871.04; OMB Control Number 2060–0420; expiration date December 31, 2005.

(9) NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1557.06; OMB Control Number 2060–0220; expiration date October 31, 2005.

(10) NSPS for Calciners and Dryers in Mineral Industries (40 CFR Part 60, Subpart UUU); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 0746.06; OMB Control Number 2060–0251; expiration date December 31, 2005.

(11) NSPS for Metal Coil Surface Coating (40 CFR Part 60, Subpart TT); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 0660.09; OMB Control Number 2060–0107; expiration date December 31, 2005.

(12) NSPS for Bulk Gasoline Terminals (40 CFR Part 60, Subpart XX); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via e-mail to *chadwick.dan@epa.gov;* EPA ICR Number 0664.08; OMB Control Number 2060–0006; expiration date December 31, 2005.

(13) NSPS for Equipment Leaks of VOC in Petroleum Refineries (40 CFR Part 60, Subpart GGG); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via e-mail to *chadwick.dan@epa.gov;* EPA ICR Number 0983.08; OMB Control Number 2060–0067; expiration date December 31, 2005.

(14) NSPS for Glass Manufacturing Plants (40 CFR Part 60, Subpart CC); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1131.08; OMB Control Number 2060–0054; expiration date December 31, 2005.

(15) NESHAP for Wet-Formed Fiberglass Mat Production (40 CFR Part 63, Subpart HHHH); María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1964.03; OMB Control Number 2060–0496; expiration date December 31, 2005.

(16) NESHAP for Asbestos (40 CFR Part 61, Subpart M); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via e-mail to *chadwick.dan@epa.gov;* EPA ICR Number 0111.11; OMB Control Number 2060–0101; expiration date March 31, 2006.

(17) NSPS for Beverage Can Surface Coating (40 CFR Part 60, Subpart WW); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 0663.09; OMB Control Number 2060–0001; expiration date April 30, 2006.

(18) NSPS for Grain Elevators (40 CFR Part 60, Subpart DD); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1130.08; OMB Control Number 2060–0082; expiration date April 30, 2006.

(19) NSPS for Kraft Pulp Mills (40 CFR Part 60, Subpart BB); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 1055.08; OMB Control Number 2060–0021; expiration date April 30, 2006.

(20) NSPS for Lime Manufacturing (40 CFR Part 60, Subpart HH); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1167.08; OMB Control Number 2060–0063; expiration date April 30, 2006.

(21) NSPS for Hot Mix Asphalt Facilities (40 CFR Part 60, Subpart I); Maríe Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1127.08; OMB Control Number 2060–0083; expiration date April 31, 2006.

(22) NESHAP for Municipal Solid Waste Landfills (40 CFR Part 63, Subpart AAAA); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1938.03; OMB Control Number 2060–0505; expiration date April 30, 2006.

(23) NESHAP for the Wood Building Products Surface Coating Industry (40 CFR Part 63, Subpart WWWW); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 2034.03; OMB Control Number 2060–0510; expiration date May 31, 2006.

(24) NESHAP for Reinforced Plastics Composites Production (40 CFR Part 63, Subpart WWWW); María Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1976.03; OMB Control Number 2060–0509; expiration date May 31, 2006.

(25) NESHAP for Publicly Owned Treatment Works (40 CFR Part 63, Subpart VVV); Gregory Fried of the

Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov;* EPA ICR Number 1891.04; OMB Control Number 2060–0428; expiration date May 31, 2006.

(26) NESHAP for Metal Furniture Surface Coating (40 CFR Part 63, Subpart RRRR); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 1952.03; OMB Control Number 2060–0518; expiration date May 31, 2006.

(27) NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR Part 63, Subpart LLLLL); Maríe Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 2029.03; OMB Control Number 2060–0520; expiration date May 31, 2006.

(28) NESHAP for Flexible Polyurethane Foam Fabrication 40 CFR Part 63, Subpart MMMMM); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 2027.03; OMB Control Number 2060–0516; expiration date May 31, 2006.

(29) NESHAP for Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1951.03; OMB Control Number 2060–0511; expiration date May 31, 2006.

(30) NESHAP for Coke Oven Pushing Quenching and Battery Stacks (40 CFR Part 63, Subpart CCCCC); Maríe Malavé in the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1995.03; OMB Control Number 2060–0521; expiration date May 31, 2006.

(31) NESHAP for Printing, Coating and Dyeing of Fabrics and Other Textiles (40 CFR Part 63, Subpart OOOO); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 2071.03; OMB Control Number 2060–0522; expiration date May 31, 2006.

(32) NESHAP for Refractory Products Manufacturing (40 CFR Part 63, Subpart SSSSS); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 2040.03; OMB Control Number 2060–0515; expiration date May 31, 2006.

(33) NESHAP for Brick and Structural Clay Manufacturing (40 CFR Part 63, Subpart JJJJJ); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 2022.03; OMB Control Number 2060–0508; expiration date May 31, 2006.

(34) NESHAP for Benzene Waste Operations (40 CFR Part 61, Subpart FF); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via e-mail to *chadwick.dan@epa.gov;* EPA ICR Number 1541.08; OMB Control Number 2060–0183; expiration date May 31, 2006.

(35) NESHAP for the Surface Coating of Large Household and Commercial Appliances (40 CFR Part 63, Subpart NNNN); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 1954.03; OMB Control Number 2060–0457; expiration date May 31, 2006.

(36) State and Federal Emission Guidelines for Hospital/Medical/ Infectious Waste Incinerators (40 CFR Part 60, Subpart Ce and 40 CFR Part 62, Subpart HHH); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov;* EPA ICR Number 1899.03; OMB Control Number 2060–0422; expiration date May 31, 2006.

D. Information for Individual ICRs

(1) NESHAP for Steel Pickling, HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 CFR Part 63, Subpart CCC); EPA ICR Number 1821.05; OMB Control Number 2060–0419; expiration date October 31, 2005.

Affected Entities: Entities potentially affected by this action are facilities that pickle steel using hydrochloric acid or regenerate hydrochloric acid.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Steel Pickling, published at 40 CFR part 63, subpart CCC, were proposed on September 18, 1997 (62 FR 49051), and promulgated on June 22, 1999 (64 FR 33202). This standard establishes limits for hydrochloric acid emissions from continuous and batch pickling lines and acid regeneration units and limits for chlorine emissions from acid regeneration units. Also, operational and equipment standards are established for stationary acid storage vessels.

The monitoring, recordkeeping, and reporting requirements outlined in the standard are the same as those required for other NESHAP standards. Plants must demonstrate compliance with the emission standards by monitoring their control devices and performing annual emissions testing. Consistent with the NESHAP General Provisions (40 CFR Part 63, Subpart A), respondents submit one-time notifications of applicability and a one-time report on the performance test results for the primary emission control device. Plants also must develop and implement a startup, shutdown, and malfunction Plan. Sources are required to submit semiannual reports including periods of exceedances or a statement of compliance certifying that no exceedances have occurred. The standard also requires the owner or operator to submit a written maintenance plan for each emission control device. Records shall be maintained for a period of five years. Records of the most recent two years of operation must be maintained onsite.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 71 with 231 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 25,104 hours. On average, each respondent reported 3.3 times per year and spent 109 hours preparing each response.

The total annualized cost for continuous emissions monitoring was $8,388, which was comprised of capital/ startup costs of $830 for and operation and maintenance (O&M) costs of $7,558.

(2) NESHAP for Portland Cement (40 CFR Part 63, Subpart LLL); EPA ICR Number 1801.04; OMB Control Number 2060–0416; expiration date October 31, 2005.

Affected Entities: Entities potentially affected by this action are owners or operators of portland cement manufacturing plants.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Portland Cement were promulgated on June 14, 1999. The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A that apply to all NESHAP sources. These requirements include recordkeeping and reporting for startup, shutdown, malfunctions, and semiannual reporting. Exceptions to the General Provisions for this source category are delineated in the standard and include initial notifications to the Agency for new, reconstructed and existing.

Respondents submit notifications and reports of performance test results. Respondents must also: Develop and implement a startup, shutdown and a malfunction plan; submit semiannual reports; develop and implement an operations and maintenance plan;

conduct and report the results of an annual combustion system inspection.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 107 with 214 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 53,181 hours. On average, each respondent reported 2.0 times per year and 249 hours were spent preparing each response. The total annualized cost was $685,000, which was comprised of no capital/startup costs and operation and maintenance costs of $685,000.

(3) NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (40 CFR Part 61, Subpart N); EPA ICR Number 1081.08; OMB Control Number 2060–0043; expiration date October 31, 2005.

Affected Entities: Entities potentially affected by this action are each glass melting furnace that uses commercial arsenic as a raw material. These standards do not apply to pot furnaces. In addition, rebricking is not considered construction or modification for the purposes of this standard.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Inorganic Arsenic Emissions from Glass Manufacturing Plants (40 CFR Part 61, Subpart N) were proposed on July 20, 1983, and promulgated on August 4, 1986. The standards were amended on May 31, 1990, to add an alternative test method. The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 61, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 61, subpart N.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 28 with 31 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 4,524 hours. On average, each respondent reported 1.1 times per year and 146 hours were spent preparing each response. The total annualized cost was $98,000, which was comprised of no capital/startup costs and operation and maintenance costs of $98,000.

(4) NSPS for Sulfuric Acid Plants (40 CFR Part 60, Subpart H); EPA ICR Number 1057.10; OMB Control Number 2060–0041; expiration date October 31, 2005.

Affected Entities: Entities potentially affected by this action are any sulfuric acid plants.

Abstract: The New Source Performance Standards (NSPS) for Sulfuric Acid Plants (40 CFR Part 60, Subpart H) were proposed on August 17, 1971 and promulgated on December 23, 1971. The affected entities are subject to the General Provision of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart H. These standards apply to any sulfuric acid facility commencing construction, modification or reconstruction after the date of proposal.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 106 with 212 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 23,320 hours. On average, each respondent reported 2.0 times per year and 110 hours were spent preparing each response. The responses were prepared semiannually. The total annualized cost was $477,000, which was comprised of no capital/startup cost and operation and maintenance costs of $477,000.

(5) NSPS for Primary and Secondary Emissions from Basic Oxygen Furnaces (40 CFR Part 60, Subparts N and Na); EPA ICR Number 1069.08; OMB Control Number 2060–0029; expiration date October 31, 2005.

Affected Entities: Entities potentially affected by this action are sources with basic oxygen process furnace shops.

Abstract: The New Source Performance Standards (NSPS) for Primary Emissions from Basic Oxygen Process Furnaces (BOPF) (40 CFR part 60, subpart N) were proposed on June 11, 1973, and promulgated on March 8, 1974. On January 20, 1983, amendments to the standards of performance for primary emissions from BOPF, merged with Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities (40 CFR part 60, subpart Na). Subpart Na is applicable to any top-blown BOPF, hot metal transfer station or skimming station for which construction, reconstruction, or modification commenced after January 20, 1983.

The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subparts N and Na. NSPS standards require sources to submit initial notifications, conduct performance tests, and submit periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to BOPF shops subject to NSPS subparts N and Na provide information on the operation of the emissions control device and compliance with the mass and visible emission standards. Semiannual reports of measurements that average 10 percent below the average measurements obtained during performance tests are required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was four with ten responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 1,012 hours. On average, each respondent reported 2.5 times per year and spent 101 hours preparing each response.

The total annualized cost for continuous emissions monitoring was $25,794, which was comprised of capital/startup costs of $18,000 and operation and maintenance (O&M) costs of $7,794.

(6) NESHAP for Primary Lead Smelters (40 CFR Part 63, Subpart TTT); EPA ICR Number 1856.05; OMB Control Number 2060–0414; expiration date is October 31, 2005.

Affected Entities: Entities potentially affected by this action are sources with primary lead smelters.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Primary Lead Smelters, published at 40 CFR part 63, subpart TTT, were proposed on April 17, 1998 (63 FR 19200), and promulgated on June 4, 1999 (64 FR 30204). On February 12,

1999, the Agency publicized a supplemental standard for ferroalloys, mineral wool, primary copper, primary lead and wool fiberglass which enhanced the requirements for bag leak detection systems in 40 CFR 63.1625 and 40 CFR 63.1655 by including an enforceable operating limit in this standard.

The monitoring, recordkeeping, and reporting requirements outlined in the standard are similar to those required for other NESHAP standards. Plants must demonstrate compliance with the emission standards by monitoring their control devices and performing annual emissions testing. Consistent with the NESHAP General Provisions (40 CFR Part 63, Subpart A), all sources subject to this standard are required to submit one-time notifications of applicability; a one-time report on performance test results for the primary emission control device; an initial report specifying the intended methods of compliance; standard operating procedure manuals for baghouses and fugitive dust control; and a semiannual report that includes a summary of the monitoring results, any baghouse leak detection system alarms and corrective actions. Sources must also maintain records of production for unrefined lead, copper matte, and copper species; the date and times of bag leak detection system alarms and the corrective action taken; baghouse inspection and maintenance; any records required as part of the source standard operating procedures manuals; and the compliance methods chosen. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was two with four responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 12,273 hours. On average, each respondent reported 2.0 times per year and spent 3,068 hours preparing each response. The responses were prepared to meet semiannual reporting requirements.

The total annualized cost associated with continuous emissions monitoring was $6,452 which was comprised of capital/startup costs of $4,000 and operation and maintenance costs of $2,452.

(7) NSPS for Petroleum Refineries (40 CFR Part 60, subpart J), EPA ICR Number 1054.09; OMB Control Number 2060–0022; expiration date November 30, 2005.

Affected Entities: Entities potentially affected by this action are petroleum refineries.

Abstract: The New Source Performance Standards (NSPS) for Petroleum Refineries was promulgated on March 8, 1974. The affected entities are subject to the General Provisions of the NSPS at 40 CFR Part 60, Subpart A and any changes, or additions to the General Provisions specified at 40 CFR Part 60, Subpart J. In general, all NSPS require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 240 with 240 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 17,359 hours. Each respondent reported 1.0 times per year and the average public reporting and recordkeeping burden for this collection is estimated to be 72 hours per response. The responses were prepared semiannually. There were no capital/startup costs. However, there were operation and maintenance costs in the previous ICR of $91,000.

(8) NESHAP for Source Categories Generic Maximum Achievable Control Technology Standards (40 CFR Part 63, Subpart YY); EPA ICR Number 1871.04; OMB Control Number 2060–0420; expiration date December 31, 2005.

Affected Entities: Entities potentially affected by this action are plants producing polycarbonates, acrylic and modacrylic fibers, acetal resins and hydrogen fluoride.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: Generic Maximum Achievable Control Technology (hereafter, this subpart is referred to as the ''Generic MACT'') were proposed on October 14, 1998 at 63 FR 55178 and promulgated on June 29, 1999 at 64 FR 34854. The standards apply to hazardous air pollutant emissions in four source categories: polycarbonates production, acrylic and modacrylic fibers Production, acetal resins production and hydrogen fluoride production. On November 2, 2001, the Agency promulgated wastewater provisions amendments to the Generic MACT applicable to wastewater streams for the first three categories. The last category does not have wastewater streams. On June 7, 2002, the Agency made additional amendments as a direct ruling to the Generic MACT to clarify definitions and the recordkeeping provisions related to how readily accessible records should be maintained.

The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart YY. In general, NESHAP standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. The specific monitoring and recordkeeping requirements vary for each source category depending on the types of emissions control equipment and monitoring equipment used to comply with the Generic MACT standards for their category. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 10 with 30 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 4,077 hours. On average, each respondent reported 3.0 times per year and 136 hours were spent preparing each response. The responses were prepared semiannually. The total annualized cost was $107,000, which was comprised of no capital/startup costs and operation and maintenance costs of $107,000.

(9) NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); EPA ICR Number 1557.06; OMB Control Number 2060–0220; expiration date October 31, 2005.

Affected Entities: Entities potentially affected by this action are municipal solid waste landfills.

Abstract: The New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW) were proposed on May 30, 1991 and promulgated on March 12, 1996. The affected entities are subject to the General Provision of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart WWW. Owners and operators of the

affected facilities must make initial reports when a source becomes subject to this standard: (1) To conduct and report on performance tests, (2) report of annual or periodic emission rates, (3) report on design plans, (4) report on equipment removal and closure, (5) maintain records of the reports, system design and performance tests, monitoring and exceedances, plot map, and well locations. The recordkeeping and reporting requirements are specific to municipal solid waste landfills.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 175 with 299 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 3,390 hours. On average, each respondent reported 1.7 times per year and 11 hours were spent preparing each response. The responses were prepared annually and quarterly. The total annualized cost was $107,000, which was comprised of capital/startup costs of $105,000 and operation and maintenance costs of $2,000.

(10) NSPS for Calciners and Dryers in Mineral Industries (40 CFR Part 60, Subpart UUU); EPA ICR Number 0746.06; OMB Control Number 2060–0251; expiration date December 31, 2005.

Affected Entities: Entities potentially affected by this action are calciners and dryers at mineral processing plants. Entities subject to NSPS 40 CFR part 60, subpart LL for metallic mineral processing plants are not subject to this standard.

Abstract: The New Source Performance Standards (NSPS) for Calciners and Dryers in Mineral Industries (40 CFR Part 60, Subpart UUU) were proposed on April 23, 1986, and promulgated on September 28, 1992. The affected entities are subject to the General Provision of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart UUU. NSPS standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 165 with 342 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 6,506 hours. On average, each respondent reported 2.1 times per year and 19 hours were spent preparing each response. The responses were prepared semiannually. The total annualized cost was $115,000, which was comprised of capital/startup costs of $8,000 and operation and maintenance costs of $107,000.

(11) NSPS for Metal Coil Surface Coating (40 CFR Part 60, Subpart TT); EPA ICR Number 0660.09; OMB Control Number 2060–0107; expiration date December 31, 2005.

Affected Entities: Entities potentially affected by this action are owners or operators of metal coil surface coating facilities.

Abstract: The New Source Performance Standards (NSPS) for Metal Coil Surface Coating were promulgated on November 1, 1982. These standards apply to metal coil surface coating facilities commencing construction, modification or reconstruction after January 5, 1981.

The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A that apply to all NSPS sources. These requirements include recordkeeping and reporting for startup, shutdown, malfunctions and quarterly or semiannual reporting. Exceptions to the General Provisions for this source category are delineated in the standard and include initial notifications to the Agency for new, reconstructed and existing affected entities.

Owners or operators of the affected facilities must make the following one-time-only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of a startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Where compliance is achieved through the use of low volatile (VOC)coatings without emission control devices, or through the use of higher VOC content coating in conjunction with emission control devices, each owner or operator shall include in the initial compliance report the weighted average of the VOC content of coatings used during the period of each calendar month. When compliance is achieved using an emission control device, each owner or operator shall include in the initial compliance report the overall VOC destruction rate used to attain compliance and the combustion temperature of the thermal incinerator, or the gas temperature both upstream and downstream of the incinerator catalyst bed. The standards also require reports of incinerator temperature drop.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 165 with 404 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 14,531 hours. On average, each respondent reported approximately 2.4 times per year and 36 hours were spent preparing each response. The total annualized cost was $318,000, which was comprised of capital/startup costs of $28,000 and operation and maintenance costs of $290,000.

(12) NSPS for Bulk Gasoline Terminals (40 CFR Part 60, subpart XX), EPA ICR Number 0664.08; OMB Control Number 2060–0006; expiration date December 31, 2005.

Affected Entities: Entities potentially affected by this action are Bulk Gasoline Terminals which deliver liquid product into gasoline tank trucks.

Abstract: The New Source Performance Standards (NSPS) for Bulk Gasoline Terminals were promulgated on August 18, 1983, and amended on December 22, 1983. The affected entities are subject to the General Provisions of the NSPS at 40 CFR Part 60, Subpart A and any changes, or additions to the General Provisions specified at 40 CFR Part 60, Subpart XX. Owners or operators of the affected facilities subject to NSPS subpart XX must make the following one-time only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 40 with 40 responses per year. The annual industry reporting and recordkeeping burden for this collection

of information was 11,420 hours. Each respondent provided 1.0 responses per year. The average public reporting and recordkeeping burden for this collection is estimated to be 286 hours per response. The responses were prepared at one time only. There were no capital/startup costs or operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(13) NSPS for Equipment Leaks of VOC in Petroleum Refineries (40 CFR Part 60, subpart GGG), EPA ICR Number 0983.08; OMB Control Number 2060–0067; expiration date December 31, 2005.

Affected Entities: Entities potentially affected by this action are compressors and all equipment within a process unit at petroleum refineries.

Abstract: The New Source Performance Standards (NSPS) for Equipment Leaks of VOC (Volatile Organic Compounds) in Petroleum Refineries were promulgated on May 30, 1984. The affected entities are subject to the General Provisions of the NSPS at 40 CFR Part 60, Subpart A and any changes, or additions to the General Provisions specified at 40 CFR Part 60, Subpart GGG. Facilities subject to this NSPS require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to NSPS subpart GGG provide information on which components are leaking VOCs. NSPS subpart GGG references the compliance requirements of NSPS subpart VV. Owners or operators are required to periodically record information identifying leaking equipment, repair methods used to stop the leaks, and dates of repair. The responses were prepared weekly, monthly, quarterly, semiannually, annually and one time only for initial notifications. In addition, semiannual reports are required to measure compliance with the standards of NSPS subpart VV as referenced by NSPS subpart GGG.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 48 with 102 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 6,137 hours. Each respondent provided 2.1 responses per year. The average public reporting and recordkeeping burden for this collection is estimated to be 60 hours per response. There were no capital/startup costs or operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(14) NSPS for Glass Manufacturing Plants (40 CFR Part 60, Subpart CC); EPA ICR Number 1131.08; OMB Control Number 2060–0054; expiration date December 31, 2005.

Affected Entities: Entities potentially affected by this action are the glass melting furnaces located at a glass manufacturing plants.

Abstract: The New Source Performance Standards (NSPS) for 40 CFR Part 60, Subpart CC were proposed on June 15, 1979, promulgated on October 7, 1980, and amended on October 19, 1984. The affected entities are subject to the General Provision of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart CC. These standards apply to each glass melting furnace located at a glass manufacturing plant. NSPS standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 45 with 87 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 590 hours. On average, each respondent reported 1.9 times per year and seven hours were spent preparing each response. The responses were prepared semiannually. The total annualized cost was $261,000, which was comprised of no capital/startup costs and operation and maintenance costs of $261,000.

(15) NESHAP for Wet-Formed Fiberglass Mat Production (40 CFR Part 63, Subpart HHHH); EPA ICR Number 1964.03; OMB Control Number 2060–0496; expiration date December 31, 2005.

Affected Entities: Entities potentially affected by this action are component processes at wet-formed fiberglass mat production facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Primary Lead Smelters, published at 40 CFR part 63, subpart HHHH, were proposed on May 26, 2000 (65 FR 34251), and promulgated on April 11, 2002 (67 FR 17823).

Owners and operators of affected sources are subject to the monitoring, recordkeeping and reporting requirements of 40 CFR part 63, subpart A, the General Provisions, unless specified otherwise in subpart HHHH. This standard requires sources to submit initial notifications, conduct performance tests, and submit periodic reports. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any period during which the monitoring system is inoperative; bag leak detection system alarms, including corrective actions; parametric monitoring data; system maintenance and calibration; and opacity and visible emissions observations to demonstrate initial and ongoing compliance with the standard.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 14 with 14 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 2,983 hours. On average, each respondent reported 1.0 times per year and spent 213 hours preparing each response.

The total annualized cost for continuous emissions monitoring was $2,333, which was comprised of capital/startup costs only. This cost is based on seven facilities installing continuous emission monitors. There were no operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(16) NESHAP for Asbestos (40 CFR Part 61, Subpart M), EPA ICR Number 0111.11; OMB Control Number 2060–0101; expiration date March 31, 2006.

Affected Entities: Entities potentially affected by this action are: (1) Those where demolition and renovation of facilities are taking place, (2) those where disposal of asbestos is taking place, (3) those where asbestos milling, manufacturing and fabricating are taking place, (4) those where asbestos is being used on roadways, (5) those where asbestos waste is being converted, and (6) those where asbestos is used in insulation and sprayed on materials.

Abstract: The NESHAP for Asbestos was promulgated on November 20, 1990. The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 61, Subpart A and any changes or additions to the General Provisions specified at 40 CFR Part 61, Subpart M.

Owners or operators of the affected milling, manufacturing, fabricating, waste disposal, and waste conversion facilities must make the following one-

time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

The recordkeeping requirements for the facilities mentioned above consist of the occurrence and duration of any startup and malfunction as described. They include the initial performance test results including information necessary to determine the conditions of the performance test, and performance test measurements and results, including monitoring each potential source of asbestos emissions for visible emissions to the outside air and inspecting air cleaning devices to ensure proper operation. Records of startups, shutdowns, and malfunctions should be noted as they occur. The reporting requirements for this industry include the initial notifications, performance test results and quarterly reports of instances when visible emissions are observed at any time during the quarter.

Owners and operators of demolitions and renovations must notify EPA in advance of the initiation of any asbestos removal work. The notice provides information on the dates of operation, the nature of the removal operation, the quantity of asbestos, and controls to be used. The reviewing authority may then inspect the source to ensure compliance with the standard. Demolitions and renovations tend to be short-term projects and it is difficult at best to determine compliance with the standard once the project has been completed. Therefore, it is important that the delegated authority be notified of the changes as necessary when information in the original notification changes. Additionally, without notification of the changes, the Agency or delegated authority may inspect a demolition or renovation site where the project has been delayed. The demolition and renovation standard requires that a representative (such as a foreman or management-level person) trained in the provisions of the standard be present at the facility. Evidence that the required training has been completed is required in order to ensure compliance with this provision of the standard. The standard requires asbestos removal contractors that claim exemption from the wetting provisions because of freezing temperatures to take temperature readings throughout the day and record the information. The provisions require that all containers of asbestos waste be labeled including the name of the waste generator and the location of where the waste was generated. Owners or operators of demolitions and renovations are required to prepare and maintain records of each waste shipment as to its destination, the quantity of waste, and the date of shipment, and to furnish a copy of the record to disposal site owners or operators. The standard also requires that the generators of asbestos waste attempt to reconcile instances in which a signed copy of the waste shipment record is not received from the disposal site and that the generator notify the Agency if delivery to the disposal site cannot be confirmed.

Owners and operators of waste disposal sites are required to document all asbestos waste shipments that are received and send a copy of each record back to the generator. A record of the location and quantity of asbestos in the landfill is required as well as noting the presence and location of asbestos in the landfill property deed. Disposal site owners and operators have to report to EPA any discrepancies between the amount of waste designated on the waste shipment record and the amount actually received, as well as instances of improperly contained waste. An owner or operator of an operation in which asbestos-containing materials are spray-applied must notify EPA in advance of the spraying operation.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, and records.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 9,848 with 123,008 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 342,249 hours. Each responded provided 13 responses per year. The average recordkeeping and reporting burden for this ICR was 2.8 hours per response. There were no capital/startup costs or operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(17) NSPS for Beverage Can Surface Coating (40 CFR Part 60, Subpart WW); EPA ICR Number 0663.09; OMB Control Number 2060–0001; expiration date April 30, 2006.

Affected Entities: Entities potentially affected by this action are owners and operators of beverage can surface coating facilities.

Abstract: The New Source Performance Standards (NSPS) for Beverage Can Surface Coating were promulgated on August 25, 1983.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A that apply to all NSPS sources. These requirements include recordkeeping and reporting for startup, shutdown, malfunctions, and semiannual reporting. Exceptions to the General Provisions for this source category are delineated in the standard and include initial notifications to the Agency for new, reconstructed and existing affected entities. Volatile organic compounds (VOC) are the pollutants regulated under the standards.

Respondents potentially affected by this action are facilities in the beverage can surface coating industry including: each exterior base coat operation, each over varnish coating operation, and each inside spray coating operation. These standards apply to coating facilities commencing construction, modification or reconstruction after November 26, 1980.

Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of a startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Records must be maintained if the VOC content of coatings is below the specified limits. If one or more coatings are used, the volume weighted average of the total mass of VOC per volume of coating solids must be recorded. When thermal or catalytic incineration is performed, the owner shall keep records of each three-hour period during which the incinerator temperature averaged more than 28 degrees Celsius below the temperature of the most recent performance test at which destruction efficiency was determined. The owners or operators shall identify, record and submit quarterly reports of each

instance in which the volume-weighted average of the total mass of VOC per volume of coating solids exceeded the standard. If there are no exceedances reports shall be submitted semiannually. Owners or operators are required to maintain a file of all measurements including the monitoring device, and performance testing measurements; all monitoring device calibration check adjustments and maintenance performed on these systems recorded in a permanent file.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 48 with 123 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 4,642 hours. On average, each respondent reported 2.6 times per year and 38 hours were spent preparing each response. The responses were prepared quarterly and semiannually. The total annualized cost was $97,000, which was comprised of capital/startup costs of $14,000 and operation and maintenance costs of $83,000.

(18) NSPS for Grain Elevators (40 CFR Part 60, Subpart DD); EPA ICR Number 1130.08; OMB Control Number 2060–0082; expiration date April 30, 2006.

Affected Entities: Entities potentially affected by this action are operations at grain elevators.

Abstract: The New Source Performance Standards (NSPS) for grain elevators were proposed on January 18, 1977 and promulgated on August 3, 1978. The affected entities are subject to the General Provision of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart DD. Owners or operators of the facilities must make one-time-only notifications. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to grain elevators provide information on the operation of the emissions control device and compliance with the opacity standard.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 132 with 155 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 259 hours. On average, each respondent reported 1.2 times per year and 1.7 hours were spent preparing each response. There were no capital/startup costs or operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(19) NSPS for Kraft Pulp Mills (40 CFR Part 60, Subpart BB); EPA ICR Number 1055.08; OMB Control Number 2060–0021; expiration date April 30, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of kraft pulp mills.

Abstract: The New Source Performance Standards (NSPS) for Kraft Pulp Mills were promulgated on February 23, 1978.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A that apply to all NSPS sources. These requirements include recordkeeping and reporting for startup, shutdown, malfunctions, and semiannual reporting. Exceptions to the General Provisions for this source category are delineated in the standard and include initial notifications to the Agency for new, reconstructed and existing affected entities.

Respondents potentially affected by this action are affected facilities at kraft pulp mills including digester systems, brown stock washer systems, multiple effect evaporator systems, recovery furnaces, smelt dissolving tanks, lime kilns, and condensate stripper systems that were constructed, modified or reconstructed after September 24, 1976. In pulp mills where kraft pulping is combined with neutral sulfite semi-chemical pulping, the provisions of this subpart are applicable when any portion of the material charged to an affected facility is produced by the kraft pulping operation. A facility may be exempt from the total reduced sulfur (TRS) standard if the facility can demonstrate that TRS from a new, modified or reconstructed brown stock washer cannot be technically nor economically feasiblely controlled.

In addition to the monitoring, recordkeeping and reporting requirements listed in the General Provisions (40 CFR part 60, subpart A), sources are required to record, at least once per shift, the following specific parameters: The opacity of the gases discharged into the atmosphere from any recovery furnace; the concentration of TRS emissions on a dry basis and the percent of oxygen by volume on a dry basis in the gases discharged into the atmosphere; for an incinerator, the combustion temperature at the point of incineration of effluent gases being emitted by the affected facilities; and for any lime kiln or melt discharge tank using a scrubber emission control device, the pressure loss of the gas stream through the control equipment and the scrubbing liquid pressure to the control equipment. Sources are also required to record on a daily basis 12-hour average TRS concentrations and oxygen concentrations (for the recovery furnace and lime kiln) for two consecutive periods of each operating.

Sources must report semiannually measurements of excess emissions as defined by the standard for the applicable affected facility.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 92 with 194 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 12,107 hours. On the average, each respondent reported approximately 2.1 times per year and 62 hours were spent preparing each response. The responses were prepared semiannually. The total annual reporting and recordkeeping cost burden for this collection of information was $3,144,000. This included an annual cost of $300,000 associated with capital/startup costs and $2,844,000 associated with the annual operation and maintenance costs.

(20) NSPS for Lime Manufacturing (40 CFR Part 60, Subpart HH); EPA ICR Number 1167.08; OMB Control Number 2060–0063; expiration date April 30, 2006.

Affected Entities: Entities potentially affected by this action are rotary lime kiln used in lime manufacturing.

Abstract: The New Source Performance Standards (NSPS) for the standards published at 40 CFR Part 60, Subpart HH were proposed on May 3, 1977, and promulgated on April 26, 1984. The affected entities are subject to the General Provision of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart HH. The standards do not apply to facilities used in the manufacture of lime at kraft pulp mills. NSPS standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 55 with 106 responses per year. The annual industry reporting and recordkeeping burden for this

collection of information was 4,434 hours. On average, each respondent reported 1.9 times per year and 42 hours were spent preparing each response. The total annualized cost was $92,000, which was comprised of capital/startup costs of $15,000 and operation and maintenance costs of $77,000.

(21) NSPS for Hot Mix Asphalt Facilities (40 CFR Part 60, Subpart I); EPA ICR Number 1127.08; OMB Control Number 2060–0083; expiration date April 31, 2006.

Affected Entities: Entities potentially affected by this standard are emission sources at hot mix asphalt facilities.

Abstract: The New Source Performance Standards (NSPS) for Hot Mix Asphalt Facilities were proposed on June 11, 1973, and promulgated on July 25, 1977.

The affected entities are subject to the General Provision of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart I. NSPS standards require sources to submit initial notifications, conduct performance tests, and submit periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to hot mix asphalt facilities include particulate matter and opacity monitoring. Semiannual reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 2,835 with 3,403 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 10,303 hours. On average, each respondent reported 1.20 per year and spent three hours preparing each response. There were no capital/startup costs or operation and maintenance costs in the previous ICR.

(22) NESHAP for Municipal Solid Waste Landfills (40 CFR Part 63, Subpart AAAA); EPA ICR Number 1938.03; OMB Control Number 2060–0505; expiration date April 30, 2006.

Affected Entities: Entities potentially affected by this action are municipal solid waste landfills (MSW) that: (1) Have a design capacity of 2.5 million megagrams (Mg) and 2.5 million cubic meters (m3), and (2) emit equal to or greater than 50 tons per year of nonmethane organic compounds (NMOC)or operate as bioreactors.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Municipal Solid Waste Landfills (40 CFR Part 63, Subpart AAAA) were proposed on November 7, 2000, and promulgated on January 16, 2003. The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart AAAA. Each owner or operator of an MSW landfill affected by the standard is required to submit semiannual compliance reports for control device operating parameters. Owners and operators of affected facilities also have to prepare a startup, shutdown, and malfunction plan.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 1,330 with 1,330 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 39,360 hours. On average, each respondent reported 1.0 times per year and 30 hours were spent preparing each response. The total annualized cost was $13,000, which was comprised of no capital/startup costs and operation and maintenance costs of $13,000.

(23) NESHAP for the Wood Building Products Surface Coating Industry (40 CFR Part 63, Subpart WWWW); Docket ID Number OECA–2005–0043; EPA ICR Number 2034.03; OMB Control Number 2060–0510; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are owners and operators of wood building products surface coating facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the wood building products surface coating industry were promulgated on May 28, 2003.

The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A that apply to all NESHAP sources. These requirements include recordkeeping and reporting for startup, shutdown, malfunctions, and semiannual reporting. Exceptions to the General Provisions for this source category are delineated in the standard and include initial notifications to the Agency for new, reconstructed and existing affected entities, and notifications of compliance status.

Respondents are owners or operators of wood building products surface coating facilities. Respondents shall submit notifications and reports of initial and repeat performance test results. Facilities must develop and implement a startup, shutdown, and malfunction plan and submit semiannual reports of any event where the plan was not followed. Facilities must develop and implement an operations and maintenance plan and conduct and report the results of an annual combustion system inspection. Semiannual reports for periods of operation during which the monitoring parameters are exceeded or reports certifying that no exceedances have occurred also are required.

General requirements applicable to all NESHAP require records of applicability determinations; test results; exceedances; periods of startups, shutdowns, or malfunctions; monitoring records; and all other information needed to determine compliance with the applicable standard.

Subpart WWWW requires respondents to maintain records of all coatings, thinners, and cleaning materials data and calculations used to determine compliance. This information includes the volume used during each compliance period, mass fraction of organic HAP, density, and, for coatings only, volume fraction of coating solids. If an add-on control device is used, records will need to be kept of the capture efficiency of the capture device, destruction or removal efficiency of the control device, and the monitored operating parameters. In addition, records need to be kept of emission calculations, calculations, test results, and other supporting information.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 215 with 430 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 2,176 hours. On average, each respondent reported 2.0 times per year and 5 hours were spent preparing each response. The responses were prepared semiannually. The total annualized cost was $22,000 which was comprised of capital/startup costs of $22,000 and no operation and maintenance costs.

(24) NESHAP for Reinforced Plastics Composites Production (40 CFR Part 63, Subpart WWWW); EPA ICR Number 1976.03; OMB Control Number 2060–0509; expiration date May 31, 2006.

Affected Entities: The entities affected by this action are fugitive emission sources at reinforced plastic composites (RPC) production facilities using resins, gel coats, and cleaning solvents.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for reinforced plastic composites (RPC) production operations and processes, published at 40 CFR part 63, subpart WWWW, were proposed on August 2, 2001 (66 FR 40323), and promulgated on April 21, 2003 (68 FR 19375).

Owners and operators of affected sources are subject to the monitoring, recordkeeping and reporting requirements of 40 CFR part 63, subpart A, the General Provisions, unless specified otherwise in subpart WWWW. This standard requires sources to submit initial notifications, conduct performance tests, and submit periodic reports. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any period during which the monitoring system is inoperative; bag leak detection system alarms, including corrective actions; parametric monitoring data; system maintenance and calibration; and opacity and visible emissions observations to demonstrate initial and ongoing compliance with the standard. Records of such measurements and actions are to be retained two years on-site of the required total five years.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 469 with 548 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 13,785 hours. On average, each respondent reported 1.2 times per year and spent 25 hours preparing each response.

The total annualized cost for continuous emissions monitoring was $15,807 which was comprised of no capital/startup costs and operation and maintenance costs of $15,807.

(25) NESHAP for Publicly Owned Treatment Works (40 CFR Part 63, Subpart VVV), EPA ICR Number 1891.04, OMB Control Number 2060–0428, expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are publically owned treatment works (POTW) located at a major source of hazardous air pollutant (HAP) emissions.

Abstract: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Publically Owned Treatment Works (40 CFR Part 63, Subpart VVV) were promulgated on October 26, 1999. Owners and operators of affected sources are subject to the requirements of 40 CFR Part 63, Subpart A, the General Provisions, unless specified otherwise at subpart VVV. The standard requires that the respondents source submit applications for approval of construction or reconstruction. The information in the initial notification and the application for construction or reconstruction. Respondents are also required to submit one-time reports of (1) start of construction for new facilities and (2) anticipated and actual start-up dates for new facilities. Subpart VVV also requires affected sources to submit a notification of compliance status. This notification must be signed by a responsible company official who certifies its accuracy and certifies that the source has complied with the standards.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection were six with six responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 216 hours. On average, each respondent reported 1.0 times per year and 36 hours were spent preparing each response. There were no capital/startup costs or operation and maintenance costs associated wit this ICR.

(26) NESHAP for Metal Furniture Surface Coating (40 CFR Part 63, Subpart RRRR); EPA ICR Number 1952.03; OMB Control Number 2060–0518; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are owners and operators of metal furniture surface coating facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Metal Furniture Surface Coating were promulgated on May 23,2003.

The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A that apply to all NESHAP sources. These requirements include recordkeeping and reporting for startup, shutdown, malfunctions, and semiannual reporting. Exceptions to the General Provisions for this source category are delineated in the standard and include initial notifications to the Agency for new, reconstructed and existing affected entities, and notifications of compliance status.

Respondents are owners or operators of metal furniture surface coating facilities. Respondents shall submit notifications and reports of performance test results. Facilities must develop and implement a startup, shutdown, and malfunction plan and submit semiannual reports of any event where the plan was not followed. Facilities must develop and implement an operations and maintenance plan and conduct and report the results of an annual combustion system inspection. Semiannual reports for periods of operation during which the monitoring parameters are exceeded (or reports certifying that no exceedances have occurred) also are required.

General requirements applicable to all NESHAP require records of applicability determinations; test results; exceedances; periods of startups, shutdowns, or malfunctions; monitoring records; and all other information needed to determine compliance with the applicable standard.

Subpart RRRR requires respondents to maintain records of all coatings, thinners, and cleaning materials data and calculations used to determine compliance. This information includes the volume used during each monthly compliance period, mass fraction organic HAP, density, and, for coatings only, volume fraction solids. If an add-on control device is used, records must be kept of the capture efficiency of the capture system, destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each emission calculation for each monthly compliance period and all data, calculations, test results, and other supporting information.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 576 with 576 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 45,672 hours. On average, each respondent reported 1.0 times per year and 79 hours were spent preparing each response. The responses were prepared semiannually. There were no capital/startup costs or operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(27) NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR Part 63, Subpart LLLLL); EPA ICR Number 2029.03; OMB Control Number 2060–0520; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are asphalt processing and asphalt roofing manufacturing facilities.

Abstract: Owners and operators of affected sources are subject to the monitoring, recordkeeping and reporting requirements of 40 CFR part 63, subpart A, the General Provisions, unless specified otherwise in subpart LLLLL. This standard requires sources to submit initial notifications, conduct

performance tests, and submit periodic reports. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any period during which the monitoring system is inoperative; bag leak detection system alarms, including corrective actions; parametric monitoring data; system maintenance and calibration; and opacity and visible emissions observations to demonstrate initial and ongoing compliance with the standard.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 22 with 32 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 1,962 hours. On average, each respondent reported 1.5 times per year and 61 hours were spent preparing each response.

The total annualized cost was $277,689, which was comprised of no capital/startup costs and operation and maintenance costs of $277,689.

(28) NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR part 63, subpart MMMMM); EPA ICR Number 2027.03; OMB Control Number 2060–0516; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are flexible polyurethane foam fabrication operations.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Flexible Polyurethane Foam Fabrication (40 CFR part 63, subpart MMMMM) were proposed on August 8, 2001, and promulgated on April 14, 2003. The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart MMMMM. For the purposes of this standard, flexible polyurethane foam fabrication is divided into two subcategories: (1) Loop slitter adhesive use and (2) flame lamination. For existing flame lamination facilities, there are no emission limits or monitoring, inspection, reporting, and recordkeeping (MIRR) requirements except for submission of an initial notification. Therefore, each existing flame lamination facilities submits an initial notification and does not perform any other MIRR activities. Flame lamination facilities perform all the activities necessary to comply with the emission limit and MIRR requirements for new flame lamination sources.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was nine with 15 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 1,211 hours. On average, each respondent reported 1.7 times per year and 81 hours were spent preparing each response. The total annualized cost was $3,000, which was comprised of capital/startup costs of $1,000 and operation and maintenance costs of $2,000.

(29) NESHAP for Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ); EPA ICR Number 1951.03; OMB Control Number 2060–0511; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are paper and other web coating operations.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) were proposed on September 13, 2000, and promulgated on December 4, 2002. The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 61, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart JJJJ.

This standard requires sources to submit initial notifications, conduct performance tests, and submit periodic reports. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any period during which the monitoring system is inoperative and to demonstrate initial and ongoing compliance with the standard.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 441 with 1,477 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 41,462 hours. On average, each respondent reported 3.3 times per year and 28 hours were spent preparing each response. The total annualized cost was $2,928,000 which was comprised of capital/startup costs of $2,249,000 and operation and maintenance costs of $679,000.

(30) NESHAP for Coke Oven Pushing, Quenching and Battery Stacks (40 CFR Part 63, Subpart CCCCC); EPA ICR Number 1995.03; OMB Control Number 2060–0521; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this standard are coke oven batteries.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coke Ovens: Pushing, Quenching, and Battery Stacks, published at 40 CFR part 63, subpart CCCCC, were proposed on July 3, 2001 (66 FR 35325), and promulgated on April 14, 2003 (68 FR 18007). Subsequently, the standard has been revised on several occasions (*i.e.*, through corrections and direct final standard amendments) including April 22, 2003 (68 FR 19885), October 13, 2004 (69 FR 60813 and 69 FR 60837), and January 10, 2005 (70 FR 1670).

Owners and operators of affected sources are subject to the monitoring, recordkeeping and reporting requirements of 40 CFR part 63, subpart A, the General Provisions, unless as specified otherwise in 40 CFR part 63, subpart CCCCC. This standard requires the respondents to submit initial notifications, conduct performance tests, and submit periodic reports. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any period during which the monitoring system is inoperative; bag leak detection system alarms, including corrective actions; parametric monitoring data; system maintenance and calibration; and opacity and visible emissions observations to demonstrate initial and ongoing compliance with the standard.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was six with 30 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 2,209 hours. On average, each respondent reported 5.0 times per year and spent 74 hours preparing each response.

The total annualized cost was $83,000, which was comprised of capital/startup costs of $32,000 and operation and maintenance costs of $51,000.

(31) NESHAP for Printing, Coating and Dyeing of Fabrics and Other Textiles (40 CFR Part 63, Subpart OOOO); EPA ICR Number 2071.03; OMB Control Number 2060–0522; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are fabric and other textiles printing, coating and dyeing operations.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Printing, Coating and

Dyeing of Fabrics and other Textiles (40 CFR Part 63, Subpart OOOO) were proposed on July 11, 2002, promulgated on May 29, 2003 and amended on August 4, 2004. The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart OOOO.

This standard requires sources to submit initial notifications, conduct performance tests, and submit periodic reports. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any period during which the monitoring system is inoperative and to demonstrate initial and ongoing compliance with the standard.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 138 with 222 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 29,491 hours. On average, each respondent reported 1.6 times per year and 133 hours were spent preparing each response. The total annualized cost was $141,000 which was comprised of capital/startup costs of $136,000 and operation and maintenance costs of $5,000.

(32) NESHAP for Refractory Products Manufacturing (40 CFR Part 63, Subpart SSSSS); EPA ICR Number 2040.03; OMB Control Number 2060–0515; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are refractory products manufacturing facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Refractory Products Manufacturing (40 CFR Part 63, Subpart SSSSS) were proposed on June 20, 2002, promulgated on April 16, 2003. The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart SSSSS. Respondents must submit one-time notifications of applicability and reports on initial performance test results. Plants must develop and implement a startup, shutdown, and malfunction plan; develop and implement an operation, maintenance, and monitoring plan; and submit semiannual reports of any event where the plans were not followed.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was eight with 24 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 726 hours. On average, each respondent reported 3.0 times per year and 30 hours were spent preparing each response. The total annualized cost was $46,000 which was comprised of capital/startup costs of $45,000 and operation and maintenance costs of $1,000.

(33) NESHAP for Brick and Structural Clay Manufacturing (40 CFR Part 63, Subpart JJJJJ); EPA ICR Number 2022.03; OMB Control Number 2060–0508; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are brick and structural clay manufacturing facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Brick and Structural Clay Manufacturing (40 CFR Part 63, Subpart JJJJJ) were proposed on July 22, 2002, promulgated on May 16, 2003. The affected entities are subject to the General Provision of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart JJJJJ. The standard applies to existing large tunnel kilns. The standard also applies to all new or reconstructed tunnel kilns regardless of size. However, the emission limits in the standard are different for new small and new large tunnel kilns. Small tunnel kilns have design capacities of less than 10 tons per hour of fired product, while large tunnel kilns have design capacities greater than or equal to 10 tons per hour of fired product. Respondents must submit one-time notifications of applicability and reports on initial performance test results. Plants must develop and implement a startup, shutdown, and malfunction plan and submit semiannual reports of any event where the plan was not followed. Respondents must also develop and implement an operation, maintenance, and monitoring plan covering each affected source and each emission control device used for compliance with the standard. Semiannual reports for periods of emission limitation deviations (or reports certifying that no deviations have occurred) also are required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 77 with 74 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 17,471 hours. On average, each respondent reported 1.0 times per year and 236 hours were spent preparing each response. The total annualized cost was $120,000 which was comprised of capital/startup costs of $115,000 and operation and maintenance costs of $5,000.

(34) NESHAP for Benzene Waste Operations (40 CFR Part 61, Subpart FF); EPA ICR Number 1541.08; OMB Control Number 2060–0183; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are owners and operators of chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries, as well as owners and operators of hazardous waste treatment, storage and disposal facilities that treat, store, or dispose of hazardous waste.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Waste Operations (40 CFR part 61, subpart FF) were promulgated on March 7, 1990. The affected entities are subject to the General Provisions specified at 40 CFR part 61, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 61, subpart FF.

Owners or operators of the affected facilities described must make one-time-only notifications. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to Benzene Waste Operations provide information on the operation of the vapor control device and compliance with the standard. Quarterly reports of excess emissions are required.

For this standard, there is a tiered threshold for burden. Facilities managing waste containing less than 1 megagram of benzene must simply certify to that affect and maintain documentation to support their finding. Facilities managing more than 1 megagram and less than 10 megagrams of benzene-containing waste must prepare an initial certification, test annually to verify that their waste stream still falls within this range and maintain documentation to support these findings. Finally, facilities managing more than 10 megagrams of waste must submit quarterly and annual reports documenting the results of continuous monitoring.

Burden Statement: In the previously approved ICR, the estimated number of

respondents for this information collection was 240 with 240 responses per year with a total burden of 16,626 hours. Each respondent report 1.0 times per year. The average recordkeeping and reporting burden for this ICR was 71 hours per response. There were no capital/startup costs or operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(35) NESHAP for the Surface Coating of Large Household and Commercial Appliances (40 CFR part 63, subpart NNNN); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via E-mail to: lazarus.leonard@epa.gov; EPA ICR Number 1954.03; OMB Control Number 2060–0457; expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are owners and operators of large household and commercial appliance surface coating facilities.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Surface Coating of Large Household and Commercial Appliances were promulgated on July 23, 2002.

The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A that apply to all NESHAP sources. These requirements include recordkeeping and reporting for startup, shutdown, malfunctions, and semiannual reporting. Exceptions to the General Provisions for this source category are delineated in the standard and include initial notifications to the Agency for new, reconstructed and existing affected entities, and notifications of compliance status.

Respondents are owners or operators of large household and commercial appliance surface coating facilities. Respondents shall submit notifications (where applicable) and reports of initial and repeat performance test results. Facilities must develop and implement a startup, shutdown, and malfunction plan and submit semiannual reports of any event where the plan was not followed. Facilities must develop and implement an operations and maintenance plan and conduct and report the results of an annual combustion system inspection. Semiannual reports for periods of operation during which the monitoring parameters are exceeded (or reports certifying that no exceedances have occurred) also are required.

General requirements applicable to all NESHAP require records of applicability determinations; test results; exceedances; periods of startups, shutdowns, or malfunctions; monitoring records; and all other information needed to determine compliance with the applicable standard.

Subpart NNNN requires respondents to maintain records of all coatings, thinners, and cleaning materials data and calculations used to determine compliance. This information includes the volume used during each monthly compliance period, mass fraction organic HAP, density, and, for coatings only, volume fraction of coating solids. If an add-on control device is used, records must be kept of the capture efficiency of the capture system, destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each emission calculation for each monthly compliance period and all data, calculations, test results, and other supporting information.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 82 with 16 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 7,737 hours. On average, each respondent reported 0.2 times per year and 484 hours were spent preparing each response. The responses were prepared semiannually. The total annualized cost was $3,000, which was comprised of capital/startup costs of $0 and operation and maintenance costs of $3,000.

(36) State and Federal Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators (40 CFR Part 60, Subpart Ce and 40 CFR Part 62, Subpart HHH), EPA ICR Number 1899.03, OMB Control Number 2060–0422, expiration date May 31, 2006.

Affected Entities: Entities potentially affected by this action are hospital/medical/infectious waste incinerators (HMIWI).

Abstract: State and Federal Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators were promulgated on September 15, 1997 (40 CFR part 60, subpart Ce) and August 15, 2000 (40 CFR part 60, subpart HHH). Owners and operators of affected sources are subject to the requirements of 40 CFR part 60, subpart A, the General Provisions, or 40 CFR part 62, subpart A unless specified otherwise at 40 CFR part 60, subpart Ce or 40 CFR part 62, subpart HHH. HMIWIs for which construction was commenced on or before June 20, 1996, and burning hospital waste and/or medical infectious waste are subject to specific reporting and recording keeping requirements. Notification reports are required related to the construction, reconstruction, or modification of an HMIWI. Also required are one-time-only reports related to initial performance test data and continuous measurements of site-specific operating parameters. Annual compliance reports are required related to a variety of site-specific operating parameters, including exceedances of applicable limits. Semiannual compliance reports are required related to emission rate or operating parameter data that were not obtained when exceedances of applicable limits occurred.

Co-fired combustors and incinerators burning only pathological, low-level radioactive, and/or chemotherapeutic waste are required to submit notification reports of an exemption claim, and an estimate of the relative amounts of waste and fuels to be combusted. Co-fired combustors and incinerators are also required to maintain records on a calendar quarter basis of the weight of hospital waste combusted, the weight of medical/infectious waste combusted, and the weight of all other fuels combusted at the co-fired combustor. Incinerators burning only pathological, low-level radioactive, and/or chemotherapeutic waste are also required to maintain records of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection were 189 with 645 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 105,228 hours. On average, each respondent reported 3.4 times per year and 163 hours were spent preparing each response. There were no capital/startup costs associated with continuous emission monitoring in the previous ICR. However, the operation and maintenance costs associated with continuous emission monitoring in the previous ICR were estimated to be $295,407.

Dated: April 21, 2005.

Michael M. Stahl,

Director, Office of Compliance.

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ENVIRONMENTAL PROTECTION AGENCY

[OAR–2005–0049; FRL–7908–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal), EPA ICR Number 1750.04, OMB Control Number 2060–0393

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on April 30, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before June 6, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2005–0049, to (1) EPA online using EDOCKET (our preferred method), by e-mail to a-and-r-*docket@epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Salman, Emission Standards Division (C539–03), EPA, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0859; fax number: (919) 541–5689; e-mail address: *salman.dave@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 25, 2005 (70 *FR* 9304), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). The EPA has addressed the comments received.

The EPA has established a public docket for this ICR under Docket ID No. OAR–2005–0049, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. The EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: National Volatile Organic Compound Emission Standards for Architectural Coatings (40 CFR part 59, subpart D) (Renewal).

Abstract: The information collection includes initial reports, annual reporting, and recordkeeping necessary for EPA to ensure compliance with Federal standards for volatile organic compounds in architectural coatings. Respondents are manufacturers and importers of architectural coatings. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information.

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

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 46 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Respondents to this information collection are manufacturers and importers of architectural coatings.

Estimated Number of Respondents: 500.

Frequency of Response: Annual and occasional.

Estimated Total Annual Hour Burden: 22,761.

Estimated Total Annual Cost: $1,599,707, which includes $0 annualized capital/startup costs, $0 annual O&M costs, and $1,599,707 annual labor costs.

Changes in the Estimates: There is a decrease of 650 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to adjustments to the estimates.

Dated: April 25, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–9083 Filed 5–5–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[R04–OAR–2005–NC–0002–200508; FRL–7909–2]

Adequacy Status of the Charlotte, Raleigh/Durham, and Winston-Salem, NC Carbon Monoxide Maintenance Plan Updates for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that EPA has found that the motor vehicle emission budgets (MVEB) in the Charlotte (Mecklenburg County), Raleigh/Durham (Durham and Wake Counties), and Winston-Salem (Forsyth County) carbon monoxide maintenance plan updates, submitted March 23, 2005, by the North Carolina Department of Environment and Natural Resources (NCDENR), are adequate for transportation conformity purposes. On March 2, 1999, the DC Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for transportation conformity determinations until EPA has affirmatively found them adequate. As a result of EPA's finding, the Charlotte, Raleigh/Durham, and Winston-Salem areas can use the MVEB from the submitted Charlotte, Raleigh/Durham, and Winston-Salem carbon monoxide maintenance plan updates, respectively, for future conformity determinations.

DATES: These MVEB are effective May 23, 2005.

FOR FURTHER INFORMATION CONTACT: Matt Laurita, Environmental Engineer, U.S. Environmental Protection Agency, Region 4, Air Planning Branch, Air Quality Modeling and Transportation Section, 61 Forsyth Street, SW., Atlanta, Georgia 30303. Mr. Laurita can also be reached by telephone at (404) 562–9044, or via electronic mail at *laurita.matthew@epa.gov.* The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/transp.htm* (once there, click on the ''Transportation Conformity'' text icon, then look for ''Adequacy Review of SIP Submissions'').

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region 4 sent a letter to NCDENR on April 29, 2005, stating that the MVEB in the submitted Charlotte, Raleigh/Durham, and Winston-Salem carbon monoxide maintenance plan updates submitted on March 23, 2005, are adequate. This finding has also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/transp.htm*, (once there, click on the ''Transportation Conformity'' text icon, then look for Adequacy Review of SIP Submissions''). The adequate MVEB are provided in the following tables.

CHARLOTTE AREA MVEB

[Tons per day]

County	Pollutant	2015
Mecklenburg	CO	470.18

RALEIGH/DURHAM AREA MVEB

[Tons per day]

County	Pollutant	2015
Durham	CO	177.22
Wake	CO	384.27

WINSTON-SALEM AREA MVEB

[Tons per day]

County	Pollutant	2015
Forsyth	CO	247.64

Transportation conformity is required by section 176(c) of the Clean Air Act, as amended in 1990. EPA's conformity rule requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. 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 EPA determines whether a SIP's MVEB are adequate for transportation conformity purposes are outlined in 40 Code of Federal Regulations 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 EPA's ultimate approval of the SIP. Even if EPA finds a budget adequate, the Agency may later determine that the SIP itself is not approvable.

EPA has described the process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memorandum entitled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). EPA has followed this guidance in making this adequacy determination. This guidance is incorporated into EPA's July 1, 2004, final rulemaking entitled ''Transportation Conformity Rule Amendments for the New 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes.''

Authority: 42 U.S.C. 7401–7671q.

Dated: April 29, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05–9213 Filed 5–5–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6663–1]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*

Weekly receipt of Environmental Impact Statements

Filed 04/25/2005 Through 04/29/2005 Pursuant to 40 CFR 1506.9.

EIS No. 20050175, Draft EIS, FHW, CA, Campus Parkway Project, Proposes to Construct a New Expressway from Mission Avenue Interchange and Yosemite Avenue/Lake Road, US Army COE Section 404 Permit, City of Merced, Merced County, CA, Comment Period Ends: 07/05/2005, Contact: Mahfoud Licha 916–498–5866

EIS No. 20050176, Draft EIS, FAA, AK, Juneau International Airport, Proposed Development Activities to Enhance Operations Safety, Facilitate Aircraft Alignment, US Army COE Section 404 Permit, City and Borough of Juneau, AK, Comment Period Ends: 06/20/2005, Contact: Patti Sullivan 907–271–5454

EIS No. 20050177, Draft EIS, AFS, AZ, Coconino National Forest Project, Re-authorize Grazing on the Pickett Lake and Padre Canyon Allotments, Implementation, Mormon Lake Range District, Coconino County, AZ, Comment Period Ends: 06/20/2005,

Contact: Mike Hanneman 928–526–0866

EIS No. 20050178, Final EIS, FHW, LA, I–49 South Lafayette Regional Airport to LA–88 Route US–90 Project, Upgrading Existing US–90 from the Lafayette Regional Airport to LA–88, Funding, Iberia, Lafayette and St. Martin Parishes, LA, Wait Period Ends: 06/13/2005, Contact: William C. Farr 225–757–7615

EIS No. 20050179, Draft Supplement EIS, AFS, MT, Gallatin National Forest, Updated Information, Main Boulder Fuels Reduction Project, Implementation, Gallatin National Forest, Big Timber Ranger District, Big Timber, Sweethgrass and Park Counties, MT, Comment Period Ends: 06/20/2005, Contact: Barbara Ping 406–522–2558

EIS No. 20050180, Draft Supplement EIS, AFS, ID, Mission Brush Project, Additional Information, Proposes Vegetation, Wildlife Habitat, Recreation and Aquatic Improvement Treatments, Idaho Panhandle National Forests, Bonners Ferry Ranger District, Bounty County, ID, Comment Period Ends: 06/20/2005, Contact: Doug Nisherk 208–267–5561

EIS No. 20050181, Draft EIS, FHW, MO, MO–34 Corridor Improvements, from intersection of U.S. Routes 60/21 in Carter County to the intersection of Routes 34/72 in Cape Girardeau County, Funding, U.S. Army COE Section 404 Permit, Carter, Bollinger, Reynolds, Wayne, and Cape Girardeau Counties, MO, Comment Period Ends: 06/24/2005, Contact: Peggy Casey 573–636–7104

EIS No. 20050182, Draft EIS, FRC, CO, Piceance Basin Expansion Project, Construction and Operation of a New Interstate Natural Gas Pipeline System, Wamsutter Compressor Station to Interconnections Greasewood Compressor Station, Rio Blanco County CO and Sweetwater County, WY, Comment Period Ends: 06/20/2005, Contact: Joyce Turner 202–502–8008

EIS No. 20050183, Final EIS, NOA, HI, Seabird Interaction Mitigation Methods, To Reduce Interaction with Seabird in Hawaii-Based Longline Fishery and Pelagic Squid Fishery Management, to Establish an Effective Management Framework for Pelagic Squid Fisheries, Fishery Management Plan, Pelagic Fisheries of the Western Pacific Region, Exclusive Economic Zone of the U.S. and High Sea, HI, Wait Period Ends: 06/06/2005, Contact: Alvin Katekaru 808–973–2937

EIS No. 20050184, Final EIS, NOA, AK, Essential Fish Habitat Identification and Conservation, Implementation, North Pacific Fishery Management Council, Magnuson-Stevens Fishery Conservation and Management Act, AK, Wait Period Ends: 06/06/2005, Contact: James W. Balsiger 907586–7636

Amended Notices

EIS No. 20050174, DRAFT EIS, FHW, CO, I–25 Valley Highway Project, Transportation Improvement from Logan to U.S. 6, Denver County, CO, Comment Period Ends: June 14, 2005, Contact: Chris Horn (720) 963–3017. Revision of **Federal Register** Notice Published on 4/29/2005: Correction to the County from Douglas to Denver.

Dated: May 3, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–9119 Filed 5–5–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6663–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050075, ERP No. D–FRC–C03015–00, Crown Landing Liquefied Natural Gas Terminal, Construct and Operate in Gloucester County, NJ and New Castle County, DE; and Logan Lateral Project, Construct and Operate a New Natural Gas Pipeline and Ancillary Facilities in Gloucester County, NJ and Delaware, PA

Summary: EPA expressed concerns that the Draft EIS did not include detailed mitigation plans, a discussion of Clean Air Act general conformity requirements, and did not thoroughly analyze the cumulative effects on navigation and the environment. Rating EC2.

EIS No. 20050093, ERP No. D–NOA–K39091–CA, Monterey Accelerated Research Systems (MARS) Cabled Observatory, Proposes to Install and Operate an Advanced Undersea Cabled Observatory, Monterey Bay, Pacific Ocean Offshore of Moss Landing, Monterey County, CA

Summary: EPA had no objections to the project as proposed. Rating LO.

Final EISs

EIS No. 20050123, ERP No. FB–NOA–E91007–00, South Atlantic Shrimp Fishery Management Plan, Amendment 6, Propose to Amend the Bycatch Reduction Device (BRD) Testing Protocol System, South Atlantic Region

Summary: EPA had no objection to the project as proposed.

EIS No. 20050115, ERP No. FS–NRC–E06023–AL, Generic EIS—License Renewal of Nuclear Plants, Joseph M. Farley Nuclear Plants, Units 1 and 2, Supplemental 18 to NUREG–1437 (TAC NOS. MC0768 and MC0769; Houston County, AL

Summary: EPA continues to have environmental concerns about the availability of long-term offsite storage of radioactive waste, and future surface water withdrawals for plant operations which could be affected by State agreements. Radiological monitoring of all plant effluents, and appropriate storage of radioactive waste will be necessary during the license renewal period.

Dated: May 2, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–9120 Filed 5–5–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2005–0029; FRL–7714–2]

Strategic Approach to International Chemicals Management (SAICM), Meeting of Western Europe and Other Governments (WEOG); Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is to announce that EPA and the State Department will be hosting stakeholder meetings to inform U.S. Government viewpoints for an upcoming Western Europe and Other Governments (WEOG) meeting on the Strategic Approach to International Chemicals Management (SAICM) and a number of inter-sessional working

documents (see the website listed in Unit II.), and for general and background information on SAICM, see the website listed in Unit II. The United States is seeking comments to guide the U.S. Government work with other countries to develop SAICM which will promote the sound management of chemicals while facilitating the movement of chemicals and their products across borders without compromising human health or the environment. There are several inter-sessional working documents that will serve as a basis for the structural development of SAICM. This meeting will serve as an opportunity for stakeholders to share their views on these documents before they are finalized at the third and final session of the Preparatory Committee for the Development of SAICM (PrepComm 3) in September 2005.

DATES: Tuesday, May 17, 1–2:30 for industry and trade groups and 2:30–4:00 for non-governmental organizations (NGOs).

ADDRESSES: The meeting will be held at: 1201 Constitution Ave. NW., Room 4225, EPA East (4th Floor), Washington, DC 20460.

Requests to participate in the meeting may be submitted to the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Colby Litner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: John Shoaff, OPPT International Team Leader, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–0531; e-mail address: *shoaff.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to industry, trade associations, and non-governmental organizations that deal with and are interested in international chemicals management. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPPT–2005–0029. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EDOCKET. You may use EDOCKET at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

An agenda will be available two weeks prior to the meeting. Inter-sessional working documents are available at *http://www.chem.unep.ch/saicm/meeting/intsession/default.htm*. For general and background information on SAICM, see *http://www.chem.unep.ch/saicm/default.htm*. The meeting is open to the public.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting to the technical person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI.

List of Subjects

Environmental protection, chemical management, toxic chemicals, chemical health and safety

Dated: May 2, 2005.

Wendy C. Hamnett,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 05–9043 Filed 5–3–05; 10:34 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7908–7; E-Docket ID No. ORD–2005–0016]

External Review Draft, The Inventory of Sources and Environmental Releases of Dioxin-Like Compounds in the U.S.: the Year 2000 Update, March 2005 (EPA/600/P–03/002A)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Comment Period.

SUMMARY: EPA is announcing a 60-day public comment period for the external review draft document titled, The Inventory of Sources and Environmental Releases of Dioxin-Like Compounds in the U.S.: the Year 2000 Update, March 2005 (EPA/600/P–03/002A) (Draft Dioxin Inventory Update). The document was prepared by the EPA's National Center for Environmental Assessment within the Office of Research and Development. EPA will consider the public comment submissions in revising the document. An independent, external, peer-review panel will review the document at a workshop in the future. That workshop will be announced in a subsequent **Federal Register** notice.

DATES: The 60-day public comment period begins May 6, 2005, and ends July 5, 2005. Technical comments should be in writing and must be received by July 5, 2005.

ADDRESSES: The Draft Dioxin Inventory Update is available primarily via the Internet on the National Center for Environmental Assessment's home page at *http://www.epa.gov/ncea* under the Recent Additions and Data and

Publications menus. A limited number of CDs and paper copies are available from the Technical Information Staff, NCEA–W; telephone: (202) 564–3261; facsimile: (202) 565–0050. If you are requesting a CD or paper copy, please provide your name, your mailing address, and the document title, The Inventory of Sources and Environmental Releases of Dioxin-Like Compounds in the U.S.: the Year 2000 Update, March 2005 (EPA/600/P–03/002A).

Comments may be submitted electronically, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: (202) 566–1752; facsimile: (202) 566–1753; or e-mail: *ORD.Docket@epa.gov.*

For technical information, contact David Cleverly, National Center for Environmental Assessment (8623N), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (202) 564–3238; facsimile: (202) 565–2018; or e-mail: *cleverly.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

About the Document

The purpose of the Draft Dioxin Inventory Update is to present an inventory of sources and environmental releases of dioxin-like compounds in the United States. This Draft is associated with three distinct reference years: 1987, 1995, and 2000. The presentation of information in this manner permits the ranking of sources by magnitude of annual release and allows for the evaluation of environmental trends over time.

The term ''dioxin-like'' includes congeners (chemical compounds) of polychlorinated dibenzo-p-dioxins (CDDs), polychlorinated dibenzofurans (CDFs) having chlorine atoms in the 2,3,7,8 positions on the molecule, and certain coplanar-substituted polychlorinated biphenyls (PCBs). ''Dioxin-like'' refers to the fact that these compounds have similar chemical structure and physical-chemical properties and invoke a common battery of toxic responses. Because of their hydrophobic nature and resistance towards metabolism, these chemicals persist and bioaccumulate in fatty tissues of animals and humans. Consequently, the principal route of chronic population exposure is through the dietary consumption of animal fats, fish, shellfish, and dairy products. Dioxin-like compounds are persistent in soils and sediments, with environmental half-lives ranging from years to several decades.

The Draft Dioxin Inventory Update is an update of a previous external review draft report entitled, The Inventory of Sources of Dioxin in the United States (EPA/600/P–98/002Aa), dated April 1998. The 1998 draft inventory presented annual estimates of environmental releases for reference years 1987 and 1995. A meeting of scientific and engineering experts was convened June 3–4, 1998, to review the scientific soundness of EPA's dioxin inventory. Overall, the reviewers found the inventory report to be comprehensive and well documented and the ''emission factor approach'' that was used to develop the inventory to be scientifically defensible. The review committee recommended that EPA (a) take a less conservative approach for including data on emissions of dioxin-like compounds from sources, especially data from foreign countries and those found in the nonpayer-reviewed literature; (b) adopt a qualitative ranking system that clearly indicates the relative amount of uncertainty behind the calculations of annual releases of dioxin-like compounds; (c) present the inventory of sources and environmental releases specific to the reference years, because technologies and emissions of dioxin from sources changes over time; and (d) present the dioxin inventory as a summary table of sources and estimated annual releases, including quantifiable as well as poorly understood sources. The Draft Dioxin Inventory Update reflects comments made by the review committee and also represents an update with the inclusion of a third reference year, 2000.

One of the preliminary conclusions in the Draft Dioxin Inventory Update is that, between 1987 and 2000, there was an approximately 89% reduction in the release of dioxin-like compounds to the circulating environment of the United States from all known sources combined. Annual emission estimates ($TEQ_{DF-}WHO_{98}$) of releases of CDDs/CDFs to air, water, and land from reasonably quantifiable sources are approximately 1,529 g in reference year 2000; 3,280 g in reference year 1995; and 13,962 g in reference year 1987. In 1987 and 1995, the leading sources of dioxin emissions to the U.S. environment were municipal waste combustors. The inventory also identifies bleached chlorine pulp and paper mills as a significant source of dioxin to the aquatic environment in 1987 but a minor source in 1995 and 2000. The Draft concludes that the major source of dioxin in 2000 was the uncontrolled burning of refuse in backyard burn barrels in rural areas of the United States.

The reduction in environmental releases of dioxin-like compounds from 1987 to 2000 is attributable to source-specific regulations, improvements in source technology, advancements in the pollution control technologies specific to controlling dioxin discharges and releases, and the voluntary actions of U.S. industries to reduce or prevent dioxin releases.

How to Submit Comments to EPA's E-Docket

EPA has established an official public docket for information pertaining to the revision of the Draft Dioxin Inventory Update, Docket ID No. ORD–2005–0016. The official public docket is the collection of materials, excluding Confidential Business Information (CBI) or other information whose disclosure is restricted by statute, that is available for public viewing at the Office of Environmental Information (OEI) Docket in the Headquarters EPA Docket Center, EPA West Building, 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 Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752; facsimile: (202) 566–1753; or e-mail: *ORD.Docket@epa.gov.*

An electronic version of the official public docket is available through EPA's electronic public docket and comment system, E-Docket. You may use E-Docket at *http://www.epa.gov/edocket/* to submit or view public comments, to access the index listing of the contents of the official public docket, and to view those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in E-Docket. Information claimed as CBI and other information with disclosure restricted by statute, which is not included in the official public docket, also will not be available for public viewing in E-Docket. Copyrighted material will not be placed in E-Docket, but will be referenced there and available as printed material in the official public docket.

For people submitting public comments, please note that EPA's policy makes that information available for public viewing as received at the EPA Docket Center or in E-Docket. This

policy applies to information submitted electronically or in paper form, except where restricted by copyright, CBI, or statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment placed in EPA's electronic public docket; the entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to E-Docket. Physical objects will be photographed, where practical, and the photograph will be placed in E-Docket along with a brief description written by the docket staff.

You may submit comments electronically, by mail, by facsimile, or by hand delivery/courier. To ensure proper receipt by EPA, include the appropriate docket identification number with your submission. Please adhere to the specified submitting period; public comments received or submitted past the closing date will be marked ''late'' and may only be considered if time permits.

If you submit public comments electronically, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include these contact details on the outside of any submitted disk or CD–ROM, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the person submitting the public comments and allows EPA to contact you in case the Agency cannot read your submission due to technical difficulties, or needs further information on the substance of your comment. EPA will not edit your comment, and any identifying or contact information provided in the body of the comment will be included as part of the comment placed in the official public docket and made available in E-Docket. If EPA cannot read what you submit due to technical difficulties and cannot contact you for clarification, it may delay or prohibit EPA's consideration of your comments.

Electronic submission of comments via E-Docket is the preferred method for receiving comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and key in Docket ID No. ORD–2005–0016. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact details unless you provide it in the body of your comment.

Comments may be sent by electronic mail (e-mail) to *ORD.Docket@epa.gov,* Attention Docket ID No. ORD–2005–0016. In contrast to EPA's electronic public docket, EPA's e-mail system is *not* an ''anonymous access'' system. If you send an e-mail directly to the docket without going through EPA's E-Docket, EPA's e-mail system automatically captures your e-mail address, and it becomes part of the information in the official public docket and is made available in E-Docket.

You may submit comments on a disk or CD–ROM mailed to the OEI Docket mailing address. Files will be accepted in WordPerfect, Word, or PDF file format. Avoid the use of special characters and any form of encryption.

If you provide comments in writing, please submit one unbound original with pages numbered consecutively, and three copies. For attachments, provide an index, number pages consecutively with the main text, and submit an unbound original and three copies.

Dated: May 2, 2005.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 05–9081 Filed 5–5–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting Notice; Announcing a Partially Open Meeting of the Board of Directors

Time and Date:

The open meeting of the Board of Directors is scheduled to begin at 10 a.m. on Wednesday, May 11, 2005. The closed portion of the meeting will follow immediately the open portion of the meeting.

Place:

Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

Status:

The first portion of the meeting will be open to the public. The final portion of the meeting will be closed to the public.

Matters to be Considered at the Open Portion of the Meeting:

2005 Designation of Federal Home Loan Bank Directorships.

Matter to be Considered at the Closed Portion of the Meeting:

Periodic Update of Examination Program Development and Supervisory Findings.

Contact Person for More Information:

Sheila Willis, Paralegal Specialist, Office of General Counsel, at (202) 408–2876 or *williss@fhfb.gov*.

Dated: May 3, 2005.

By the Federal Housing Finance Board.

Mark J. Tenhundfeld,

General Counsel.

[FR Doc. 05–9184 Filed 5–4–05; 11:25 am]

BILLING CODE 6725–01–M

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 May 20, 2005.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Terence P. Greenley and Francis S. Fleck, both of Sigourney, Iowa; to acquire voting shares of Fountain View Bancorp, Inc., and thereby indirectly acquire voting shares of Keokuk County State Bank, both of Sigourney, Iowa.

Board of Governors of the Federal Reserve System, May 2, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–9044 Filed 5–5–05; 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 May 28, 2005.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Private Bancorp, Inc.,* Chicago, Illinois; to merge with Bloomfield Hills Bancorp, Inc., Bloomfield Hills, Michigan, and thereby indirectly acquire The Private Bank, Bloomfield Hills, Michigan.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. *First Horizon National Corporation,* Memphis, Tennessee, to merge with West Metro Financial Services, Inc., Dallas, Georgia, and thereby indirectly acquire First National Bank West Metro, Dallas, Georgia.

2. *First National Bancorp, Inc.,* Greenforest, Arizona; to acquire voting shares of Legacy National Bank, Springdale, Arizona.

Board of Governors of the Federal Reserve System, May 2, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–9023 Filed 5–5–05; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center 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 May 31, 2005.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. First Valley Bancorp, Bristol, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Valley Bank, Bristol, Connecticut.

B. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Symphony Bancorp, Indianapolis, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Symphony Bank, Indianapolis, Indiana (in organization).

C. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. German American Bancorp, Jasper, Indiana; to acquire 9.7 percent of the voting shares of Symphony Bancorp, Indianapolis, Indiana (in organization), and thereby indirectly acquire voting shares of Symphony Bank, Indianapolis, Indiana (in organization).

D. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire 17.66 percent of the voting shares of Parkway National Bancshares, Inc., Plano, Texas, and thereby indirectly acquire voting shares of Parkway National Bancshares of Delaware, Inc., Wilmington, Delaware, and Parkway Bank, National Association, Plano, Texas.

Board of Governors of the Federal Reserve System, May 2, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–9045 Filed 5–5–05; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0252]

General Services Administration Acquisition Regulation; Information Collection; Preparation, Submission, and Negotiation of Subcontracting Plans

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding preparation, submission, and negotiation of subcontracting plans. The clearance currently expires on August 31, 2005.

This information collection will ensure that small and small disadvantaged business concerns are afforded the maximum practicable opportunity to participate as subcontractors in construction, repair, and alteration or lease contracts. Preparation, submission, and negotiation of subcontracting plans requires all negotiated solicitations having an anticipated award value over $500,000 ($1,000,000 for construction), submission of a subcontracting plan with other than small business concerns

when a negotiated acquisition meets all four of the following conditions.

1. When the contracting officer anticipates receiving individual subcontracting plans (not commercial plans).

2. When the award is based on trade-offs among cost or price and technical and/or management factors under FAR 15.101–1.

3. The acquisition is not a commercial item acquisition.

4. The acquisition offers more than minimal subcontracting opportunities.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Rhonda Cundiff, Procurement Analyst, Contract Policy Division, at telephone (202) 501–0044 or via e-mail to *rhonda.cundiff@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0252, Preparation, Submission, and Negotiation of Subcontracting Plans, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSAR provision at 552.219–72 requires a contractor (except other than small business concerns) to submit a subcontracting plan when a negotiated acquisition including construction, repair, and alterations and lease contracts (except those solicitations using simplified procedures) meets all four of the following conditions.

1. When the contracting officer anticipates receiving individual subcontracting plans (not commercial plans).

2. When award is based on trade-offs among cost or price and technical and/or management factors under FAR 15.101–1.

3. The acquisition is not a commercial item acquisition.

4. The acquisition offers more than minimal subcontracting opportunities.

B. Annual Reporting Burden

Respondents: 1,020.

Responses Per Respondent: 1.

Hours Per Response: 12.

Total Burden Hours: 12,240.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0252, Preparation, Submission, and Negotiation of Subcontracting Plans, in all correspondence.

Dated: May 2, 2005.

Linda Nelson,

Acting Director, Contract Policy Division.

[FR Doc. 05–9098 Filed 5–5–05; 8:45 am]

BILLING CODE 6820–61–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0250]

General Services Administration Acquisition Regulation; Information Collection; Zero Burden Information Collection Reports

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding zero burden information collection reports.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: July 5, 2005.

FOR FURTHER INFORMATION CONTACT Linda Nelson, Procurement Analyst, Contract Policy Division, at telephone (202) 501–1900 or via e-mail to *linda.nelson@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0250, Zero Burden Information Collection Reports, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information requirement consists of reports that do not impose collection burdens upon the public. These collections require information which is already available to the public at large or that is routinely exchanged by firms during the normal course of business. A general control number for these collections decreases the amount of paperwork generated by the approval process. Since May 10, 1992, GSA has published two rules in the **Federal Register** that fall under OMB Information Collection number 3090–0250: APD 2800.12A, CHGE 25, Implementation of Public Law 99–506, 56 FR 29442, June 27, 1991; and APD 2800.12A, CHGE 75, Industrial Funding Fee, 62 FR 38475, July 18, 1997.

B. Annual Reporting Burden

None.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0250, Zero Burden Information Collection Reports, in all correspondence.

Dated: April 29, 2005.

Julia Wise,

Director, Contract Policy Division.

[FR Doc. 05–9099 Filed 5–5–05; 8:45 am]

BILLING CODE 6820–61–S

GENERAL SERVICES ADMINISTRATION

OMB Control No. 3090–0235

General Services Administration Acquisition Regulation; Information Collection; Price Reductions Clause

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration has submitted to the

Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding the GSAR Price Reductions Clause. A request for public comments was published at 70 FR 10404, March 3, 2005. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Nelson, Procurement Analyst, Contract Policy Division, at telephone (202) 501–1900 or via e-mail to *linda.nelson@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0235, Price Reductions Clause, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at GSAR 552.238–75, Price Reductions, used in multiple award schedule contracts ensures that the Government maintains its relationship with the contractor's customer or category of customers, upon which the contract is predicated.

B. Annual Reporting Burden

Number of Respondents: 16,680.

Total Annual Responses: 33,360.

Average hours per response: 7.5 hours.

Total Burden Hours: 250,200.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0235, Price Reductions Clause, in all correspondence.

Dated: April 29, 2005

Julia Wise,

Director,Contract Policy Division

[FR Doc. 05–9100 Filed 5–5–05; 8:45 am]

BILLING CODE 6820–61–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public.

DATES: The meeting will be held on June 7, 2005, from 9 a.m. to 5 p.m., and on June 8, 2005, from 9 a.m. to 3:30 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Emma English, Program Analyst, National Vaccine Program Office, Department of Health and Human Services, Room 433–H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *nvac@osophs.dhhs.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Service Act (42 U.S.C. Section 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Assistant Secretary for Health, as the Director of the National Vaccine Program, on matters related to the program's responsibilities.

Topics to be discussed at the meeting include vaccine supply, adolescent immunization, influenza, and pandemic influenza preparedness. New members will be welcomed to the Committee and updates will be given by various subcommittees and working groups. A tentative agenda will be made available on or about May 15, 2005, for review on the NVAC Web site: *http://www.hhs.gov/nvpo/nvac*.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the Humphrey Building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to NVAC members should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business May 31, 2005. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *nvac@osophs.dhhs.gov*.

Dated: May 2, 2005.

Bruce Gellin,

Director, National Vaccine Program Office.

[FR Doc. 05–9018 Filed 5–5–05; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05–05CA]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Twelve-Month Follow-up of Chronic Fatigue Syndrome (CFS) and Chronic Unwellness in Georgia—New —Centers for Disease Control and Prevention (CDC)—National Center for Infectious Diseases (NCID).

Background and Brief Description

The Chronic Fatigue Syndrome Program within the CDC has been mandated by Congress to: (1) Estimate the magnitude of CFS in the United States with special consideration of under-served populations (children and racial/ethnic minorities); (2) describe the clinical features of CFS; and (3) identify risk factors and diagnostic markers. CDC is currently planning a twelve-month follow-up study in Georgia to estimate the prevalence and incidence of CFS and other fatiguing illnesses. The study will also determine whether or not there are differences in occurrence of fatiguing illness across metropolitan, urban, and rural populations as well as in racial and ethnic populations.

In 2004, OMB approved the information collection, Survey of Chronic Fatigue Syndrome and Chronic Unwellness in Georgia, under OMB Number 0920–0638, which provides baseline information on prolonged fatiguing illness in selected metropolitan, urban, and rural regions in Georgia. Data from the proposed Follow-up Survey of Chronic Fatigue Syndrome and Chronic Unwellness in Georgia, will be added to the baseline data obtained under OMB Number 0920–0638, which cover the period September 2004–June 2005. This additional longitudinal study will allow CDC to estimate incidence of CFS, chronic unwellness, and other fatigue-related illnesses among various racial and ethnic populations and characterize the clinical course of these conditions. CDC will compare prevalence and incidence estimates from this proposed study of the Georgia population to estimates obtained from the longitudinal Sedgwick County Studies of CFS to ascertain whether or not findings from the Sedgwick County Studies can be generalized to other populations.

The proposed study continues the initial Georgia survey using similar methodology and data collection instruments. This follow-up study will begin with a detailed telephone interview to obtain additional data on participant health status during the last twelve-month period. Eligible subjects will be asked to participate in clinical evaluations. There is no cost to respondents other than their time. The total annualized burden hours are 2228.

ESTIMATE OF ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number responses per respondent	Average burden/response (in hours)	Total burden hours
Telephone interview	4,455	1	30/60	2228

Dated: April 29, 2005.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–9066 Filed 5–5–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05–05BW]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 or send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Survey of Primary Care Physicians Regarding Prostate Cancer Screening—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Prostate cancer is the most common cancer in men and is the second leading cause of cancer deaths, behind lung cancer, in the United States. The American Cancer Society estimates that there will be about 232,090 new cases of prostate cancer and about 30,350 deaths in 2005. Although prostate cancer deaths have declined over the past several years, it ranks fifth among deaths from all causes.

The Digital Rectal Examination (DRE) and Prostate Specific Antigen (PSA) test are used to screen for prostate cancer. Screening is controversial and many are not in agreement as to whether the potential benefits of screening outweigh the risks, that is, if PSA based screening, early detection, and treatment increases longevity. Although major medical organizations are divided on whether men should be routinely screened for this disease, it appears that all of the major organizations recommend discussion with patients about the benefits and risks of screening.

The purpose of this project is to develop and administer a national survey to a sample of American primary care physicians to examine whether or not they: (1) Screen for prostate cancer using PSA and/or DRE, (2) recommend testing and under what conditions, (3) discuss the tests and the risks and benefits of screening with patients, and

(4) use screening practices that vary by factors such as age, ethnicity, and family history of the patient. This study will also examine the demographic, social, and behavioral characteristics of physicians as they relate to screening of similar issues and participate in shared decision-making between the physician and the patient.

There will be no cost to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondents	Average burden per response (in hours)	Total burden (in hours)
Primary Care Physician	1,500	1	40/60	1,000
Total	1,500			1,000

Dated: April 29, 2005.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–9067 Filed 5–5–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05–05CC]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Pilot and Field Testing to Assist with the Planning of NCHS Data Collections—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Center for Health Statistics collects data through a number of on-going person-based and facility-based surveys. Among the major on-going surveys are the National Health Interview Survey (0920–0214) and the National Health and Nutrition Examination Survey (0920–0237). Due mainly to budgetary restraints, critical surveys such as the National Survey of Family Growth (0920–0314) and the National Survey of Hospice and Home Health Care (0920–0298) are not in the field continuously.

This new activity will allow pilot and field testing of planned surveys, most of which have received past OMB approval, resulting in enhanced knowledge and refined accuracy prior to requesting full OMB clearance. Some of the activities envisioned include: (1) The ability to measure the changes in technology in facility record keeping; (2) to test the feasibility of using improved information technology in data collection; and (3) to test new methodologies for obtaining sensitive information from individuals.

There is no cost to respondents other than their time to participate.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Facility interview	300	2	1.0	600
Household/in-person interview	200	1	30/60	100
Total burden				700

Dated: April 29, 2005.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–9068 Filed 5–5–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05–05BZ]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of the Effectiveness of the Smoke Alarm Installation and Fire Safety Education (SAIFE) Program—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This project will use data from in-person interviews, paper and telephone surveys to assess the effectiveness of the Smoke Alarm Installation and Fire Safety Education (SAIFE) program and its efficacy in delivering fire safety information. The data will be collected from a convenience sample of adults 18 years of age or older who volunteer to participate in the SAIFE program. A total of 360 households will complete the evaluation each year of the data collection for a mass total of 1080 households over the next three years. Participants will be asked to complete a 15-minute survey at two points, once immediately before the intervention and then 6 months afterwards. The survey will assess outcome measures including, but not limited to, changes in knowledge, attitudes, beliefs, and behaviors regarding various aspects of fire safety and prevention; changes in reported residential fire-related injuries and deaths; increased or decreased presence of functioning smoke alarms; and the costs associated with the SAIFE intervention. The evaluation will measure these changes across time, between groups and within groups, among communities that will receive the SAIFE intervention.

CDC programs are currently funded in 16 states to provide for home installation of smoke alarms plus general fire safety education in households at high risk for fire and fire-related injury and death. Programs of this type are intended to prevent fire-related injury and mortality, but have not been studied scientifically to assess their impact on fire-related injury outcomes. The proposed study represents the first formal effort to evaluate the effectiveness and cost implications of the SAIFE program as implemented in North Carolina. The data collected in this study will have the potential to inform other smoke alarm installation programs, as well as indicate future priorities in prevention and preparedness for residential household fires. The only cost to the participant is the time involved to complete the surveys.

ESTIMATE OF ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Adult male and female (age 18+ years)	360	2	15/60	180

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–9069 Filed 5–5–05; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Request for Application (RFA) AA008]

Expansion of HIV/AIDS Care and Treatment Services and Training Activities in the Republic of Uganda; 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 continue the expansion of comprehensive HIV/AIDS prevention, care and treatment services to HIV positive clients and their families, and to provide training for a wide range of health care providers in the public and private sector to support the national expansion of basic preventive care and ART provision to PLWHAs in the Republic of Uganda.

The Catalog of Federal Domestic Assistance number for this program is 93.067.

B. Eligible Applicant

Assistance will only be provided to The Mildmay Center (TMC). No other applicants are solicited.

• TMC was set up in 1998, through a MOH and British government agreement, as a tertiary referral center for HIV/AIDS palliative care. TMC International has a ten-year agreement to manage the center on behalf of the MOH.

• TMC has been funded through Cooperative Agreement: U47/CCU020672 (PA 01142)—Clinical and Laboratory Training in HIV/AIDS in the Republic of Uganda for $1.5 million annually since 2001.

• In 2004, TMC received supplemental funding of $1.6 million through The Emergency Plan Track 1.5 to implement the provision of ARVs to more than 1,800 adult and pediatric clients and provide basic preventive care package services to more than 5,000 clients. It is important that patients enrolled in the ART program continue their treatment uninterrupted.

• TMC is the only institution in Uganda that has the expertise to conduct training programs for multiple cadres of health care providers in comprehensive holistic rehabilitation and palliative care for PLWHAs in both Uganda and the region.

• TMC has demonstrated experience in training health care providers in rural districts within their workstations with practical involvement and support supervision through mobile training teams. TMC has experience producing high quality HIV/AIDS training curricula that are technically accurate and follow solid adult training principles.

• TMC has a special focus on pediatrics, with over 2,500 children below 18 years receiving regular care. The center provides specialized training in pediatric HIV/AIDS care.

• Currently, the center has over 6,000 active clients with more than 2,000 on ART.

C. Funding

Approximately $4,500,000 is available in FY 2005 to fund this award. It is expected that the award will begin on or before August 1, 2005, and will be made for a 12-month budget period within a project period of up to 5 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 technical assistance, contact: Jonathan Mermin, MD, MPH, Global Aids Program [GAP], Uganda Country Team, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention [CDC], P.O. Box 49, Entebbe, Uganda. Telephone: +256–41320776. E-mail: *jhm@cdc.gov.*

For financial, grants management, or budget assistance, contact: Shirley Wynn, Contract Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: 770–788–1515. E-mail: *swynn@cdc.gov.*

Dated: May 2, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–9065 Filed 5–5–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis

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 council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.–5 p.m., June 8, 2005., 8:30 a.m.–12 p.m., June 9, 2005.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333. Telephone: (404) 639–8008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis (TB). Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating TB.

Matters To Be Discussed: Agenda items include issues pertaining to TB vaccine, Health Disparities in TB update on Quanti-Feron Guidelines, and other TB-related topics.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE., M/S E–07, Atlanta, Georgia 30333, telephone: (404) 639–8008.

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: May 2, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–9064 Filed 5–5–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–296]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably

comply with the normal clearance procedures because to do so would cause a statutory deadline to be missed. CMS is requesting OMB review and approval of this collection 31 days after the publication of this notice, with a 180-day approval period.

The Home Health Advance Beneficiary Notice (HHABN) requires Home Health Agencies (HHAs) to provide written notice to Medicare beneficiaries in advance of initiating, terminating or reducing beneficiary services. The current HHABN was revised to ensure that beneficiaries receive complete and useful information to enable them to make informed consumer decisions. The notice must be issued timely and provide clear and accurate information about the specified services which may no longer be covered by Medicare, including the reason(s) that Medicare denial of payment for those services is expected by the HHA.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements; however, comments on these information collection and recordkeeping requirements must be received within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 26, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–9028 Filed 5–2–05; 5:02 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA#: 93.601]

Deviation From Competition To Award a Single-Source Program Expansion Supplement From the Office of Child Support Enforcement to the Community Services for Children, Inc.

AGENCY: Office of Child Support Enforcement, ACF, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that a program expansion supplement in the amount of $99,227 is being award to the Community Services for Children, Incorporated CSC) by the Office of Child Support Enforcement (OCSE). CSC has requested additional funds and a one-year extension to build on the success of its program by offering the Family Formation and Development Project (FFDP) to 40 additional unwed, low-income couples.

The current project has shown promising results. During the past two years CSC has administered a successful Special Improvement Project (SIP) project. It has served 40 couples, meeting all stated objectives. The project serves only unwed couples with children. The majority of these families are Hispanic and are enrolled in Head Start and Early Head Start programs to ensure comprehensive family services.

CSC's objectives are:

- To improve family formation and development including marriage as a choice. CSC will provide an 8-week family formation and development course called ''Healthy Relationship and Marriage Education'' to 40 low-income, unwed couples with children in Head Start or Early Head Start programs.
- To promote stable families. CSC will present through course materials, other resources and home visits, information on the long-term benefits of two-parent families on the health and success of their children.
- To increase awareness of the importance of providing financial and medical support of children. CSC will collaborate with the Office of Child Support Enforcement to provide training and referral on the benefits of paternity establishment and child support services.

Section 452(j) of the Social Security Act, 42 U.S.C. 652(j), provides Federal funds for information dissemination and technical assistance to States, training of Federal and State staff to improve child support programs, and research, demonstration, and special projects of regional or national significance relating to the operation of State child support enforcement programs.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Greenblatt, Deputy Director, Division of State, Tribal and Local Assistance, Office of Child Support Enforcement, 202–401–4849, *sgreenblatt@acf.hhs.gov.*

Dated: May 2, 2005.

David Siegel,

Acting Commissioner, Office of Child Support Enforcement.

[FR Doc. 05–9124 Filed 5–5–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Community Services; CSBG T/TA Program Earned Income Tax Credit (EITC) and Other Asset Formation Opportunities

Announcement Type: Initial.

Funding Opportunity Number: HHS–2005–ACF–OCS–ET–0086.

CFDA Number: 93.570.

Due Date for Applications: Application is due June 20, 2005.

Executive Summary: The Office of Community Services (OCS) within the Administration for Children and Families (ACF) announces that competing applications will be accepted for a new grant pursuant to the Secretary's authority under section 674(b) of the Community Services Block Grant (CSBG) Act, as amended, by the Community Opportunities, Accountability, and Training and Educational Services (COATES) Human Services Reauthorization Act of 1998, (Pub. L. 105–285).

The proposed grant will fund up to 10 capacity-building collaborations that create or expand asset formation and financial literacy services offered by eligible entities funded under the Community Services Block Grant (CSBG) Program in support of national community action Goal 1 (''Low Income People Become More Self-sufficient'').

I. Funding Opportunity Description

The Office of Community Services (OCS) within the Administration for Children and Families (ACF) announces that competing applications will be accepted for a new grant pursuant to the Secretary's authority under section 674(b) of the Community Services Block Grant (CSBG) Act, as amended, by the Community Opportunities,

Accountability, and Training and Educational Services (COATES) Human Services Reauthorization Act of 1998 (Pub. L. 105–285).

The proposed grant will fund up to 10 capacity-building collaborations that create or expand asset formation and financial literacy services offered by eligible entities funded under the Community Services Block Grant (CSBG) Program in support of national community action Goal 1 (''Low Income People Become More Self-sufficient'').

Priority Area

Community Action Goal 1 ''Low Income People Become More Self-sufficient''

1. *Description:* OCS is committed to promoting and funding projects that use asset formation financial strategies to increase disposable earned income in low-income households and to help direct the use of that income toward asset formation. We view such strategies as viable and innovative approaches to empowering low-income individuals and families to become more self-sufficient and self-reliant. As part of an OCS initiative, we are forming partnerships and encouraging the creation or strengthening of partnerships aimed at the increasing financial education literacy and asset formation of low-wage earning households.

The Earned Income Tax Credit (EITC) is a refundable Federal tax credit designed to encourage employment in low-income families and to offset the effects of Medicare and Social Security payroll taxes on working-poor families. EITC is widely viewed as a key support in welfare-to-work and asset-building strategies. EITC is regarded not only as an income supplement to meet immediate expenses, but also as a resource that might be directed toward asset-building strategies. Low-income families can be assisted to use the credit to accrue wealth, achieve economic self-sufficiency, and break the cycle of poverty.

Up to 30 percent of low-income families do not have a checking or savings account with a financial institution, have poor financial management skills and/or credit record, and need assistance with asset-building strategies; therefore, finding a way to link the EITC to affordable banking services, financial literacy, and savings and asset-building options is critical. According to recent studies by the Government Accounting Office, a substantial number of eligible individuals and families fail to claim the EITC. OCS seeks to lower the number of eligible households entitled to, but not receiving, this benefit. OCS also seeks to expand the use of the credit as an asset-building resource.

OCS seeks to fund formal collaboration projects that use the EITC to create or expand asset formation and financial literacy services offered by eligible entities funded under the Community Services Block Grant (CSBG) Program. Funds will be awarded to provide capacity-building assistance that enables local, state or regional CSBG networks to plan, establish, improve or expand the use of EITC outreach and free tax preparation services to provide asset formation and financial service opportunities for eligible individuals and families. These projects should be designed to include EITC outreach, free tax preparation services and financial literacy/asset formation strategies to enable low-income families and individuals to make wiser financial decisions, build financial resources and help eligible clients take advantage of asset formation opportunities, that ultimately help the community thrive and become more economically stable.

Formal State CSBG Lead Agencies and State Community Action Agency Association (CAA) partnerships are especially encouraged. OCS realizes that CSBG service providers will be most effective in helping low-income individuals and families increase assets and financial literacy when they partner with others in the community. Therefore, applications that show collaborations with other community-based organizations and institutions are also strongly encouraged.

Funds will be awarded to provide capacity-building assistance that enables local and regional CSBG networks to plan, establish, improve or expand asset formation and financial service opportunities for eligible individuals and families. These projects should be designed to help low-wage earners, at or near the poverty level, become more astute in areas such as money management and other financial services. The projects must offer, or plan to offer, services that help eligible clients take advantage of asset formation opportunities, increase their disposable income, build financial resources and enable them to make wiser financial decisions that ultimately help the community thrive and become more economically stable.

At a minimum, all projects funded under this area must demonstrate proof that they have managed and operated an established Earned Income Tax Credit (EITC) component. Successful applicants for these 10 grants must also have a history of providing EITC and other asset formation services and training within the Community Services Network. Their curriculum must demonstrate an understanding of asset formation and financial literacy. Applicants must describe in their applications how their proposed training curriculum will improve or expand the access of eligible low-income families and individuals to asset formation information and services. Therefore, projects should include outreach to eligible families, information to help individuals and families understand the EITC and free tax filing assistance to claim the EITC and other tax credits.

Successful applicants for these grants must have a plan for providing EITC outreach, free tax preparation, and other financial and asset formation services and training within the Community Services Network. Their curriculum must demonstrate an understanding of asset formation and financial literacy. At a minimum, all projects funded in this area must present proof that within the collaborative there exists a partner with demonstrated experience in the delivery of EITC outreach and free tax preparation services, and should include a description (letters of agreement or memoranda of understanding) of the nature of the existing or proposed working relationship with the local Internal Revenue Service territory office. Applicants must also describe in their applications how their proposed plan and training curriculum will improve or expand the access of eligible low-income families and individuals to tax preparation and asset formation information and services beyond the scope of the current offerings, as well as identifying constituencies who have been underserved with these programs.

Successful applicants will propose projects that will impact more than one local CSBG service area. This Sub-Priority Area is not appropriate for projects proposing stand-alone services that impact and target only one particular community. Formal State CSBG Lead Agencies and State CAA Association partnerships and Community Service Network collaborations that address the needs of rural communities are especially encouraged to apply for these funds and will receive priority consideration for funding.

The application must clearly show the roles and responsibilities of each collaborating partner. Letters of agreement and memoranda of understanding on agency letterhead with signatures from persons authorized to act on behalf of the collaborating

partner(s) must be included in the application.

Innovation is encouraged. However, the following are examples of asset formation and financial literacy activities that OSC seeks to expand:

- Help eligible former Temporary Assistance for Needy Families (TANF) clients (closed cases for 2004) with earnings in a tax year apply for and receive, the Federal and State, where appropriate, Earned Income Tax Credits and other cash benefits or services to which they are entitled.
- Ensure that staff and volunteers of local CSBG funded organizations and/or their partners are trained and certified to provide free tax preparation services.
- Recruit, support, and retain qualified volunteers committed to the goals of the initiative.
- Facilitate outreach to TANF clients through hiring staff or training volunteers responsible for specific outreach to this community. TANF client outreach should include education on the EITC, filing requirements, and information provided about available free income tax services offered by the agency and/or available in the community. Former TANF clients should be scheduled for a free income tax filing appointment.
- Provide life skills education that helps low-income individuals and families learn and apply effective household management and budgeting techniques.
- Help clients establish and use banking and financial services, such as checking and savings accounts, thereby reducing or eliminating their reliance on the high-fee, high interest check cashing and loan services that are prevalent and widely used in low-income neighborhoods.
- Present materials in different languages based on the needs of eligible households.
- Assist families and individuals to boost savings in Individual Development Accounts (IDAs) and/or to participate in other asset-building opportunities such as pre-purchase and post-purchase housing support, 529 college savings plans, and other asset tools.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $500,000.

Anticipated Number of Awards: 10.

Ceiling of Individual Awards per Budget Period: $50,000.

Floor on amount of individual awards: None.

Average Projected Award Amount per Budget Period: $50,000.

Length of Project Periods: 36 month project with three 12 month budget periods.

This announcement is inviting applications for project periods of up to three years. Awards, offered on a competitive basis, will be for a one-year budget period, although projects may be for three years. Applications for continuation grants beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Federal Government.

Note: The FY 2006 President's Budget does not include or propose funding for the CSBG program.

III. Eligibility Information

1. Eligible Applicants

Non-profit organizations having a 501(c)(3) status with the IRS, other than institutions of higher education.

Non-profit organizations that do not have a 501(c)(3) status with the IRS, other than institutions of higher education;

Others (see Additional Information on Eligibility below).

Additional Information on Eligibility: Community Services Block Grant eligible entities and State Community Action Associations.

As prescribed by the Community Services Block Grant Act, as amended (Pub. L. 105–285, Section 678A(c)(2)), eligible applicants are eligible entities, or statewide or local organizations, or associations with demonstrated expertise in providing training to individuals and organizations on methods of effectively addressing the needs of low-income families and communities. Faith-based and community organizations meeting these requirements are eligible to apply.

2. Cost Sharing/Matching

None.

3. Other

All Applicants must have a Dun & Bradstreet Number.

On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.grants.gov/*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com/.*

Non-profit organizations applying for funding are required to submit proof of their non-profit status.

Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax exemption certificate.
- A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earning accrues to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Disqualification Factors

Applications that exceed the ceiling amount will be considered non-responsive and will not be eligible for funding under this announcement.

Any application that fails to satisfy the deadline requirements referenced in Section IV.3 will be considered non-responsive and will not be considered for funding under this announcement.

IV. Application and Submission Information

1. Address to Request Application Package

ATTN: Dr. Margaret Washnitzer, Office of Community Services Operations Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, Phone: 800–281–9519. *E-mail: OCS@lcgnet.com.*

2. Content and Form of Application Submission

You may submit your application to us in either electronic or paper format.

To submit an application electronically, please use the *www.Grants.gov* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via e-mail or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov

- Electronic submission is voluntary, but strongly encouraged.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.grants.gov/.*
- You must search for the downloadable application package by the CFDA number.

An original and two copies of the complete application are required. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers. The copies may include summary salary information.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Standard Forms and Certifications

The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Pub. L. 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Please see *Section V.1* for instructions on preparing the full project description.

3. Submission Dates and Times

Explanation of Due Dates

The closing time and date for receipt of applications is referenced above. Mailed or hand carried applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in *Section IV.6.* Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in *Section IV.6.*, between Monday and Friday (excluding Federal holidays). Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

ACF cannot accommodate transmission of applications by fax. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Receipt acknowledgement for application packages will not be provided to applicants who submit their package via mail, courier services, or by hand delivery. However, applicants will receive an electronic acknowledgement for applications that are submitted via Grants.gov.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. on the deadline date will not be considered for competition. Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed).

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Checklist: You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Project Abstract	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
Project Description	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
Budget Narrative/Justification.	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
SF 424	See Section IV.2	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.
SF–LLL Certification Regarding Lobbying.	See Section IV.2	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.
Certification Regarding Environmental Tobacco Smoke.	See Section IV.2	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.
Assurances	See Section IV.2	Found in Section IV.2	By application due date.
Table of Contents	See Section V.1	Found in Section V.1	By application due date.
SF–424A	See Section IV.2	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.
Proof of Non-Profit Status	See Section III.3	Found in Section III.3	By application due date.

Additional Forms: Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

What to submit	Required content	Location	When to submit
Survey for Private, Non-Profit Grant Applicants.	See form	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.

4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc., does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally-

recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html.*

A list of Single Points of Contact for each State and Territory is included with the application materials for this announcement.

5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which funding is requested. This prohibition does not bar the making of sub-grants or sub-contracting for specific services or activities that are needed to conduct the project.

Number of Projects in Application

Each application may include only one proposed project. An application that exceeds the upper value of the dollar range specified will be considered non-responsive.

6. Other Submission Requirements

Submission by Mail: An Application must provide an original application with all attachments, signed by an authorized representative and two copies. The Application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications should be mailed to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Operations Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, Attention: Barbara Ziegler Johnson.

Hand Delivery: An Applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date.

Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m., Monday through Friday. Applications may be delivered to: U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Community Services Operations Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209, ''Attention: Barbara Ziegler Johnson''.

Electronic Submission: http://www.Grants.gov. Please see *Section IV. 2* for guidelines and requirements when submitting applications electronically.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

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.

1. Criteria

The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''full project description'' sections of the application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Part I—The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

For example, describe the population to be served by the program and the number of new jobs that will be targeted to the target population. Explain how the project will reach the targeted population and how it will benefit participants, including, how it will support individuals to become more economically self-sufficient.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people

to be served and the number of activities accomplished.

When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates. If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.'' List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Account for all functions or activities identified in the application, such as, free tax preparation, financial literacy training, and asset-building activities. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates. If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.'' List organizations, cooperating entities, consultants, or other key individuals who will work on the project, along with a short description of the nature of their effort or contribution.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application. The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate; (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application or by application deadline.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Evaluation Criteria

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach (40 Points)

Factors:

(1) The work program is results-oriented, approximately related to the legislative mandate and specifically related to the priority area under which funds are being requested. The application addresses the following: specific outcomes to be achieved; discussion of how the project will verify the achievement of these targets and the data collection methodology to be used; the way that tax preparation training will be accomplished; individuals, families and households served; proposed linkage and outcomes to asset-building activities; critical milestones which must be achieved if results are to be gained; organizational support, the level of support from the applicant organization; past performance in similar work; and specific resources contributed to the project that are critical to success.

(2) The applicant defines the comprehensive nature of the project and methods that will be used to ensure that the results can be used to address a statewide or nationwide project as defined by the description of the particular priority area.

Organizational Profiles (20 Points)

Factors:

(1) The applicant demonstrates that it has experience and a successful record of accomplishment relevant to the specific activities it proposes to accomplish.

(2) If the applicant proposes to provide training and technical assistance, it details its abilities to provide those services on a community services network-wide basis. If applicable, information provided by the applicant also addresses related achievements and competence of each cooperating or sponsoring organization.

(3) The application fully describes, for example in a resume, the experience and skills of the proposed project director and primary staff showing specific qualifications and professional experiences relevant to the successful implementation of the proposed project.

(4) The applicant describes how it will involve partners in the Community Services Network, the Internal Revenue Service, and other asset-building projects including the Assets for Independence Act (AFIA) grantees in its activities. Where appropriate, applicant describes how it will interface with other related organizations.

(5) The application describes how the needs of rural communities and small towns will be addressed.

(6) If sub-contracts are proposed, the application documents the willingness and capacity of the subcontracting organization(s) to participate as described.

Objectives and Need for Assistance (20 Points)

Factors:

(1) The applicant documents that the proposed project addresses vital needs related to the program purposes and provides statistics and other data and information in support of its contention.

(2) The application provides current supporting documentation or other testimonies regarding needs from State CSBG Directors, CAAs and local service providers and/or State and Regional organizations of CAAs and other local service providers, including the Internal Revenue Service.

Results or Benefits Expected (15 Points)

Factors:

(1) The application describes how the project will assure long-term program and management improvements for State CSBG offices, CAA State and/or regional associations, CAAs and/or other local providers of CSBG services and activities.

(2) The applicant indicates the types and amounts of public and/or private resources it will mobilize, how those resources will directly benefit the project, and how the project will ultimately benefit low-income individuals and families.

(3) If the application proposes a project with a training and technical assistance focus, the application indicates the number of organizations and/or staff that will benefit from those services.

(4) The application describes a project with data collection focus, the application describes the mechanism to be used to collect data about EITC outreach, returns prepared, total EITC claimed, the number of individuals and families engaged in financial literacy and/or asset formation strategies and, how the applicant can assure collections from a significant number of State partners, and the number of State partners willing to submit data to the applicant.

(5) If the applicant proposes to develop a symposium series or other policy-related project(s), the application identifies the number and types of beneficiaries.

(6) The application describes methods of securing participant feedback and evaluations of activities.

Budget and Budget Justification (5 Points)

Factors:

(1) The resources requested are reasonable and adequate to accomplish the project.

(2) Total costs are reasonable and consistent with anticipated results.

2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application. ACF will be using non-Federal reviewers in the review process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Initial OCS Screening

Each application submitted to OCS will be screened to determine whether it was received by the closing date and time.

Applications received by the closing date and time will be screened for completeness and conformity with the following requirements.

All applications must comply with the following requirements except as noted:

OCS Evaluation of Applications

Applications that pass the initial OCS screening will be reviewed and rated by a panel based on the program elements and review criteria presented in relevant sections of this program announcement.

The review criteria are designed to enable the review panel to assess the quality of a proposed project and determine the likelihood of its success. The criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. The review panel awards points only to applications that are responsive to the program elements and relevant review criteria within the context of this program announcement.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided (if applicable), and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

Grantees are subject to the requirements of 45 CFR part 74 (non-governmental) or 45 CFR part 92 (governmental) as well as 45 CFR part 1050.

Direct Federal grants, sub-award funds, or contracts under this announcement shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the Charitable Choice Provisions Applicable to Programs Authorized under the Community Services Block Grant Act can be found at either 45 CFR part 1050 or the HHS Web site at *http://www.hhs.gov/fbci/finalCSBG_ccregs.pdf.* These provisions set forth certain requirements to ensure that religious organizations are able to compete on an equal footing for funds.

3. Reporting Requirements

Program Progress Reports: Semi-Annually.

Financial Reports: Semi-Annually.

Grantees will be required to submit program progress and financial reports (SF 269) throughout the project period, as well as a final program and financial report 90 days after the end of the project period. Program progress and financial reports are due 30 days after the reporting period.

VII. Agency Contacts

Program Office Contact

Dr. Margaret Washnitzer, Department of Health and Human Services (HHS), Office of Community Services Operations Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209. Phone: 1–800–281–9519. E-mail: *OCS@lcgnet.com.*

Grants Management Office Contact

Barbara Ziegler-Johnson, Grants Management Officer, Office of Grants Management, Division of Discretionary Grant, Administration for Children and Families, Office of Community Services Operations Center, 1515 Wilson Blvd., Suite 100, Arlington, VA 22209. E-mail: *OCS@lcgnet.com.*

VIII. Other Information

Notice: Beginning with FY 2006, the Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005, applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov.* Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html.*

The FY 2006 President's Budget does not include or propose funding for the Community Services Block Grant Program.

Additional information about this program and its purpose can be located on the following Web site: *http://www.acf.hhs.gov/programs/ocs.*

Dated: April 29, 2005.

Josephine B. Robinson,

Director, Office of Community Services.

[FR Doc. 05–9123 Filed 5–5–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

American Indian—Alaska Native Head Start Research Center

Program Office: Office of Planning, Research and Evaluation (OPRE).

Funding Opportunity Title: American Indian-Alaska Native Head Start-Research Center.

Announcement Type: Cooperative Agreement—Initial.

Funding Opportunity Number: HHS–2005–ACF–OPRE–YF–0067.

CFDA Number: 93.600.

Due Date for Letter of Intent or Preapplications: 6/3/2005.

Due Date for Applications: 7/1/2005.

Executive Summary: Funds are provided for the creation of an American Indian Alaska Native (AI–AN) Head Start Research Center that will provide leadership and collaborate with researchers with diverse areas of expertise in order to facilitate early childhood research within the Head Start AI–AN context, engage in capacity building, and establish model research partnerships between local researchers, Head Start American Indian Alaska Native program staff and members of tribal communities.

This cooperative agreement is part of a larger Head Start research effort. Three other grant funding mechanisms are being offered concurrently with the one described in this announcement. They include: (1) American Indian-Alaska Native Head Start Research Center, (2) Head Start Graduate Student Research Grants, and (3) Head Start Graduate Student Research Partnership Development Grants. For more information, please see these other Head Start Research announcements listed in the **Federal Register** or listed on *http://www.Grants.gov.*

I. Funding Opportunity Description

A. Purpose

The purpose of this opportunity is to fund an American Indian Alaska Native Head Start Research Center that will provide leadership and offer support in the development and facilitation of local research, and strengthen the ability of local researchers to conduct model research projects (based in universities and other non-profit research institutions) in collaboration with Head Start American Indian, Alaska Native program staff and members of tribal communities. The Center is expected to engage in a variety of activities that are designed to promote excellence in early childhood research, make a significant contribution to the knowledge base, improve research capacity, and provide leadership and support for research on the early development of American Indian Alaska Native children. The successful applicant should be aware of and be able to collaborate with local researchers who are conversant with tribal communities; be familiar with the available strengths and needs of tribal communities; be knowledgeable of the particular histories of tribal Head Start programs; and be able to build the trust and support of local tribes so they may become valuable partners in developing research goals and questions.

The Center will also be responsible for assuring that each successful partnership will be able to provide evidence that the research projects are developing information to improve the early learning environments for American Indian Alaska Native Head Start children. Therefore, such affiliations necessitate that researchers become familiar with the goals and approaches of existing AI–AN Head Start programs.

It is expected that the lessons learned from model partnerships will then be shared with the larger research community, both through the Head Start network and by other means. Examples of approaches and lessons learned from these partnerships that could be shared include, but are not limited to: methodological approaches for sampling; assessment and analysis at the local program level; plans for reporting data to teachers, parents, and management staff; integrated curricular and assessment approaches; and professional development approaches including coursework and training materials.

B. Statutory Authority

Section 649 of the Head Start Act, as amended by the Coats Human Services Reauthorization Act of 1998 (Pub. L. 105–285) codified at 42 U.S.C. 9844.

C. Background

The American Indian Alaska Native Program Branch funds Head Start and Early Head Start programs operated by tribes, consortia, and/or corporations. The majority of grantees serve and reside on tribal reservations. Generally, grants are awarded to tribal governments, with tribal presidents, governors, executive directors or administrators as authorizing officials.

American Indian and Alaska Native (AI–AN) Head Start programs reflect the diversity of languages and traditions that exist in AI–AN cultures. Substantial numbers of children served by the AI–AN Branch speak an American Indian language or language other than English or Spanish as their dominant language. The programs vary greatly in size, with the smallest grantee serving about 15 children and the largest, more than 4,000 children and families. The programs also are geographically diverse, and are located in isolated rural settings as well as in urban areas. AI–AN grantees provide comprehensive services to children and families through center and home-based options, as well as combinations and locally designed configurations.

Historically, the diversity of many different tribes participating in Head Start has posed methodological challenges to their inclusion in nationally representative samples for evaluation research. For instance, current national research and evaluation activities of Head Start, such as the Family and Child Experiences Survey (FACES) and the Head Start Impact Study, exclude tribal programs from the population eligible for inclusion in the samples.

While there are reporting challenges that are unique to AI–AN populations, Tribal Head Start programs have the same performance standards and requirements for assessing program outcomes as other Head Start programs. However, there is little prior research evidence available to provide guidance to programs about effective

instructional, service delivery, or assessment approaches in tribal settings.

American Indian and Alaska Native Head Start programs need to be included in Head Start Bureau efforts to enhance the quality of Head Start programming, and to improve accountability by strengthening screening and assessment of child outcomes and program monitoring. There is a need, however, to provide leadership and guidance in order to increase the evidence base and provide direction for program enhancements, and such activities must be conducted in a manner that takes into account the unique cultural values of tribes implementing Head Start programs.

For historical and ethical reasons tribal communities must have a significant voice in how research is designed and conducted in those settings. To support the development and implementation of research within and by tribal communities, ACF undertook in FY2002 an effort to document the existing knowledge base concerning early childhood programming and assessment in tribal settings, and to collect information on the research needs and priorities of tribal Head Start programs. Little was known about what research was currently being conducted by tribal Head Start programs, what the experiences of tribal programs in research partnerships with colleges and universities had been, and how ACF might support these partnerships. The project resulted in a review and synthesis of available research literature, both published and unpublished, that pertained to young children and families in American Indian and Alaska Native populations. That report is available online at: *http://www.acf.dhhs.gov/programs/core/ongoing_research/hs/hs_aian_report.html.*

A second part of this effort was to conduct a series of visits to tribes to assess their own views about the following questions: (1) What kind of research is needed and desired in tribal Head Start settings; (2) what outcomes are important for American Indian and Alaska Native Head Start; (3) what programmatic and service delivery issues need to be studied; and (4) what are the issues in conducting research among American Indian and Alaska Native populations? Visits were arranged with 19 tribes to conduct ''listening sessions'' with tribal leadership, Head Start personnel, Head Start family members, and other community stakeholders. Other sessions were held in conjunction with national meetings of American Indian Alaska Native Head Start grantees and technical assistance staff.

These efforts documented the scarcity of existing research that directly informs early childhood programming for American Indian and Alaska Native children and families. Few studies have taken into account the unique cultural and linguistic characteristics of the AI–AN population, and existing studies tend to be small, methodologically weak, and of limited generalizability to other surroundings. There is a need to develop the capacity for early childhood research in tribal settings both to improve the ability of tribal members themselves to initiate research projects and to increase the number of qualified individuals who have the ability to effectively partner with tribes to implement research.

At the same time, there is widespread recognition within tribal communities of the need for culturally relevant research, as well as substantial support among tribal members for research that will advance the knowledge base and improve the lives of the children and families who are served by Head Start in their communities. Indeed, tribal communities have affirmed that they must have a significant voice in how the research is designed and conducted among their members. Cultural issues must be addressed in the development of methodologies, study procedures, and data collection instruments for use in conducting research among tribal Head Start programs. Differences among American Indian-Alaskan Native groups must be acknowledged and respected in developing the methodology and conducting the research. In addition to Head Start personnel, tribal leaders and community elders often must be part of the process in designing and conducting research in tribal settings.

Building on the needs identified both by participants in the listening sessions, and other consultants, this announcement is intended to ensure that future research is responsive to the changing needs of American Indian-Alaska Native children and families, and that researchers who are focusing on early childhood research within tribal communities are provided with the necessary leadership and support for capacity building that is currently needed. Therefore, Head Start's commitment to a partnership between researchers and a national AI–AN Head Start Research Center is essential. The unique relationship forged between the Center, the researcher and the tribal community within the Head Start and early childhood research context will serve as a model for the establishment of other partnerships within the community (*e.g.,* researcher-Head Start staff, researcher-family, etc.). This foundation will help bolster the skills necessary to build on early childhood research paradigms by fostering successful collaborations between the AI–AN population and the scientific community.

Thus, the goal of the Head Start American Indian Alaska Native Research Center is to pull together researchers with diverse areas of expertise that will focus on early childhood research within the Head Start context, as well as in tribal communities as a whole. It is anticipated that the Center will make a significant contribution to the knowledge base and support the research on the early development of American Indian-Alaska Native children and families. The types of topics that have previously been identified as particularly relevant to research within AI–AN settings are listed below; the Center may wish to propose other relevant topics as well.

- Identifying and addressing the unique characteristics and needs of American Indian and Alaska Native Head Start children and families that may affect learning;
- Examining the role of Head Start in promoting and maintaining native languages and culture by documenting and addressing cultural diversity within tribal Head Start settings;
- Comparing outcomes for bilingual children vs. English-only speakers;
- Investigating long-term outcomes for AI–AN Head Start children, including studies of factors that promote or inhibit the successful transition to school and studies that compare outcomes for AI–AN Head Start children with those for other Head Start children;
- Comparing tribal Head Start children to non-tribal children;
- Studying the effectiveness of instructional practices tailored to the unique characteristics of tribal children that promote school readiness;
- Documenting and assessing the availability of resources to meet unique tribal needs;
- Evaluating programs that are aimed at health and development, including health delivery models as well as preventive programs for adverse health and mental health outcomes;
- Exploring staff development issues, including wage and benefit comparability between AI–AN and non-tribal early childhood educators, causes of staff turnover, ways to retain staff, identification of staff members' academic and non-academic skills that best promote child development within

a cultural context, and providing staff development opportunities in geographically isolated communities;

- Developing and utilizing culturally appropriate screening, assessment, and outcome measures;
- Building and promoting methods for enhancing communication and cooperation among Head Start personnel, parents, tribal governments, and school district personnel;
- Identifying special needs among AI–AN Head Start children, and recommending and testing, or developing and evaluating programs for addressing them;
- Examining the effectiveness of methods for enhancing parent involvement, including promotion of knowledge about child development among parents, promotion of adult literacy, and promotion of father involvement;
- Investigating the impact of adverse conditions on child development, including geographic isolation and poverty, adverse family circumstances such as domestic violence or substance abuse, and historical experiences of racism and discrimination of AI–AN culture; and
- Promoting professional and educational opportunities for undergraduates, pre-doctoral and medical students, residents, post-doctoral trainees and senior scholars who are interested in AI–AN research.

The Center will advance the research field and Head Start by facilitating capacity building with local researchers, scholars, American Indian Alaska Native Head Start staff, tribal authorities, tribal communities and families. The objectives of the project are to: (1) Create a national research center that will contribute to the knowledge base on early development of American Indian Alaska Native children and families within the Head Start program; (2) support local research projects that focus on the development of young children and families in American Indian and Alaska Native Head Start and Early Head Start programs; and (3) build capacity and promote partnerships between the local research community and Head Start tribal communities.

The Center will achieve this by facilitating and supporting the development of partnership opportunities between researchers, and AI–AN Head Start communities in order to begin to build a portfolio of research projects related to early childhood development in AI–AN settings. It is expected that a working consortium of researchers will be established that will identify and further develop particular research approaches targeted toward better describing the unique characteristics and developmental needs of American Indian Alaska Native children and their families, evaluating or enhancing program practices, and developing approaches to outcomes assessment based on the needs of the population served. The Center and consortium will develop research activities and topics that are decided through the cooperative agreement between OPRE, the Center and in consultation with the AI–AN Head Start staff and other tribal stakeholders that have agreed to participate in research projects, and that clearly reflect the interests of the American Indian Alaska Native Head Start programs and communities. Note that all studies, reports, proposals, and data produced or developed with federal funds under Head Start American Indian-Native Alaskan Research Center Program ''shall become the property of the United States.'' pursuant to Section 649(f) of the Head Start Act, 42 U.S.C. 9844.

The types of activities that may be undertaken to support the development of research partnerships include, but are not limited to: providing financial support through competitions or other selection mechanisms to research projects that will be undertaken through partnerships between research institutions and AI–AN Head Start communities; supporting or augmenting research projects already in development or underway in AI–AN settings; piloting or implementing specific research projects with AI–AN Head Start communities; and providing training or career development opportunities to build research capacity for AI–AN Head Start communities. Significant involvement in the planning and implementation of all activities by the AI–AN Head Start communities themselves will be an important feature. Although applicants are expected to propose specific activities for accomplishing the goals of the project, final work plans will be developed in conjunction with ACF and Head Start staff.

Priority Area

1. Description.

II. Award Information

Funding Instrument Type: Cooperative Agreement.

Substantial Involvement with Cooperative Agreement: ACF expects to work closely with the organization that receives funding to ensure monies are used appropriately and in the most effective manner possible and that the services and activities included in the approved application address the establishment of a consortium of local research partners and that the needs of the research partners and the American Indian Alaska Native communities be clearly stated in an efficient, effective, and timely manner. Therefore, the organization selected to receive the award will be responsible for implementing activities specified in a work plan that will be jointly developed by the Center and staff from OPRE, in consultation with the Head Start Bureau.

Anticipated Total Priority Area Funding: $800,000.

Anticipated Number of Awards: 1.

Ceiling on Amount of Individual Awards: $800,000 per budget period.

Floor on Amount of Individual Awards: None.

Average Projected Award Amount: $800,000 per budget period.

Length of Project Periods: 36 month project with three 12 month budget periods.

The Federal share of project costs shall not exceed $800,000 for the first 12-month budget period inclusive of indirect costs and shall not exceed $1,000,000 per year for the second through third 12-month budget periods. An application that exceeds the upper value of the dollar range specified will be considered ''non-responsive'' and be returned to the applicant without further review. The project period will be up to three years. The initial award will be for the first one-year budget period. Requests for a second and/or third year of funding within the project period should be identified in the current application (on SF–424A), but such requests will be considered in subsequent years on a noncompetitive basis, subject to the applicant's eligibility status, the availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government. An application for a continuation funded under this award beyond the three-year budget and three-year project period for an additional two years will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

III. Eligibility Information

1. Eligible Applicants:

- State controlled institutions of higher education

• Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education

• Non-profits that do not have a 501(c)(3) status with the IRS, other than institutions of higher education

• Private institutions of higher education

Additional Information on Eligibility: Applicants are universities, four-year colleges, and not-for profit institutions on behalf of researchers who hold a doctorate degree or equivalent in their respective fields. The Principal Investigator who will head up the Center must conduct research as a primary professional responsibility, and have published or have been accepted for publication in the major peer-reviewed research journals in the field as a first author or second author.

An important element of this announcement is the requirement that the applicant, and any proposed researchers that will eventually make up the consortium, demonstrate a partnership or partnerships with Head Start or Early Head Start programs as part of all research.

The application must contain a detailed process on how the applicant intends on awarding local research projects and clearly communicate the stipulation that one of the requirements of any local Principal Investigator is a letter of agreement from the Head Start or Early Head Start program the local P.I. intends on working with, certifying that they have entered into a partnership with the applicant and the application has been reviewed and approved by tribal authorities.

The Principal Investigator must agree to attend two meetings each year. The first is an annual grantee meeting that is typically scheduled during the summer or fall of each year and is held in Washington, DC. All local P.I.'s that make up the consortium are also expected to attend. The second meeting each year alternates between the biennial Head Start National Research Conference in Washington, DC, June 26th through June 29th, 2006 and the biennial meeting of the Society for Research in Child Development (SRCD). The budget should reflect travel funds for such purposes.

Please see section V.1 Evaluation Criteria for further information on how applications will be scored based on program requirements.

Faith-based and community organizations *that meet all other eligibility criteria* are eligible to apply.

2. Cost Sharing/Matching: None.

3. Other: All applicants must have a Dun & Bradstreet number. On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Non-profit organizations applying for funding are required to submit proof of their non-profit status.

Proof of non-profit status is any one of the following:

• A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.

• A copy of a currently valid IRS tax exemption certificate.

• A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

• A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

• Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

When applying electronically we strongly suggest you attach your proof of non-profit status with your electronic application.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Disqualification Factors: Applications that exceed the ceiling amount will be considered non-responsive and will not be considered for funding under this announcement.

Any application that fails to satisfy the deadline requirements referenced in Section IV.3 will be considered non-responsive and will not be considered for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182; phone: 877–663–0250; e-mail: *opre@xtria.com.*

2. Content and Form of Application Submission:

Letter of Intent: Those who plan to submit an application are *encouraged* to submit notice via a letter of intent by fax or e-mail by June 3, 2005. This information will be used only to determine the number of expert reviewers needed to review the applications. Include only the following information in this fax or e-mail: the number and title of this announcement; the name, address, telephone and fax number, e-mail address of the principal investigator(s), the fiscal agent (if known); and the name of the university, non-profit institution, or other organization. Applicants should *not* enclose a description of their proposed project. Send this information to: ''Head Start Research Support Technical Assistance Team'' at: E-mail: *opre@xtria.com*, or fax to: 1–703–356–0472.

Application Requirements: An original and two copies of the complete application are required. The original copy must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. The two additional copies of the complete application must include all required forms, certifications, assurances, and appendices and must also be submitted unbound. Applicants have the option of omitting from the application copies (not the original) of specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Format and Organization. Applicants are strongly encouraged to limit their application to 100 pages, double-spaced,

with standard one-inch margins and 12-point fonts. This page limit applies to both narrative text and supporting materials but not the Standard Federal Forms (see list below). Applicants must number the pages of their application beginning with the Table of Contents.

Applicants are advised to include all required forms and materials and to organize these materials according to the format, and in the order, presented below:

a. Cover Letter.

b. Contact information sheet (see details below).

c. Standard Federal Forms.

Standard Application for Federal Assistance (form 424) Budget Information—Non-construction Programs (424A) Certifications Regarding Lobbying Disclosures of Lobbying Activities (if necessary); Certification Regarding Environmental Tobacco Smoke Assurance Regarding Non-construction Programs (form 424B) Assurance Regarding Protection of Human Subjects.

d. Table of Contents.

e. Project Narrative Statement (see details below).

f. Appendices.

Proof of Non-profit Status (see Section V.1.F), Letter(s) of agreement with Head Start program(s) (see details below), Letter(s) of agreement with Head Start Policy Council(s) (see details below), Curriculum Vitae for Principal Investigators.

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via email or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary, but strongly encouraged.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- We recommend you visit Grants.gov at least 30 days prior to filing your application to fully understand the process and requirements. We encourage applicants who submit electronically to submit well before the closing date and time so that if difficulties are encountered an applicant can still send in a hard copy overnight. If you encounter difficulties, please contact the Grants.gov Help Desk at 1–800–518–4276 to report the problem and obtain assistance with the system.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.Grants.gov*
- You must search for the downloadable application package by the CFDA number.

Applicants that are submitting their application in paper format should submit an original and two copies of the complete application. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

Standard Forms and Certifications: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Public Law 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with this form. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

Those organizations required to provide proof of non-profit status, please refer to Section III.3.

Please see Section V.1 for instructions on preparing the full project description.

3. *Submission Dates and Times:*

Due Date For Letter of Intent or Preapplications: 06/03/2005.

Due Date for Applications: 07/01/2005.

Explanation of Due Dates

The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Receipt acknowledgement for application packages will be provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for applications that are submitted via *http://www.Grants.gov.*

Checklist: You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Project Abstract	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
Project Description	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
Budget Narrative/Justification.	See Sections IV.2 and V	Found in Sections IV.2 and V	By application due date.
SF424	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By application due date.
SF-LLL Certification Regarding Lobbying.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By date of award.
Certification Regarding Environmental Tobacco Smoke.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*	By date of award.
Assurances	See Section IV.2	*http://www.acf.hhs.gov/programs/ofs/forms.htm*	By date of award.
Support Letters	IV.2	IV.2	By application due date.
Non-Federal Commitment Letters.	IV.2	IV.2	By application due date.
Proof of Non-Profit Status	See Section III.3	Found in Section III.3	By date of award.
Assurance Regarding Protection of Human Subjects.	IV.2	*http://www.acf.hhs.gov/programs/ofs/forms.htm*	By application due date.

Additional Forms: Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	See form	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

4. Intergovernmental Review:

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the

Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html*.

5. Funding Restrictions: Grant awards will not allow reimbursement of pre-award costs.

6. Other Submission Requirements:

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. Please see Section IV.3 for an explanation of due dates. Applications should be mailed to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182.

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182.

Electronic Submission: Please see Section IV.2 for guidelines and requirements when submitting applications electronically via *http://www.Grants.gov*.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

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.

1. Criteria: The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''full project description'' sections of the application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Part 1—The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Instructions

ACF is particularly interested in specific project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.

Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

For example, explain how your proposed project will achieve the specific goals and objectives you have set. Estimate the number of consortium members you expect to identify. You may also specify particular individuals who have agreed to become affiliated with the Center as examples of your knowledge and experience in the areas

of early childhood development and American Indian Alaska Native research. If there are particular areas of research where you have a limited amount of experience, you may propose individuals either at your institution or another institution that would be willing to be affiliated with the Center. If you choose this option, please make sure that a letter of commitment is included with your application. Explain how the expected results will benefit the population to be served. Specifically, in meeting its needs for the advancement of American Indian Alaska Native research that will benefit the larger American Indian Alaska Native Head Start and early childhood community and for early learning services and activities: how will the research community benefit from this project? What benefits will families derive from these services? How will the services help them? What lessons will be learned which might help other agencies and organizations that are addressing the needs of a similar client population?

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Additional Information

Following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application.

The non-profit agency can accomplish this by providing: (a) a reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate, (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status, (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application OR by application deadline.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

Use the following guidelines for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. ''Federal resources'' refers only to the ACF grant for which you are applying. ''Non Federal resources'' are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant

organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000).

Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application so the applicant is given credit in the review process. A detailed budget must be prepared for each funding source.

Evaluation Criteria: The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however, applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (*i.e.*, from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach—45 Points

○ The extent to which the proposal provides evidence that the Center will be fully operational within 12 months, including the establishment of formal relationships with local researchers who will make up the consortium.

○ The extent to which the application clearly states the activities that the Center will undertake and how they meet the goals specified.

○ The extent to which the proposal develops a plan on how it will collaborate on research with consortium members, what kinds of assistance it will provide, and any capacity building activities. It is important to remember that any research plans should be jointly developed by the local research institutions and the Head Start or Early Head Start programs, as well as other relevant tribal stakeholders they plan to partner with, and approved by the Center in conjunction with OPRE. The application demonstrates a detailed process on how the applicant intends on awarding local research projects and clearly communicate the stipulation that one of the requirements of any local Principal Investigator is a letter of

agreement from the Head Start or Early Head Start program the local P.I. intends on working with, certifying that they have entered into a partnership with the applicant and the application has been reviewed and approved by tribal authorities.

○ The extent to which the proposal describes in detail how it will promote professional and educational opportunities for undergraduates, pre-doctoral and medical students, residents, post-doctoral trainees and senior scholars who are interested in AI–AN research.

○ The extent to which the proposal is responsive to the requirements outlined in the ''Additional Information on Eligibility'' section.

○ The extent to which the applicant clearly lays out the planning process it will develop with consortium members. This includes reviewing and approving any research designs to make sure they are appropriate and sufficient for addressing the questions of each of the studies in conjunction with OPRE.

○ The extent to which the applicant specifies procedures for the selecting of research projects and activities that conform to the highest scientific standards, and the extent to which those selection procedures are objective and inclusive.

○ The extent to which the applicant develops and operationalizes management processes that clearly stipulate that the proposed Center will:

○ Review and approve the extent to which any planned research project specifies an appropriate design, including approaches to sampling, the measures to be used and their psychometric properties, and the analyses to be conducted;

○ Review and approve any planned procedures and measures to make sure they will be appropriate and sufficient for the questions of studies and the cultural contexts of the population to be studied;

○ Review and approve any planned measures and analyses to make sure that they will reflect knowledge and use of state-of-the-art measures and analytic techniques and/or advance the field;

○ Review and approve any analytic techniques and make sure they are appropriate for the questions under consideration;

○ Review and approve any proposed sample sizes to make sure they will be sufficient;

○ Review and approve any planned approaches to make sure they will include techniques for successful documentation and dissemination; and

○ Review and approve any budgets and budget justifications to make sure they are appropriate for carrying out the proposed projects.

○ The extent to which the activities listed above are incorporated into a detailed technical assistance and capacity building strategy to ensure that each research project will receive the necessary guidance and oversight needed to successfully complete its project.

○ The extent to which the applicant provides a detailed information and dissemination plan that includes the Head Start network and the field as a whole. Examples of potential products that may result from the Center and its research partners should also be included.

Staff and Position Data—35 Points

○ The extent to which the applicant is a university, four-year college, and not-for-profit institution applying on behalf of the Principal Investigator and other key Center staff possess both the multidisciplinary expertise to conduct early childhood research, and the management experience necessary to create and operate the Center. The applicant must also discuss how Center staff will build the consortium and then assist consortium members with implementing interventions and any technical experience that will benefit local researchers as they conduct research, as demonstrated in the application and information contained in their vitae. It is expected that the Principal Investigator(s) has earned a doctorate or equivalent in the relevant field and has publications in major peer-reviewed research journals.

○ The extent to which the applicant demonstrates the capacity to establish working relationships with researchers or researchers outside the applicant's own institution, and the extent to which there is evidence of prior successful partnerships to conduct research with AI–AN communities.

○ The extent to which the applicant can provide a detailed plan on how it will advance the scholarship of AI–AN early childhood research by promoting professional opportunities and leadership for undergraduates, pre-doctoral and medical students, residents, post-doctoral trainees and senior scholars who are interested in AI–AN research.

○ The extent to which the proposed staff reflect an understanding of and sensitivity to the issues of working in a tribal community setting and in partnership with American Indian Alaska Native Head Start program staff and parents.

○ The extent to which there is enough time devoted to this project by the Principal Investigator and other key staff in order to ensure a high level of professional input and attention.

○ The extent to which the research plan offers opportunities for American Indian and Alaska Native personnel to be engaged or employed in the research activities.

○ The extent to which the institution the applicant is affiliated with can provide the technological, academic, research, logistical and human capital that will either directly or indirectly benefit the proposed AI–AN Head Start Research Center.

Results or Benefits Expected—20 Points

○ The extent to which project goals and objectives are clearly stated.

○ The extent to which the proposed research project is justified as meeting the needs of American Indian and Alaska Native children and families and the research community that represents them.

○ The extent to which the applicant's proposed Center and its design makes a significant contribution to the knowledge base and support the research on the early development of American Indian and Alaska Native children and their families.

○ The extent to which the literature review is current and comprehensive and justifies the knowledge of the applicant and any understanding of potential research that may be conducted.

○ The extent to which the applicant understands and can provide professional support to research questions that may be addressed or hypotheses that may be tested by consortium members.

○ The extent to which the proposal contains sufficient details for meeting the stated objectives.

○ The extent to which the proposal contains a dissemination plan that encompasses both professional and practitioner-oriented products, and meets the needs of the Head Start and/or community partners.

○ The extent to which the questions are of importance and relevance for AI–AN children's development and welfare.

○ The extent to which the application provides for the Principal Investigator to attend two meetings each year. The first is an annual grantee meeting that is typically scheduled during the summer or fall of each year and is held in Washington, DC. All local P.I.'s that make up the consortium are also expected to attend. The second meeting each year alternates between the biennial Head Start National Research Conference in Washington, DC, June 26th through June 29th, 2006 and the

biennial meeting of the Society for Research in Child Development-SRCD.

2. Review and Selection Process: No grant award will be made under this announcement on the basis of an incomplete application.

Each application will undergo an eligibility and conformance review by Federal staff. Applications that pass the eligibility and conformance review will be evaluated on a competitive basis according to the specified evaluation criteria. The competitive review will be conducted in the Washington, DC metropolitan area by panels of Federal and non-Federal experts knowledgeable in the areas of early childhood education and intervention research, early learning, child care, and other relevant program areas.

Application review panels will assign a score to each application and identify its strengths and weaknesses.

OPRE will conduct an administrative review of the applications and results of the competitive review panels and make recommendations for funding to the Director of OPRE.

The Director of OPRE, in consultation with the Commissioner of the Administration on Children, Youth, and Families (ACYF), will make the final selection of the applications to be funded. Applications may be funded in whole or in part depending on: (1) The ranked order of applicants resulting from the competitive review; (2) staff review and consultations; (3) the funds available; and (4) other relevant considerations. The Director may also elect not to fund any applicants with known management, fiscal, reporting, program, or other problems, which make it unlikely that they would be able to provide effective services.

Approved But Unfunded Applications

Applications that are approved but unfunded may be held over for funding in the next funding cycle, pending the availability of funds, for a period not to exceed one year.

VI. Award Administration Information

1. *Award Notices:* The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided (if applicable), and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. *Administrative and National Policy Requirements:* Grantees are subject to the requirements in 45 CFR part 74 (non-governmental) or 45 CFR part 92 (governmental).

ACF expects to work closely with the organization that receives funding to ensure monies are used appropriately and in the most effective manner possible and that the services and activities included in the approved application address the establishment of a consortium of local research partners and that the needs of the research partners and the American Indian Alaska Native communities be clearly stated in an efficient, effective, and timely manner. Therefore, the organization selected to receive the award will be responsible for implementing activities specified in a work plan that will be jointly developed by the Center and staff from ACF, in consultation with the Head Start Bureau.

The successful applicant will be responsible for submitting for Federal review and approval regular semi-annual financial status and progress reports that describe project activities, and will work cooperatively and collaboratively with ACF officials, other Federal agency officials conducting related activities, and other entities or organizations contracted by ACF to assist in carrying out the purposes of the Head Start program; and ensuring that key staff attend and participate in ACF sponsored workshops and meetings. All applicants are responsible for conforming to the United States Executive Branch Code of Federal Regulations (*http://www.gpoaccess.gov/cfr/index.html*). The following regulations have been identified as having particular relevance for ACF grants: 45 CFR parts 74 and 92.

Direct Federal grants, subaward funds, or contracts under this ACF program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS Web site at *http://www.os.dhhs.gov/fbci/waisgate21.pdf.*

3. *Reporting Requirements:* Grantees will be required to submit program progress and financial reports (SF–269 found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*) throughout the project period. Program progress and financial reports are due 30 days after the reporting period. Final programmatic and financial reports are due 90 days after the close of the project period.

Program Progress Reports: Semi-Annually.

Financial Reports: Semi-Annually.

Original reports and one copy should be mailed to: Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

VII. Agency Contacts

Program Office Contact: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182, phone: 877–663–0250; e-mail: *opre@xtria.com.*

Grants Management Office Contact: Attention: Tim Chappelle, Division of Discretionary Grants, Office of Grants Management, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, phone: 202–401–4855; e-mail: *tichappelle@acf.hhs.gov.*

VIII. Other Information

Notice: Beginning with FY 2006, the Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005 applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov.* Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html.*

Applicants under this announcement are advised that subsequent sale and distribution of products developed under this grant will be subject to the Code of Federal Regulations, title 45, part 74 or part 92. The use of secondary data analysis in order to refine and validate newly-developed measures in relation to already standardized measures is strongly advised.

Definitions: Budget Period—for the purposes of this announcement, budget period means the 12-month period of time for which ACF funds are made available to a particular grantee (*e.g.*, beginning on September 16, 2005, and ending on September 15, 2006).

Project Period—for the purposes of this announcement, project period means the 36-month period starting by

September 2005, and ending by September, 2008.

The Head Start Act mandates that all studies, reports, proposals, and data produced or developed with Federal funds awarded under the Act shall become the property of the United States (see S. 649(f) of the Head Start Act, 42 U.S.C. 9845). HHS authorizes grantee institutions, their researchers and other persons to make use of all studies, reports, proposals, and data produced or developed under grants funded under Section 649 of the Head Start Act in activities in furtherance of the purposes of the Head Start program.

Grantees must provide copies of all materials produced with Head Start grant funds to ACF as soon as they become available.

Please reference Section IV.3 for details about acknowledgement of received applications.

Dated: May 2, 2005.

Naomi Goldstein,

Director, Office of Planning, Research, and Evaluation.

[FR Doc. 05–9073 Filed 5–5–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation (OPRE); Head Start-University Partnership Research Grants: Curriculum Development and Enhancement for Head Start and Early Head Start Programs

Announcement Type: Grant—Initial.

Funding Opportunity Number: HHS–2005–ACF–OPRE–YF–0070.

CFDA Number: 93.600.

Due Date for Letter of Intent or Preapplications: 6/03/2005.

Due Date for Applications: 7/01/2005.

Executive Summary: Funds are provided for Head Start-University Partnership Research Grants: Curriculum Development and Enhancement for Head Start and Early Head Start Programs, for research activities to develop and test curricular approaches, adaptations or targeted curriculum enhancements for use by Head Start and Early Head Start programs.

This grant program is part of a larger Head Start research effort. Three other grant funding mechanisms are being offered concurrently with the one described in this announcement. They include: (1) American Indian-Alaska Native Head Start Research Center, (2) Head Start Graduate Student Research Grants, and (3) Head Start Graduate Student Research Partnership Development Grants. For more information, please see these other Head Start Research announcements listed in the **Federal Register** or listed on *http://www.Grants.Gov,* or send an e-mail inquiry to *opre@xtria.com.*

Priority Area: Head Start-University Partnership Research Grants: Curriculum Development and Enhancement for Head Start and Early Head Start Programs.

I. Funding Opportunity Description

A. Purpose

The purpose of this announcement is to report the availability of funds to support research grants for the development of curricular approaches, adaptations or enhancements to practice for Head Start and Early Head Start programs. Grants will require researcher/program partnerships with Head Start and/or Early Head Start programs.

B. Statutory Authority

Section 649 of the Head Start Act, as amended by the COATES Human Services Reauthorization Act of 1998 (Pub. L. 105–285) and 42 U.S.C. 9844.

C. Background

Use of Curricula in Head Start and Early Head Start Programs

The Head Start program has long served as a national laboratory for the development of innovative strategies in early childhood education. Head Start also emphasizes a process of continuous program improvement and has more recently been a leader in developing outcome-oriented accountability measures. Programs must comply with the Head Start performance standards, which provide a standard definition of quality services and serve as a training guide for staff and parents on the key elements of quality. Among other things, the performance standards require that all Head Start programs implement a curriculum; however, use of a particular curriculum is not prescribed. The standards specify that programs must, in collaboration with parents, implement a curriculum that:

(i) Supports each child's individual pattern of development and learning;

(ii) Provides for the development of cognitive skills by encouraging each child to organize his or her experiences, to understand concepts and to develop age appropriate literacy, numeracy, reasoning, problem solving and decision-making skills which form a foundation for school readiness and later school success;

(iii) Integrates all educational aspects of the health, nutrition and mental health services into program activities;

(iv) Ensures that the program environment helps children develop emotional security and facility in social relationships;

(v) Enhances each child's understanding of self as an individual and as a member of a group;

(vi) Provides each child with opportunities for success to help develop feelings of competence, self-esteem and positive attitudes toward learning; and

(vii) Provides individual and small group experiences both indoors and outdoors.

Additionally, the standards state that staff must use a variety of strategies to promote and support children's learning and developmental progress based on observations and on-going assessment of each child (*see* 45 CFR 1304.20(b), 1304.20(d) and 1304.20(e)).

The annual Head Start Program Information Report (PIR) requests information from all Head Start and Early Head Start programs about the curricula they use. Data from the most recent PIR reveal that center-based programs are most likely to use one of two curricula (Creative Curriculum and High/Scope). Locally designed curricula are the third most common category, and the High Reach curriculum is the fourth. A range of other curricula are utilized by the remaining programs.

The Head Start Child Outcomes Framework and National Studies

Released in 2000, the Head Start Child Outcomes Framework is intended to guide Head Start programs in their curriculum planning and on-going assessment of progress and accomplishments of children. The Framework is composed of 8 general Domains, 27 Domain Elements and examples of specific indicators related to each Domain/Domain Element. For more information, see *http://www.headstartinfo.org/publications/hsbulletin76/hsb76_09.htm.*

The Head Start Child Outcomes Framework placed these outcomes in the context of a comprehensive focus on multiple domains of development. Programs are required to implement on-going developmental assessments across these domains, using measures aligned with their chosen curricula.

A number of on-going national studies are contributing to our understanding of outcomes for children served in Head Start and Early Head Start programs:

—*Family and Child Experiences Survey (FACES).*

FACES is a national longitudinal study of the cognitive, social, emotional, and physical development of Head Start children; the characteristics, well-being, and accomplishments of families; the observed quality of Head Start classrooms; and the characteristics, needs, and opinions of Head Start teachers and other program staff. In three successive cohorts (1997, 2000 and 2003), data have been collected on a representative sample of children served in Head Start programs. Children and parents are studied at entry into the program, followed for one or two years of program participation and followed-up at the end of the kindergarten year. For more information, please see *http://www.acf.hhs.gov/programs/opre/hs/faces/index.html.*

The FACES study provides information about associations between use of certain curricula and measures of classroom quality, as well as child outcomes. However, these associations do not fill the gap in evidence about the relative efficacy of various types of standardized curricula. Moreover, what we do know is based primarily on observations and data collection in classroom-based programs. These data do not speak to the efficacy of standard curricula for children served in home-based settings or in Early Head Start programs, or for different populations of Head Start children, such as children with disabilities, English Language Learners, or those served in Migrant and Seasonal or American Indian/Alaska Native Head Start Programs.

—*Head Start Impact Study.*

The Head Start reauthorization of 1998 (COATES, Pub. L. 105–285) mandated a study of the national impact of Head Start. The Head Start Impact Study is a longitudinal study involving approximately 5,000–6,000 three- and four-year old preschool children across an estimated 75 nationally representative grantee/delegate agencies in communities where there are more eligible children and families than can be served by the program. The children participating are randomly assigned to either a treatment group (which receives Head Start services) or a comparison group (which does not receive Head Start services). Data collection for this study began in the fall of 2002 and will continue through 2006, following children through the spring of their first grade year. It includes twice yearly in-person interviews with parents, in-person child assessments, annual surveys with care providers and teachers, direct observations of the quality of different care settings and teacher ratings of children. The FACES battery was updated for this study to focus particularly on measures likely to be responsive to intervention and appropriate for settings other than Head Start. For more information please see *http://www.acf.hhs.gov/programs/opre/hs/impact_study/index.html.*

—*Early Head Start Research and Evaluation Project.*

In 1996, 17 Early Head Start (EHS) programs from across the country were selected to participate in a rigorous, large-scale, random-assignment evaluation. The Congressionally-mandated Birth to Three Phase (1996–2001) included an Implementation Study, designed to study how these very first EHS programs grew over time, and an Impact Evaluation, designed to study program impacts on children and families through the children's second and third birthdays. In 2001, the Administration for Children and Families (ACF) funded the Pre-Kindergarten Follow-up Phase (2001–2004) to build upon the earlier research and follow the children and families who were in the original study from the time they left the EHS program until they entered kindergarten. For more information please see *http://www.acf.hhs.gov/programs/opre/ehs/ehs_resrch/index.html.*

—*National Reporting System (NRS).*

In April 2002, as part of the *Good Start, Grow Smart* initiative, President Bush announced a National Reporting System for Head Start to conduct direct assessments of Head Start children at the beginning and end of the year prior to kindergarten entry. Please see *http://www.whitehouse.gov/infocus/earlychildhood/earlychildhood.html.* A brief child assessment battery was developed to assess all 4- and 5-year olds on a limited set of language, literacy and numeracy outcomes from the set of outcomes described in the Head Start Child Outcomes Framework. The system was launched in fall, 2003. For more information please see *http://www.acf.hhs.gov/programs/hsb/pdf/NRS.pdf.*

Related Research Efforts: Enhancing Program Quality and Improving Program Practice

In recent years, a variety of efforts funded by ACF and in collaboration with other Federal agencies have been initiated to address program quality and to enhance program practice in Head Start and Early Head Start programs. As part of these efforts, several consortia and projects have been funded to examine use of specific approaches and curricula to enhance outcomes:

—*Quality Research Center Consortium.*

In 2001, ACF funded a second round of cooperative agreements under the Head Start Quality Research Center (QRC) Consortium to promote the school readiness of preschool children in Head Start. These five-year grants funded partnerships between academic researchers and Head Start programs designed to improve child outcomes in the areas of literacy, social-emotional development and other domains of school readiness, through enhancements to curriculum, teacher training and mentoring, parent involvement and assessment practices. Research teams have implemented and evaluated their interventions with Head Start program partners in an initial site, and then replicated the interventions with additional sites. For more information, please see *http://www.acf.hhs.gov/programs/opre/hs/qrc_two/index.html.*

—*Interagency School Readiness Consortium.*

The National Institute of Child Health and Human Development (NICHD), ACF, and the Assistant Secretary for Planning and Evaluation (ASPE) within the U.S. Department of Health and Human Services (HHS), and the Office of Special Education and Rehabilitation Services (OSERS) in the U.S. Department of Education collaboratively funded eight projects as part of the Interagency School Readiness Consortium (ISRC). Grantees were to implement rigorous scientific studies of the effectiveness of integrative early childhood interventions and programs across a variety of early childhood settings in promoting school readiness for children from birth through age five who are at risk for school difficulties. Integrative programs were defined as ones that include components intended to promote children's school readiness across multiple domains of cognitive and socio-emotional functioning.

—*Early Promotion and Intervention Research Consortium.*

In 2002, ACF awarded five cooperative agreements as part of the Early Promotion and Intervention Research Consortium (E–PIRC). These four-year grants funded partnerships between academic researchers and Early Head Start programs to develop and test approaches to supporting mental health of infants and toddlers and their families. This effort is part of the Early Head Start Mental Health initiative, which emerged from the Infant Mental Health Forum, a national meeting convened by the Head Start Bureau in

October 2000. Projects funded under the consortium are expected to provide empirically validated approaches to providing comprehensive mental health services for very young children and their families. For more information please see *http://www.acf.hhs.gov/programs/opre/ehs/epirc/index.html.*

—*Preschool Curriculum Evaluation Research Program.*

In an effort to address the lack of evidence regarding the effectiveness of classroom curricula, the U.S. Department of Education awarded seven grants in 2002 under the Preschool Curriculum Evaluation Research (PCER) Program. Grantees implemented rigorous evaluations (randomized clinical trails) of already developed classroom curricula to evaluate their effectiveness in terms of outcomes in areas such as language skill, pre-reading and pre-math abilities, cognition, general knowledge and social competence. The outcomes of greatest interest in the PCER program are those skills that are most highly predictive of academic success in the early years of elementary school and that are most amenable to influence by factors within the realm of classroom curricula and practice. Specific curricula being examined by grantees in the PCER Program include ones that are widely used by Head Start Programs (*e.g.*, Creative Curriculum) as well as other curricula that target literacy and Pre-K mathematics skills. For more information, please see *http://www.ed.gov/news/pressreleases/2002/07/07252002.html.*

—*Innovation and Improvement Projects.*

In addition to the various consortia described above, the Head Start Bureau recently funded 30 grants to support Innovation and Improvement Projects. These projects are based on quality enhancement ideas generated by local Head Start programs and partners. Grants provide support for a planning period of nine months, and based on the results, the Bureau will select a subset to be funded for a three-year implementation period.

—*Design Options for Studying Head Start Quality Enhancements.*

The goal of this project is to develop plans for systematically evaluating the effectiveness of quality enhancement efforts in Head Start. Reports from the project will describe advantages and disadvantages of various approaches to evaluation, and will discuss the challenges of implementing quality enhancement ideas in a way that they can be fairly and credibly evaluated. Reports will also identify measures of successful implementation of outcomes for children and of family and program characteristics.

D. Priorities

This announcement should be considered in light of the existing research programs described in Section C. Several, including the ISRC and PCER program, are intended to support large-scale research studies documenting the characteristics and effectiveness of curricula, interventions or programs across a variety of early childhood settings. Funds available under this announcement will support projects that complement these efforts by developing and testing the next generation of curricula or targeted curriculum adaptations for use in Head Start and Early Head Start programs. These curricular approaches will be designed to enhance existing practice and support child outcomes by addressing special topics or population needs. In future years, larger-scale studies may be considered to more widely test particularly promising approaches emerging from this program.

Grants funded under this announcement will focus on one or more of the following priority areas:

—Curricula for working with Head Start or Early Head Start parents, children or staff that target specific outcomes (*e.g.*, language and literacy, early mathematics, social-emotional functioning, social skills and parenting skills).

—Curricula targeted for specific service delivery modes (*e.g.*, home-based or family child care).

Special priorities include curricula designed or adapted for use with:

—Under-served Head Start and Early Head Start populations such as English Language Learners, dual English/Native Language speakers; expectant women and families; American Indian/Alaska Natives, and Migrant and Seasonal children and families.

—Children and families considered to be at risk, such as children with disabilities (including behavioral disorders); children with developmental delays; families experiencing substance abuse or mental illness; and families involved in the child welfare system.

Applicants funded under this announcement will provide plans for development, implementation and initial evaluation of the curricular approach. An important element of this announcement is the requirement that researchers demonstrate a partnership or partnerships with Head Start or Early Head Start programs during all of these phases. The first year of the grant is expected to be devoted to activities related to curriculum development and planning for implementation. The goals in this stage are to ensure that the theory guiding development of the approach is well-defined, implementation procedures and documentation are developed, measures of fidelity are established and appropriate outcome measures are selected or developed. During years two and three of the grant, implementation and initial evaluation of the approach will take place. The applicant should provide plans for conducting both a process and an outcome evaluation. The process evaluation will provide information about whether the approach can be implemented successfully and with a reasonable level of resources. The outcome evaluation will provide information about the effectiveness of the approach as implemented under favorable conditions (that is, in Head Start/Early Head Start programs working in partnership with the researcher).

Based on availability of funds, successful grantees may be selected through a limited competition to conduct additional studies (including larger-scale studies incorporating treatment and control groups formed through random assignment) of selected approaches and to disseminate products in manualized form. Curricula developed under this announcement are governed by the terms of 45 CFR part 74.36 regarding subsequent sale and distribution.

Priority Area

1. Description

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $1,000,000.

Anticipated Number of Awards: 8 to 10.

Ceiling on Amount of Individual Awards: $100,000 per budget period.

Floor on Amount of Individual Awards: None.

Average Projected Award Amount: $100,000 per budget period.

Length of Project Periods: 36 month project with three 12 month budget periods.

The Federal share of project costs shall not exceed $100,000 for the first 12-month budget period inclusive of indirect costs and shall not exceed $200,000 per year for the second through third 12-month budget periods. An application that exceeds the upper value dollar range specified will be considered ''non-responsive'' and be

returned to the applicant without further review. The project period will be up to three years. The initial award will be for the first one-year budget period. Requests for a second and/or third year of funding within the project period should be identified in the current application (on SF–424A), but such requests will be considered in subsequent years on a noncompetitive basis, subject to the applicant's eligibility status, the availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the government.

III. Eligibility Information

1. *Eligible Applicants:*

- State controlled institutions of higher education.
- Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education.
- Private institutions of higher education.

Additional Information on Eligibility:

A. Eligible applicants are universities, four-year colleges, and not-for-profit institutions on behalf of researchers who hold a doctorate degree or equivalent in their respective fields. The Principal Investigator must conduct research as a primary professional responsibility, and have published or have been accepted for publication in the major peer-reviewed research journals in the field as a first author or second author.

B. An important element of this announcement is the requirement that researchers demonstrate a partnership or partnerships with Head Start or Early Head Start programs as part of the development, piloting, refinement, training, and use of curricula. The application must contain a ''Letter of Agreement'' from the Head Start or Early Head Start program certifying that they have entered into a partnership with the applicant and a separate letter stating that the application has been reviewed and approved by the Head Start or Early Head Start Policy Council (see Section IV. Application and Submission Information for further details about these letters).

C. The Principal Investigator must agree to attend two meetings each year. The first is an annual grantee meeting, which is typically scheduled during the summer or fall of each year and is held in Washington, DC. The second meeting each year alternates between the biennial Head Start National Research Conference in Washington, DC (June 26–29, 2006) and the biennial meeting of the Society for Research in Child Development (SRCD). The budget should reflect travel funds for such purposes.

Faith-based and community-based organizations are eligible to apply.

Please see Section V.1 Evaluation Criteria for more information on how applications will be scored based on these program requirements.

2. *Cost Sharing/Matching:* None.

3. *Other:*

All applicants must have a Dun & Bradstreet number. On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Non-profit organizations applying for funding are required to submit proof of their non-profit status.

Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax exemption certificate.
- A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earning accrue to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

When applying electronically we strongly suggest you attach your proof of non-profit status with your electronic application.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Disqualification Factors:

Applications that exceed the ceiling amount will be considered non-responsive and will not be considered for funding under this announcement.

Any application that fails to satisfy the deadline requirements referenced in Section IV.3 will be considered non-responsive and will not be considered for funding under this announcement.

IV. Application and Submission Information

1. *Address to Request Application Package:* Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182, Phone: 877–663–0250, E-mail: *opre@xtria.com.*

2. *Content and Form of Application Submission:*

Notice of Intent to Submit an Application:

If you plan to submit an application, you must notify us by fax or e-mail by June 3, 2005. This information will be used only to determine the number of expert reviewers needed to review the applications. Include only the following information in this fax or e-mail: the number and title of this announcement; the names, addresses, telephone and fax numbers, e-mail addresses of the principle investigator and the fiscal agent (if known); and the name of the university, non-profit institution of higher education or other eligible organization. Do not include a description of your proposed project. Send this information to:

''Head Start Research Support Technical Assistance Team'', Fax: 1–703–356–0472, E-mail: *opre@xtria.com.*

Format and Organization: Applicants are strongly encouraged to limit their application to 100 pages, double-spaced, with standard one-inch margins and 12 point fonts. This page limit applies to both narrative text and supporting materials but not the Standard Federal Forms (see list below). Applicants must number the pages of their application beginning with the Table of Contents.

Applicants are advised to include all required forms and materials and to

organize these materials according to the format, and in the order, presented below:

a. Cover letter.

b. Contact information sheet (see details below).

c. Standard Federal forms.

Standard Application for Federal Assistance (form 424).

Budget Information—Non-construction Programs (424A).

Certifications regarding lobbying.

Disclosures of lobbying activities (if necessary).

Certification regarding environmental tobacco smoke.

Assurance Regarding Non-construction Programs (form 424B).

Assurance regarding protection of human subjects.

d. Table of contents.

e. Project abstract (not to exceed one page).

f. Project narrative statement (see details below).

g. Appendices.

Proof of nonprofit status (see Section III.3).

Letter(s) of agreement with Head Start program(s) (see details below).

Letter(s) of agreement with Head Start Policy Council(s) (see details below).

Curriculum vitae for principal investigators.

Content of Contact Information Sheet: The contact information sheet should include complete contact information, including addresses, phone and fax numbers, and e-mail addresses, for the Principal Investigator(s), and the institution's grants/financial officer (person who signs the SF–424).

Content of Project Narrative Statement: The project narrative should be carefully developed in accordance with ACF's research goals and agenda, as described in the Purpose, Background, and Priorities sections of this funding opportunity, and the structure requirements listed in Section V. Application Review Information.

Content of Letters of Agreement: For research conducted with Head Start, the application must contain (A) an original copy of a letter from the Head Start or Early Head Start program certifying that they have entered into a research partnership with the applicant and (B) a separate letter certifying that the application has been reviewed and approved by the local Head Start Program Policy Council. This certification or approval or pending approval by the Policy Council must be an original letter from the official representative of the Policy Council itself.

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via email or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary, but strongly encouraged.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- We recommend you visit Grants.gov at least 30 days prior to filing your application to fully understand the process and requirements. We encourage applicants who submit electronically to submit well before the closing date and time so that if difficulties are encountered an applicant can still send in a hard copy overnight. If you encounter difficulties, please contact the Grants.gov Help Desk at 1–800–518–4276 to report the problem and obtain assistance with the system.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.Grants.gov.*
- You must search for the downloadable application package by the CFDA number.

Applicants that are submitting their application in paper format should submit an original and two copies of the complete application. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Standard Forms and Certifications: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF)–424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Pub. L. 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with this form.

By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

Those organizations required to provide proof of non-profit status, please refer to Section III.3.

Please see Section V.1 for instructions on preparing the full project description.

3. *Submission Dates and Times:*

Due Date For Letter of Intent or Preapplications: 6/3/2005.

Due Date for Applications: 07/1/2005.

Explanation of Due Dates

The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Receipt acknowledgement for application packages will be provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for applications that are submitted via *http://www.Grants.gov*.

Checklist:

You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Project Abstract	See Sections IV.2 and V.	Found in Sections IV.2 and V	By application due date.
Project Description	See Sections IV.2 and V.	Found in Sections IV.2 and V	By application due date.
Budget Narrative/Justification	See Sections IV.2 and V.	Found in Sections IV.2 and V	By application due date.
SF424	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.
SF–LLL Certification Regarding Lobbying	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By date of award.
Certification Regarding Environmental Tobacco Smoke.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By date of award.
Assurances	See Section IV.2	*http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By date of award.
Letter of Intent	See Section IV.2	Found in Section IV.2	06/03/2005.
Table of Contents	See Section IV.2	Found in Section IV.2	By application due date.
Support Letters	IV.2	IV.2	By application due date.
Proof of Non-Profit Status	See Section III.3	Found in Section III.3	By date of award.
Letters of Agreement with Head Start Program(s).	IV.2.	IV.2.	By date of award.
Letters of Agreement with Head Start Program(s)Policy Council.	IV.2.	IV.2.	By date of award.
Curriculum Vitae for Principal Investigators	IV.2.	IV.2.	By date of award.
Assurance Regarding Protection of Human Subjects.	IV.2	*http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By date of award.

Additional Forms:

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	See form	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.

4. *Intergovernmental Review:*

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2).

A SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally-recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html*.

5. *Funding Restrictions:*

Grant awards will not allow reimbursement of pre-award costs.

6. *Other Submission Requirements:*

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. Please see Section IV.3 for an explanation of due dates. Applications should be mailed to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182.

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182.

Electronic Submission: Please see Section IV.2 for guidelines and requirements when submitting applications electronically via *http://www.Grants.gov*.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

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.

1. *Criteria:*

The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''full project description'' sections of the application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Part I—The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Instructions

ACF is particularly interested in specific project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.

Pages should be numbered and a table of contents should be included for easy reference.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Results or Benefits Expected

Identify the results and benefits to be derived.

For example, explain how your proposed project will achieve the specific goals and objectives you have set. Or, explain how the expected results will benefit the population to be served in meeting its needs for early learning services and activities. What lessons will be learned which might help other agencies and organizations that are addressing the needs of a similar population?

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application.

The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate, (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status, (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application or by application deadline.

Budget and Budget Justification

Provide a budget with line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

Use the following guidelines for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. ''Federal resources'' refers only to the ACF grant for which you are applying. ''Non Federal resources'' are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000).

Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application so the applicant is given credit in the review process. A detailed budget must be prepared for each funding source.

Evaluation Criteria

The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however, applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (*i.e.,* from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach—35 Points

In reviewing the project approach, the following factors will be considered:

—The nature of the planned approach as well as the research questions are adequately described

—The planned approach addresses one or more of the priority areas identified in this announcement

—The applicant provides a clear description of how the proposed curriculum or enhancement is distinct from the existing program approach.

—The planned approach reflects sufficient input from and partnership with Head Start or Early Head Start program(s) during all phases of the project, including in the development, piloting, refinement, training, and use of curricula [The application must contain a ''Letter of Agreement'' from the Head Start or Early Head Start program certifying that they have entered into a partnership with the applicant and a separate letter stating that the application has been reviewed and approved by the Head Start or Early Head Start Policy Council, as required in section IV.2]

—The applicant describes steps to ensure appropriate accommodation for children with special needs or for children for whom English is not a native language when these groups of children are included in the study

—The applicant provides clearly articulated and well-founded goals and timeframes for completion of various phases of the project

(development, implementation, evaluation)
—The applicant provides a convincing plan for ensuring that the fidelity of the curricular approach will be maintained and that relevant training, materials and support are provided
—The applicant provides plans for developing appropriate documentation for use in training and dissemination
—The scope of the project is reasonable for the funds available for these grants

Staff and Position Data—20 Points

In reviewing the staff and position data, the following factors will be considered:

—The extent to which the applicant is a university, four-year colleges and not-for-profit institutions on behalf of a Principal Investigator as defined below
—The extent to which the Principal Investigator and other key staff possess the programmatic and research expertise necessary to conduct the study, as demonstrated in the application and information contained in their vitae
—The extent to which the proposed staff have experience in working in a community setting and in partnership with Head Start program staff and parents
—The Principal Investigator(s) has earned a doctorate or equivalent in the relevant field, must conduct research as a primary professional responsibility, and has first or second author publications in major peer-reviewed research journals

Evaluation—20 Points

In reviewing the project evaluation plan, the following factors will be considered:

—The evaluation plan incorporates both process and outcome components, specifies the measures to be used, and includes an adequately detailed description of the analyses to be conducted
—The evaluation design and the planned measures are appropriate and sufficient to address the questions of the study
—The measures proposed for the process and outcome components are appropriate to the Head Start/Early Head Start population (including low-income and culturally and linguistically diverse children and families) and to the Head Start outcomes framework, and possess strong psychometric properties
—The evaluation design includes use of treatment and control groups, as may be appropriate
—The extent to which the analytic techniques to be utilized are appropriate for the questions under consideration
—The extent to which the process evaluation is likely to provide information on the timing and fidelity of implementation of the approach, how it contributed to the observed effects, and information that will enable successful transfer of the approach to potential additional sites in the future
—The extent to which the proposed sample size for the outcome evaluation is sufficient for the various levels or units of analysis for the study research questions This would include the size of particular subgroups of interest and would take into consideration mobility and attrition over time

Results or Benefits Expected—15 Points

In reviewing the results or benefits expected, the following factors will be considered:

—The extent to which the applicant demonstrates knowledge of the literature and the state of existing practice in the domain of interest
—The extent to which the applicant demonstrates the theoretical and empirical basis for the planned approach, and identifies appropriate scientific research that supports use of this particular approach
—The applicant clearly states the outcomes or expected benefits of the approach, articulates a ''theory of change'' based on empirical evidence, and presents a compelling logic model or conceptual framework indicating how use of this particular approach is expected to lead to the identified outcomes

Budget and Budget Justification—10 Points

In reviewing the budget and budget justification, the following factors will be considered:

—The extent to which the costs of the proposed project are clearly identified, justified and reasonable, in view of the activities to be conducted and expected results and benefits.
—The extent to which the applicant's fiscal controls and accounting procedures would ensure prudent use, proper and timely disbursement and accurate accounting of funds received under this program announcement.
—The extent to which the budget reserves travel funds for the Principal Investigator to attend two meetings each year. The first is an annual grantee meeting, which is typically scheduled during the summer or fall of each year and is held in Washington, DC. The second meeting each year alternates between the biennial Head Start National Research Conference in Washington, DC (June 26–29, 2006) and the biennial meeting of the Society for Research in Child Development (SRCD).

2. *Review and Selection Process:*

No grant award will be made under this announcement on the basis of an incomplete application.

Each application will undergo an eligibility and conformance review by Federal staff. Applications that pass the eligibility and conformance review will be evaluated on a competitive basis according to the specified evaluation criteria.

The competitive review will be conducted in the Washington, DC metropolitan area by panels of Federal and non-Federal experts knowledgeable in the areas of early childhood education and intervention research, early learning, child care, and other relevant program areas.

Application review panels will assign a score to each application and identify its strengths and weaknesses.

OPRE will conduct an administrative review of the applications and results of the competitive review panels and make recommendations for funding to the Director of OPRE.

The Director of OPRE, in consultation with the Commissioner of the Administration on Children, Youth, and Families (ACYF), will make the final selection of the applications to be funded. Applications may be funded in whole or in part depending on: (1) The ranked order of applicants resulting from the competitive review; (2) staff review and consultations; (3) the combination of projects that best meets the Bureau's objectives; (4) the funds available; and (5) other relevant considerations. The Director may also elect not to fund any applicants with known management, fiscal, reporting, program, or other problems, which make it unlikely that they would be able to provide effective services.

Since ACF will be using non-Federal reviewers in the process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Approved but Unfunded Applications:

Applications that are approved but unfunded may be held over for funding in the next funding cycle, pending the availability of funds, for a period not to exceed one year.

Anticipated Announcement and Award Dates:

Successful applicants will be notified through the issuance of a Financial Assistance Award notice that sets forth the amount of funds granted, the terms and conditions of the grant award, the effective date of the award, the budget period for which initial support is given, and the total project period for which support is provided. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail. Organizations whose applications will not be funded will be notified in writing by ACF.

VI. Award Administration Information

1. *Award Notices:*

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided (if applicable), and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. *Administrative and National Policy Requirements:*

Grantees are subject to the requirements in 45 CFR part 74 (non-governmental) or 45 CFR part 92 (governmental).

Direct Federal grants, subaward funds, or contracts under this Program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS Web site at *http://www.os.HHS.gov/fbci/waisgate21.pdf.*

3. *Reporting Requirements:*

Grantees will be required to submit program progress and financial reports (SF–269 found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*) throughout the project period. Program progress and financial reports are due 30 days after the reporting period. Final programmatic and financial reports are due 90 days after the close of the project period.

Program Progress Reports: Semi-Annually.

Financial Reports: Semi-Annually.

Original reports and one copy should be mailed to: Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., Washington, DC 20447.

VII. Agency Contacts

Program Office Contact: Head Start Research Support Technical Assistance Team, OPRE Grant Review Team, Xtria, LLC, 8045 Leesburg Pike, Suite 400, Vienna, VA 22182, phone: 1–877–663–0250, e-mail: *opre@xtria.com.*

Grants Management Office Contact: Attn: Tim Chappelle, Division of Discretionary Grants, Office of Grants Management, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, phone: 202–401–4855, e-mail: *tichappelle@acf.hhs.gov.*

VIII. Other Information

Notice: Beginning with FY 2006, the Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005 applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov.* Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html.*

Definitions:

Budget Period—for the purposes of this announcement, budget period means the 12-month period of time for which ACF funds are made available to a particular grantee (*e.g.*, beginning on September 15, 2005, and ending on September 14, 2006.)

Project Period—for the purposes of this announcement, project period means the 36-month period starting by September 2005, and ending by September 2008.

The Head Start Act mandates that all studies, reports, proposals, and data produced or developed with Federal funds awarded under the Act shall become the property of the United States (see S. 649(f) of the Head Start Act, 42 U.S.C. 9845). HHS authorizes grantee institutions, their researchers and other persons to make use of all studies, reports, proposals, and data produced or developed under grants funded under Section 649 of the Head Start Act in activities in furtherance of the purposes of the Head Start program.

Grantees must provide copies of all materials produced with Head Start grant funds to ACF as soon as they become available.

Please reference Section IV.3 for details about acknowledgement of received applications.

Dated: May 2, 2005.

Naomi Goldstein,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 05–9074 Filed 5–5–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974, as Amended; Computer Matching Program

AGENCY: Office of Child Support Enforcement (OCSE), ACF, DHHS.

ACTION: Correction.

SUMMARY: This document corrects the two notices that were published in the **Federal Register** on Monday, May 2, 2005, Vol. 70, No. 83, Pages 22663 and 22664. It corrects the information on page 22663 under Notice of Computer Matching Program; the information beginning with ''A. Participating Agencies and ending with E. Inclusive Dates of the Matching Program'' should be placed on page 22664 under Notice of Computer Matching Program and the information on page 22664 under Notice of Computer Matching Program beginning with ''A. Participating Agencies and ending with E. Inclusive Dates of the Matching Program'' should be placed on page 22663 under Notice of Computer Matching Program.

On page 22664 under Notice of Computer Matching Program. A. Participating Agencies please correct the transposed letters from ''OSCE'' to read ''OCSE.'' This transposition occurred at the **Federal Register.**

Dated: May 2, 2005.

David H. Siegel,

Acting Commissioner, Office of Child Support Enforcement.

[FR Doc. 05–9071 Filed 5–5–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Biological Products for Treatment of Rare Plasma Protein Disorders; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) Office of Public Health and Science in the Department of Health and Human Services, are announcing a public workshop entitled ''Biological Products for Treatment of Rare Plasma Protein Disorders.'' The purpose of the workshop is to discuss the scientific and regulatory challenges encountered during the development of biological products used to treat rare plasma protein disorders. The workshop also will include a discussion about options that could be used to facilitate future product development.

Date and Time: The 2-day public workshop will be held on June 13 and June 14, 2005, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at the National Institutes of Health, Lister Hill Auditorium, Building 38A, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Rhonda Dawson, Center for Biologics Evaluation and Research (HFM–302), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–3514, FAX: 301–827–2843, email: *dawsonr@cber.fda.gov*.

Registration: There is no registration fee for the workshop. Registration by May 30, 2005, is recommended due to limited seating. There will be onsite registration, on a space available basis, the first day of the workshop, beginning at 7:15 a.m. If you need special accommodations due to a disability, please contact Rhonda Dawson at least 7 days in advance of the workshop.

SUPPLEMENTARY INFORMATION: FDA and Office of Public Health and Science in the Department of Health and Human Services are co-sponsoring a 2-day public workshop entitled ''Biological Products for Treatment of Rare Plasma Protein Disorders.'' The opening session of the workshop will include presentations from national and international regulatory officials, patient groups, health care providers, and manufacturers concerning the need for therapeutic products to treat plasma protein disorders that may affect small patient populations, and the obstacles to developing these products. The second session of the workshop will include discussions about regulatory issues affecting industry, including trial designs, statistical considerations, orphan drug provisions, product development, and case studies. The last session of the workshop will include presentations and discussions on other relevant topics, including the availability and possible use of patient registries, research support, reimbursement, potentials for international harmonization, modifying clinical trial design, and facilitating future product development.

FDA will post the agenda for this public workshop, when finalized, on CBER's Web sites at *http://www.fda.gov/cber/scireg.htm* and *http://www.fda.gov/cber/minutes/workshop-min.htm*.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (FOI), (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the workshop at a cost of 10 cents per page. The transcript will also be placed on the FDA Web site at *http://www.fda.gov/cber/minutes/workshop-min.htm*.

Dated: April 29, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–9011 Filed 5–5–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 15 and 16, 2005, from 8 a.m. to 5 p.m.

Location: Holiday Inn, The Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Cathy Groupe, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, e-mail: *groupec@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512533. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 15, 2005, the committee will discuss class labeling of antihypertensive drugs based on the proximity of their data to outcome trials. On June 16, 2005, the committee will discuss new drug application (NDA) 20–727, proposed trade name BIDIL (hydralazine hydrochloride/isosorbide dinitrate) (tablets are 37.5 milligrams (mg) hydralazine hydrochloride/20 mg isosorbide dinitrate), NitroMed, Inc., proposed for the indication of heart failure, based on the results from the African American Heart Failure Trial.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 8, 2005. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on both days. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 8, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Beverly O'Neil at 301–827–7001 at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 28, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–9010 Filed 5–5–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 8, 2005, from 9 a.m. to 5 p.m.

Location: Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Jeffrey Cooper, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1220, ext. 121, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512523. Please call the information Line for up-to-date information on this meeting.

Agenda: The committee will hear a presentation on the FDA Critical Path Initiative and a presentation by the Office of Surveillance and Biometrics in the Center for Devices and Radiological Health outlining their responsibility for the review of postmarket study design. The committee will also discuss and make recommendations regarding general issues related to the premarket requirements for the safe and effective use of hemodialysis equipment labeled for nocturnal hemodialysis therapies. Background information for the topics, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting, on the Internet at *http://www.fda.gov/cdrh/panelmtg.html*.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 25, 2005. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person by May 25, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240–276–0450, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 28, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–9008 Filed 5–5–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Tribal Management Grant Program; New Discretionary Funding Cycle for Fiscal Year 2006

Funding Opportunity Number: HHS–2006–IHS–TMP–0001.

CFDA Number: 93.228.

Key Dates: Training: May 23–27, 2005; June 15–16, 2005 June 29–30, 2005; and July 13–14, 2005.

Application Receipt Deadline: August 12, 2005.

Application Review Dates: October 3–7, 2005.

Application Notification: Second week of November 2005.

Anticipated Award Start Date: January 1, 2006.

Program Authority: Public Law 93–638, Sections 103(b)(2) and 103(e), Indian Self-Determination and Education Assistance Act, as amended.

I. Funding Opportunity Description

The Tribal Management Grant (TMG) Program is a national competitive discretionary grant program established to assist Federally-recognized Tribes and Tribally-sanctioned Tribal organizations in assuming all or part of existing Indian Health Service (IHS) programs, services, functions, and activities (PSFA) through a Title I contract and to assist established Title I contractors and Title V compactors to further develop and improve their management capability. In addition, TMGs are available to Tribes/Tribal organizations under the authority of Public Law (Pub. L.) 93–638 section 103(e) for (1) obtaining technical assistance from providers designated by the Tribe/Tribal organization (including Tribes/Tribal organizations that operate mature contracts) for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management and the development of cost allocation plans for indirect cost rates; and (2) planning, designing, and evaluating Federal health programs serving the Tribe/Tribal organization, including Federal administrative functions. These grants are established under the authority of section 103(b)(2) and section 103(e) of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, as amended.

Funding Priorities: The IHS has established the following funding priorities for TMG awards. The funding of approved Priority I applicants will occur before the funding of approved Priority II applicants. Priority II applicants will be funded before approved Priority III applicant. Funds will be distributed until depleted.

- Priority I—Any Indian Tribe that has received Federal recognition (restored, unterminated, funded, or unfunded) within the past 5 years, specifically received during or after April 2000.
- Priority II—All other eligible Federally-recognized Indian Tribes or Tribally-sanctioned Tribal organizations submitting a competing continuation application or a new application with the sole purpose of addressing audit material weaknesses identified in Attachment A (Summary of Findings and Recommendations) and other attachments, if any, of the transmittal letter received from the Office of the Inspector General (OIG), National External Audit Review (NEAR) Center, Department of Health and Human Services (HHS). Please identify by underlining the weakness to be addressed on Attachment A. Please refer to Section III.3, ''Other Requirements'' for more information regarding Priority II participation.

Federally-recognized Indian Tribes or Tribally-sanctioned Tribal organizations not subject to Single Audit Act requirements, must provide a financial statement identifying the Federal dollars in the footnotes. The financial statement must also identify specific weaknesses/recommendations that will be implemented in the TMG proposal and are related to 25 Code of Federal Regulations (CFR) Part 900, ''Indian Self-Determination and Education Assistance Act Amendments'', Subpart F—''Standards for Tribes and Tribal Organizations''.

Priority II participation is only applicable to the Health Management Structure project type. See Eligible Project Types.

• Priority III—All other eligible Federally-recognized Indian Tribes or Tribal organizations submitting a competing continuation application or a new application.

II. Award Information

Type of Instrument: Grant.

Estimated Funds Available: The estimated amount of funds available, based on the Administration's request for the TMG Program, is $2,430,000 in Fiscal Year (FY) 2006. There will be only one funding cycle in FY 2006.

Anticipated Number of Awards: This estimated amount is anticipated to fund approximately 20–25 new and continuation awards.

Project Periods: Varies from 12 months to 36 months. Please refer to ''Eligible Project Types, Maximum Funding, and Project Periods'' below for more detailed information.

Estimated Range of Awards: $50,000/year–$100,000/year. Please refer to ''Eligible Project Types, Maximum Funding, and Project Periods'' below for more detailed information.

Eligible Project Types, Maximum Funding and Project Periods: Applications submitted must be for only one project type. The TMG Program consists of four types of projects: (1) Feasibility studies, (2) planning, (3) evaluation studies, and; (4) health management structure development or improvement. Applications that address more than one project type will be considered ineligible and will be returned to the applicant. The maximum funding level noted below includes both direct and indirect costs. Application budgets which exceed the maximum funding level or project period identified for a project type will not be reviewed. Please refer to Section IV.5. ''Funding Restrictions'' for further information regarding ineligible activities.

A. Feasibility Study—(Maximum funding/project period: $70,000/12 months).

A study of a specific IHS program or segment of a program to determine if Tribal management of the program is possible. The study shall present necessary plans, approach, training, and resources required to assume Tribal management of the program. The study shall include the following four components:

• Health needs and health care services assessments that identify existing health care services and delivery system, program divisibility issues, health status indicators, unmet needs, volume projections, and demand analysis.

• Management analysis of existing management structures, proposed management structures, implementation plans and requirements, and personnel staffing requirements and recruitment barriers.

• Financial analysis of historical trends data, financial projections and new resources requirements for program management costs, and analysis of potential revenues from Federal/non-Federal sources.

• Decision statement/report that incorporates findings, conclusions, and recommendations; the presentation of the study and recommendations to the governing body for Tribal determination regarding whether Tribal assumption of program(s) is desirable or warranted.

B. Planning—(Maximum funding/project period: $50,000/12 months).

A collection of data to establish goals and performance measures for the operation of current health programs or anticipated PSFAs under a Title I contract. Planning will specify the design of health programs and the management systems (including appropriate policies and procedures) to accomplish the health priorities of the Tribe/Tribal organization. For example, planning could include the development of a Tribal Specific Health Plan or a Strategic Health Plan, etc. Please note: The Public Health Service urges applicants submitting strategic health plans to address specific objectives of *Healthy People 2010.* Interested applicants may purchase a copy of *Healthy People 2010* (Summary Report in print; Stock No. 017–001–00547–9) or CD–ROM (Stock No. 107–001–00549–5) through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7945, or (202) 512–1800. You may access this information via the Internet at the following Web site: *http://www.health.gov/healthypeople/publications/.*

C. Evaluation Study—(Maximum funding/project period: $50,000/12 months).

A systematic collection, analysis, and interpretation of data for the purpose of determining the value of a program. The extent of the evaluation study could relate to the goals and objectives, policies and procedures, or programs regarding targeted groups. The evaluation study could also be used to determine the effectiveness and efficiency of a Tribal program operation (*i.e.,* direct services, financial management, personal, data collection and analysis, third-party billing, etc.) as well as determine the appropriateness of new components to a Tribal program operation that will assist Tribal efforts to improve the health care delivery systems.

D. Health Management Structure—(Average funding/project period: $100,000/12 months; maximum funding/project period: $300,000/36 months).

Implementation of systems to manage or organize PSFAs. Management structures include health department organizations; health hoards; and financial management systems, including systems for accounting, personnel, third-party billing, medical records, management information systems, etc. This includes the design, improvements, and correction of management systems that address weaknesses identified through quality control measures, internal control reviews, and audit report find is under the Office of Management and Budget (OMB) Circular No. A–133—Revised June 27, 2003, ''Audits of States, Local Governments, and Non-Profit Organization.'' A copy of this circular and 25 Code of Federal Regulations (CFR) Part 900, ''Indian Self-Determination and Education Assistance Act Amendments'', Subpart F—''Standards for Tribal or Tribal Organization Management Systems'' is available in the appendix of the TMG application kit. Please see the ''Application and Submission Information'' section for directions about how to request a copy of the TMG application kit.

III. Eligibility Information

1. Eligible Applicants

Any federally-recognized Indian Tribe or Tribally-sanctioned Tribal organization is eligible to apply for a grant. Eligible applicants include Tribal organizations that operate mature contracts that are designed by a Tribe to

provide technical assistance and/or training. Only one application per Tribe or Tribal organization is allowed.

2. Cost Sharing or Matching

The TMG Program does not require cost sharing or matching to participate in the competitive grant process. However, in accordance with Public Law 93.638 section 103(c), the TMG funds may be used as matching shares for any other Federal grant programs that develop Tribal capabilities to contract for the administration and operation of health programs.

3. Other Requirements

The following documentation is required (if applicable):

• Tribal Resolution—A resolution of the Indian Tribe served by the project must accompany the application submission. An Indian Tribe that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities. Draft resolutions are acceptable in lieu of an official resolution. However, an official signed Tribal resolution must be received by the Division of Grants Operations prior to the beginning of the Objective Review (October 3–7, 2005). If an official signed resolution is not received by September 30, 2005, the application will be considered incomplete, ineligible for review, and returned to the applicant without consideration. Applicants submitting additional documentation after the initial application submission are required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.,* FedEx tracking, postal return receipt, etc.).

• Documentation for Priority I Participation—A copy of the **Federal Register** notice or letter from the Bureau of Indian Affairs verifying establishment of Federal Tribal status within the last 5 years. Date must reflect that Federal recognition was received during or after April 2000.

• Documentation for Priority II Participation—A copy of the transmittal letter and Attachment A from the OIG, NEAR Center, HHS. See ''Funding Priorities'' in Section I for more information. If an applicant is unable to locate a copy of their most recent transmittal letter or needs assistance with audit issues, information or technical assistance may be obtained by contacting the IHS Division of Audit Resolution at (301) 443–7301, or the National External Audit Review Center help line at (816) 374–6714 ext. 108. The auditor may also have the information/documentation required.

Federally-recognized Indian Tribes or tribally-sanctioned Tribal organizations not subject to Single Audit Act requirements, must provide a financial statement identifying the Federal dollars in the footnotes. The financial statement must also identify specific weaknesses/recommendations that will be implemented in the TMG proposal and are related to 25 CFR part 900, ''Indian Self-Determination and Education Assistance Act Amendments'', subpart F—''Standards for Tribes and Tribal Organizations''.

• Documentation of Consortium Participation—If an Indian Tribe submitting an application is a member of a consortium, the Tribe must:

• Identify the consortium.

• Indicate if the consortium intends to submit a TMG application.

• Demonstrate that the Tribe's application does not duplicate or overlap any objectives of the consortium's application.

If a consortium is submitting an application it must:

• Identify all the consortium member Tribes.

• Identify if any of the member Tribes intend to submit a TMG application of their own.

• Demonstrate that the consortium's application does not duplicate or overlap any objectives of the other consortium members who may be submitting their own TMG application.

• Please refer to Sections IV.5. ''Funding Restrictions'' and V.2. ''Review Selection Process'' for more information regarding other application submission information and/or requirements.

IV. Application and Submission Information

1. Address to Request Application Package

Interested parties may request a copy of the TMG aplication kit from either of the following persons: Ms. Deanna J. Dick, Office of Tribal Programs, Indian Health Service, 801 Thompson Avenue, Suite 220, Rockville, Maryland 20852, (301) 443–1104. Ms. Patricia Spotted Horse, Division of Grants Operations, Indian Health Service, 801 Thompson Avenue, TMP 100, Rockville, Maryland 20852, (301) 443–5204.

The entire application kit is also available online at: *http://www.ihs.gov/NonMedicalPrograms/tmg/index.asp* and *http://www.grants.gov.*

2. Content and Form of Application Submission

A. All applications should:

• Be single-spaced.

• Be typewritten.

• Have consecutively numbered pages.

• Use black type not smaller than 12 characters per one inch.

• Have one-inch border margins.

• Be printed on one side only of standard size 8½″ x 11″ paper.

• Not be tabbed, glued, or placed in a plastic holder.

• Contained a narrative that does not exceed 14 typed pages that includes the below listed sections. (The 14-page narrative does not include the workplan, standard forms, Tribal resolution(s), table of contents, budget, budget justifications, multi-year narratives, multi-year budget, multi-year budget justifications, and/or other appendix items.)

• Introduction and Need for Assistance.

• Project Objectives(s), Approach, and Results and Benefits.

• Project Evaluation.

• Organizational Capabilities and Qualifications.

Include in the application the following documents in the order presented:

• Application Receipt Record, IHS–815–1A (Rev. 3/05).

• FY 2006 TMG Application Checklist.

• FY 2006 General Information Page.

• Tribal Resolution (final signed or draft unsigned).

• Documentation for Priority I Participation (if applicable).

• Documentation for Priority II Participation (if applicable).

• Documentation of Consortium Participation (if applicable).

• Standard Form 424, Application for Federal Assistance.

• Standard Form 424A, Budget Information—Non-Construction Programs (pages 1–2).

• Standard Form 424B, Assurances—Non-Construction Programs (front and back). The application shall contain assurances to the Secretary that the applicant will comply with program regulations, 42 CFR part 36, subpart H.

• Certifications (pages 17–19).

• PHS–5161 Checklist (pages 25–26).

• Disclosure of Lobbing Activities.

• Table of Contents with corresponding numbered pages.

• Project Narrative (not to exceed 14 typewritten pages—should address first year only if project is a multi-year request).

• Categorical Budget and Budget Justification.

• Multi-year Objectives and Workplan with Multi-year Categorical Budget and Multi-year Budget Justifications (if applicable).
• Appendix Items.

3. Submission Dates and Times

Applications must be received on or before Friday, August 12, 2005. Paper submissions must be received by the IHS by 5 p.m. eastern standard time. Electronic submissions must be received by the Grants.gov Web site by 11:59 p.m. eastern standard time.

The anticipated start date of grants is January 1, 2006.

The IHS is accepting paper and electronic applications for this cycle.

Paper submission—to submit a paper application, include one original and two complete copies of the final proposal with all required signatures and documentation. Mark the original application with a cover sheet that states, ''Original Grant Application.'' Mail or hand-deliver applications to the Division of Grants Operations, Indian Health Service, 801 Thompson Avenue, Rockville, Maryland 20852. Please note: all mailed applications must be received on or before august 12, 2005 by close of business (*i.e.* 5p.m. eastern standard time).

Hand Delivered Proposals: Hand delivered proposals will be accepted from 8 a.m. to 5 p.m. eastern standard time, Monday through Friday. Applications will be considered to meet the deadline if they are received on or before the deadline, with hand-carried applications received by close of business 5 p.m. For mailed applications, a dated, legible receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Later applications not accepted for processing will be returned to the applicant and will not be considered for funding.

Applicants are cautioned that express/overnight mail services do not always deliver as agreed. IHS will not accommodate transmission of applications by Fax or E-Mail.

Late application: Applications which do not meet the criteria above will be considered late. Late applications will be returned to the applicant and will not be considered for funding.

Extension of deadlines: IHS may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. Determination to extend or waive deadline requirements rests with the Chief Grants Management Officer and would appear as an amendment in **Federal Register**.

Acknowledgment of Receipt: Acknowledgment of receipt of applications will be via the Application Receipt Card, IHS 815–1A (Rev. 3/05).

Electronic Submission—To submit an application electronically, please use the Grants.gov ''Apply'' Web site at *http://www.grants.gov.* The grants.gov Web site will allow applicants to download a copy of the application package, complete it offline, and then upload and submit the application. Electronic submissions must be submitted to and accepted by the Grants.gov Web site by 11:59 p.m. eastern standard time. Applicants are strongly encouraged to following the instructions exactly for successful submission. As previously noted, the IHS will not accommodate transmission of applications via e-mail.

Applicants planning to submit an electronic application via the grants.gov Web site should note the following:

• Electronic submission is voluntary.
• Applicants entering the grants.gov Web site will find information regarding submitting an application electronically through the site, as well as the hours of operation. The IHS strongly recommends that applicants not wait until the deadline date to begin the application process through grants.gov.
• To use grants.gov, applicants must have a Dun and Broadstreet (DUNS) number and be registered in the Central Contractor Registry (CCR). Applicants should allow a minimum of five days to complete CCR registration. See item 6 of this section, ''Other Submission Requirements,'' for more information regarding the DUNS and CCR registration process.
• Applicants will not receive additional point value for submitting a grant application in the electronic format, nor will the IHS penalize applicants submitting an application in paper format.
• Applicants may submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.
• Applications must comply with page limitation requirements described in this program announcement.
• Applications submitted electronically will receive an automatic acknowledgment from the grants.gov Web site that contains a assigned grants.gov tracking number. The IHS will retrieve your application from the grants.gov Web site.
• Applicants may access the electronic application for this program on *http://www.grants.gov.*
• Applicants must search for the downloadable application package by CFDA number—93.228.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

Ineligible Project Activities

The TMG may not be used to support recurring operational programs or to replace existing public and private resources. Note: The inclusion of the following projects or activities in an application will render the application ineligible and the application will be returned to the applicant:

• Planning and negotiating activities associated with the intent of a Tribe to enter the IHS Self-Governance Project. A separate grant program is administered by the IHS for this purpose. Prospective applicants interested in this program should contact Ms. Mary Trujillo, Office of Tribal Self-Governance, Indian Health Service, Reyes Building, 801 Thompson Avenue, Suite 240, Rockville, Maryland 20852, (301) 443–7821, and request information concerning the ''Tribal Self-Governance Program Planning Cooperative Agreement Announcement'' or the ''Negotiation Cooperative Agreement Announcement.''
• Projects related to water, sanitation, and waste management.
• Projects that include long-term care or provision of direct services.
• Projects that include tuition, fees, or stipends for certification or training of staff to provide direct services.
• Projects that include pre-planning, design, and planning of construction for facilities, including activities relating to Program Justification Documents.
• Projects that propose more than one project type. Please see Section II, ''Award Information'', specifically ''Eligible Project Types, Maximum Funding and Project Periods'' for more information. An example of a proposal with more than one project type that would be considered ineligible may include the creation of a strategic health plan (defined by TMG as a planning project type) and improving third-party billing structures (defined by TMG as a health management structure project type).

Other Limitations—A current TMG recipient cannot be awarded a new, general, or competing continuation grant for any of the following reasons:

• A grantee may not administer two TMGs at the same time or have overlapping project/budget periods;

• The current project is not progressing in a satisfactory manner; or

• The current project is not in compliance with program and financial reporting requirements.

Delinquent Federal Debts: No award shall be made to an applicant who has an outstanding delinquent Federal debt until either:

• The delinquent account is paid in full; or

• A negotiated repayment schedule is established and at least one payment is received.

6. Other Submission Requirements

Beginning October 1, 2003, applicants were required to have a 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 www.dunandbradstreet.com at *http://www.dunandbradstreet.com* or call 1–866–705–5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process.

To submit an application electronically, applicants must also be registered with the CCR. A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the number listed above to investigate whether or not your organization has a DUNS number. Registration with the CCR is free of charge. Applicants may register by calling 1–888–227–2423. Please review and complete the CCR ''Registration Worksheet'' located in the appendix of the TMG application kit or on *http://www.grants.gov/CCRRegister.*

More detailed information regarding these registration processes can be found at *http://www.grants.gov.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoping the application. Weights assigned to each section are noted in parentheses. The 14-page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information.

1. Criteria

Introduction and Need for Assistance (20 Points)

A. Describe the Tribe's/Tribal organization's current health operation. Include what programs and services are currently provided (*i.e.,* Federally funded, State funded, etc.), information regarding technologies currently used (*i.e.,* hardware, software, services, etc.), and identify the source(s) of technical support for those technologies (*i.e.,* Tribal staff, Area Office, vendor, etc.). Include information regarding whether the Tribe/Tribal organization has a health department and/or health board and how long it has been operating.

B. Describe the population to be served by proposed project. Include a description of the number of IHS eligible beneficiaries who currently use services.

C. Describe the geographic location of the proposed project including any geographic barriers to the health care users in the area to be served.

D. Identify all previous TMGs received, dates of funding, and summary of project accomplishments. State how previous TMG funds facilitated the progression of health development relative to the current proposed project. (Copies of reports will not be accepted).

E. Identify the eligible project type and priority group of the applicant.

F. Explain the reason for your proposed project by identifying specific gaps or weaknesses in services or infrastructure that will be addressed by the proposed project. Explain how these gaps/weaknesses were discovered. If proposed project includes information technology (*i.e.,* hardware, software, etc.) provide further information regarding measures taken or to be taken that ensure the proposed project will not create other gaps in services or infrastructure (*i.e.,* IHS interface capability, Government Performance Reporting Act reporting requirements, contract reporting requirements, Information Technology (IT) compatibility, etc.).

G. Describe the effect of the proposed project on current programs (*i.e.,* Federally funded, State funded, etc.) and, if applicable, on current equipment (*i.e.,* hardware, software, services, etc.). Include the affect of the proposed project on planned/anticipated programs and/or equipment.

H. Address how the proposed project relates to the purpose of the TMG Program by addressing the appropriate description that follows:

• Identify if the Tribe.Tribal organization is a Title I contractor. Address if the self-determination contract is a master contract of several programs or if individual contracts are used for each program. Include information regarding whether or not the Tribe participates in a consortium contact (*i.e.*, than one Tribe participating in a contract). Address what programs are currently provided through those contracts and how the proposed project will enhance the organization's capacity to manage the contracts currently in place.

• Identify if the Tribe/Tribal organization is a Title V compactor. Address when the Tribe/Tribal organization entered into the compact and how the proposed project will further enhance the organization's management capabilities. Identify if the Tribe/Tribal organization is not a Title I or Title V organization. Address how the proposed project will enhance the organization's management capabilities, what programs and services the organization is currently seeking to contract, and an anticipated date for contract.

Project Objective(s), Workplan and Consultants (40 Points)

A. Identify the proposed project objective(s) addressing the following:

• Measurable and (if applicable) quantifiable.

• Outcome oriented.

• Time-limited.

Example: The Tribe will increase the number of bills processed by 15% by installing new software by the end of 12 months.

B. Address how the proposed project will result in change or improvement in program operations or processes for each proposed project objective. Also address what tangible products are expected from the project (*i.e.,* policies and procedures manual).

C. Address the extent to which the proposed project will build the local capacity to provide, improve, or expand services that address the need of the target population.

D. Submit a workplan in the appendix which includes the following information:

• Provide the action steps on a timeline for accomplishing the proposed project objective(s).

• Identify who will perform the action steps.

• Identify who will supervise the action steps taken.

• Identify who will accept and/or approve work projects at the end of the proposed project.

• Include any training that will take place during the proposed project and who will be attending the training.

• Include evaluation activities planned.

E. If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used):

• Educational requirements.

• Desired qualifications and work experience.

• Expected work products to be delivered on a timeline. If a potential consultant/contractor has already been identified, please include a resume in the appendix.

F. Describe what updates (*i.e.,* revision of policies/procedures, upgrades, technical support, etc.) will be required for the continued success of the proposed project. Include when these updates are anticipated and where funds will come from to conduct the update and/or maintenance.

Project Evaluation (15 Points)

Each proposed project objective should have an evaluation component and the evaluation activities should appear on the work plan.

A. Please address the following for each of proposed objective:

• What data will be collected to evaluate the success of the objective(s).

• How and when the data will be collected.

• Who will collect the data.

B. Explain how the data demonstrates the change brought about by the proposed project objective.

C. Describe any future evaluation efforts for the proposed project that will be conducted after the expiration of the grant.

Organizational Capabilities and Qualifications (15 Points)

A. Describe the organizational structure of the Tribe/Tribal organization beyond health care activities.

B. Provide information regarding plans to obtain management systems if the Tribe/Tribal organization does not have an established management system currently in place that complies with 25 CFR part 900, subpart F, ''Standards for Tribal Management Systems''. If management systems are already in place, simply note it. (A copy of the 25 CFR part 900, subpart F, is available in the TMG application kit.)

C. Describe the ability of the organization to manage the proposed project. Include information regarding similarly sized projects in scope and financial assistance as well as other grants and projects sucessfully completed.

D. Describe what equipment (*i.e.*, fax machine, phone, computer, etc.) and facility space (*i.e.*, office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased through the grant.

E. List key personnel who will work on the project. Include title used in the workplan. In the appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Resumes must indicate that the proposed staff memeber is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

F. If the project requires additional personnel (*i.e.*, IT support, etc.), address how the Tribe/Tribal organization will sustain the position(s) after the grant expires. (If there is no need for additional personnel, simply note it.)

Categorical Budget and Budget Justification (10 Points)

A. Provide a categorical budget for each of the 12-month budget periods requested.

B. If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the appendix.

C. Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient cost and other details to facilitate the determination of cost allowability (*i.e.*, equipment specifications, etc.).

Multi-Year Project Requirements

Projects requiring a second and/or third year must include a narrative addressing the second and/or third year's project objectives, evaluation components, work plan, categorical budget, and budget justification.

Appendix Items

• Workplan for proposed objectives.

• Position descriptions for key staff.

• Resumes of key staff that reflect current duties.

• Consultant proposed scope of work (if applicable).

• Indirect Cost Agreement.

• Organizational chart (optional).

• Multi-Year Project Requirements (if applicable).

2. Review Selection Process

In addition to the above criteria/requirements, applications are considered according to the following:

A. Application Submission (Application Deadline: August 12, 2005)

Applications received in advance of or by the deadline and verified by the postmark will undergo a preliminary review to determine that:

• The applicant and proposed project type is eligible in accordance with this grant announcement.

• The application is not a duplication of a previously funded project.

• The application narrative, forms, and materials submitted meet the requirements of the announcement allowing the review panel to undertake an indepth evaluation; otherwise, it may be returned.

B. Competitive Review of Eligible Applications (Objective Review: October 3–7, 2005)

Applications meeting eligibility requirements that are complete, responsible, and conform to this program announcement will be reviewed for merit by the Ad Hoc Objective Review Committee (ORC) appointed by the IHS to review and make recommendations on these applications. The review will be conducted in accordance with the IHS Objective Review Guidelines. The technical review process ensures selection of quality projects in a national competition for limited funding. Applications will be evaluated and rated on the basis of the evaluation criteria listed in Section V.1. The criteria are used to evaluate the quality of a proposed project, determine the likelihood of success, and assign a numerical score to each application. The scoring of approved applications will assist the IHS in determining which proposals will be funded if the amount of TMG funding is not sufficient to support all approved applications. Applications recommended for approval, having a score of 60 or above by the ORC and scored high enough to be considered for funding, are forwarded by the Division of Grant Operations to the Area Offices for cost analysis and further recommendation. The program official accepts the Area Office Contract Proposal Liaison Officers' recommendations for consideration when funding applications. The program official forwards the final approved list to the Director, Office of Tribal Programs, for final review and approval. Applications scoring below 60 points will be

disapproved and returned to the applicant. Applications that are approved but not funded will not be carried over into the next cycle for funding consideration.

C. Anticipated Announcement and Award Dates

The IHS anticipates an award start date of January 1, 2006.

VI. Award Administration Information

1. Award Notices

Notification: Second week of November 2005. The Director, Office of Tribal Programs, or program official, will notify the contact person identified on each proposal of the results in writing via postal mail. Applicants whose applications are declared ineligible will receive written notification of the ineligibility determination and their original grant application via postal mail. The ineligible notification will include information regarding the rationale for the ineligible decision citing specific information from the original grant application. Applicants who are approved but unfunded and disapproved will receive a copy of the Executive Summary which identifies the weaknesses and strengths of the application submitted. Applicants which are approved and funded will be notified through the official Notice of Grant Award (NGA) document. The NGA will serve as the official notification of a grant award and will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, and the budget period. Any other correspondence announcing to the Applicant's Project Director that an application was recommended for approval is not an authorization to begin performance. Pre-award costs are not allowable charges under this program grant.

2. Administrative and National Policy requirements

Grants are administered in accordance with the following documents:

- This grant announcement.
- Health and Human Services regulations governing Public Law 93–638 grants at 42 CFR 36.101 *et seq*.
- 45 CFR part 92, ''Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local Governments Including Indian Tribes,'' or 45 CFR part 74, ''Administration of Grants to Non-Profit Recipients''.
- Public Health Service Grants Policy Statement.
- Grants Policy Directives.
- Appropriate Cost Principles: OMB Circular A–87, ''State and Local Governments,'' or OMB Circular A–122, ''Non profit Organizations''.
- OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations''.
- Other Applicable OMB circulars.23. Reporting
- Progress Report—Program progress reports are required semi-annually. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for slippage (if applicable), and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.
- Financial Status Report—Semi annual financial status reports must be submitted within 30 days of the end of the half year. Final financial status reports are due within 90 days of expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

VII. Agency Contact(s)

Interested parties may obtain TMG programmatic information from the TMG Program Coordinator through the information listed under Section IV of this program announcement. Grant-related and business management information may be obtained from the Grants Management Specialist through the information listed under Section IV of this program announcement. Please note that the telephone numbers provided are not toll-free.

VIII. Other Information

The IHS will have four training sessions to assist applicants in preparing their FY 2006 TMG application. There will be one 5-day training session and three 2-day training sessions. The 5-day training session will provide participants with basic grant writing skills, information regarding where to search for funding opportunities, and the opportunity to begin writing a TMG grant proposal. The 2-day training sessions will focus specifically on the TMG requirements providing participants with information contained in this announcement, clarifying any issues/questions applicants may have, and critiquing project ideas. In an effort to make the 2-day training sessions productive, participants are expected to bring draft proposals to these meetings.

Priority will be given to groups eligible to apply for the TMG Program.

Participation is limited to two personnel from each Tribe or Tribal organization. All sessions are first come—first serve with the above limitations noted. All participants are responsible formaking and paying for their own travel arrangements. Interested parties should register with the TMG staff prior to making travel arrangements to ensure space is available in selected session. There is no registration fee to attend the training session(s). The registration form may be obtained from the application kit or by accessing the TMG Web site at: *http://www.ihs.gov/nonmedicalprograms/tmg/index.asp*. The registration form may be faxed to (301) 443–4666. The training dates are listed below in chronological order and the training sessions will take place in the hotel identified:

- May 23–27, 2005—Oklahoma City, Oklahoma (Limit 26; Registration/Reservation deadline: May 6, 2005), Crowne Plaza, 2945 Northwest Expressway, Oklahoma City, OK 73112, (405) 848–4811—Reference: IHS TMG, Hotel rate: $66.00/single or double plus 13.875% tax.
- June 15–16, 2005—Albuquerque, New Mexico (Limit 24; Registration/Reservation deadline: May 27, 2005), Courtyard Albuquerque Airport, 1920 Yale Boulevard, Albuquerque, NM 87106, (505) 843–6600—Reference: IHS TMG, Hotel rate: $68.00/single or double plus 12.0625% tax.
- June 29–30, 2005—Seattle, Washington (Limit 24; Registration/Reservation deadline: June 11, 2005), Holiday Inn Express City Center, 211 Dexter Avenue North, Seattle, WA 98109, (206) 728–8123—Reference: IHS TMG, Hotel rate: $119.00/single or double plus 15.6% tax.
- July 13–14, 2004—Grand Rapids, Michigan (Limit 24; Registration/Reservation deadline: June 24, 2005), AmeriSuites Grand Rapids/Airport, 5401 28th Street Court SE., Grand Rapids, MI 49546, (616) 940–8100—Reference: IHS TMG, Hotel rate: $74.00/single or double plus 13% tax.

The Public Health Service (PHS) strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Dated: April 28, 2005.

Phyllis Eddy,

Acting Deputy Director, Indian Health Service.

[FR Doc. 05–9013 Filed 5–5–05; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Organization, Functions, and Delegations of Authority

Part G—Indian Health Service

Part G, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), as amended at 52 FR 47053–47067, December 11, 1987, as amended at 60 FR 56606, November 9, 1995, and most recently amended at 61 FR 67048, December 19, 1996, is hereby amended to reflect a reorganization of the Indian Health Service (IHS) Headquarters (HQ). The goal of the reorganization is to demonstrate increased leadership and advocacy, while improving the Agency's responsibilities for oversight and accountability. We have considered the President's Management Agenda, the Secretary's Workforce Restructuring Plan and recommendations from the Indian Health Design Team and the IHS Restructuring Initiatives Workgroup. Delete the functional statements for the IHS Headquarters in their entirety and replace with the following:

Chapter GA

Office of the Director

Section GA–10, Indian Health Service—Organization

The IHS is an Operating Division within the Department of Health and Human Services (HHS) and is under the leadership and direction of a Director who is directly responsible to the Secretary of Health and Human Services. The IHS Headquarters consists of the following major components:

Office of the Director (GA)
Office of Tribal Self-Governance (GAA)
Office of Tribal Programs (GAB)
Office of Urban Indian Health Programs (GAC)
Policy Formulation and Communications Group (GAE)
Office of Clinical and Preventive Services (GAF)
Office of Information Technology (GAG)
Office of Public Health Support (GAH)
Office of Resource Access and Partnerships (GAJ)
Office of Finance and Accounting (GAK)
Office of Management Services (GAL)
Office of Environmental Health and Engineering (GAM)

Section GA–20, Indian Health Service—Functions

Office of the Director (OD) (GA)

Provides overall direction and leadership for the IHS: (1) Establishes goals and objectives for the IHS consistent with the mission of the IHS; (2) provides for the full participation of Indian Tribes in the programs and services provided by the Federal Government; (3) develops health care policy; (4) ensures the delivery of quality comprehensive health services; (5) advocates for the health needs and concerns of American Indians/Alaska Natives (AI/AN); (6) promotes the IHS programs at the local, State, national, and international levels; (7) develops and demonstrates alternative methods and techniques of health services management and delivery with maximum participation by Indian Tribes and Indian organizations; (8) supports the development of individual and Tribal capacities to participate in Indian health programs through means and modalities that they deem appropriate to their needs and circumstances; (9) ensures the responsibilities of the United States are not waived, modified, or diminished, in any way with respect to Indian Tribes and individual Indians, by any grant, contract, compact, or funding agreement awarded by the IHS under the Indian Self-Determination and Education Assistance Act, Public Law (Pub. L.) 93–638, as amended; (10) affords Indian people an opportunity to enter a career in the IHS by applying Indian preference; and (11) ensures full application of the principles of Equal Employment Opportunity laws and the Civil Rights Act in managing the human resources of the IHS.

Office of Tribal Self-Governance (OTSG) (GAA)

(1) Develops and oversees the implementation of Tribal self-governance legislation and authorities in the IHS, under Title V of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, as amended; (2) develops and recommends policies, administrative procedures, and guidelines for IHS Tribal self-governance activities, with maximum input from IHS staff and workgroups, Tribes and Tribal organizations, and the Tribal Self-Governance Advisory Committee; (3) advises the IHS Director on Agency compliance with self-governance policies, administrative procedures and guidelines and coordinates activities for resolution of problems with appropriate IHS and HHS staff; (4) provides resource and technical assistance to Tribes and Tribal organizations for the implementation of the Tribal Self-Governance Program (TSGP); (5) participates in the reviewing of proposals from Tribes for self-governance planning and negotiation grants and recommends approvals to the IHS Director; (6) determines eligibility for Tribes and Tribal organizations desiring to participate in the TSGP; (7) oversees the negotiation of self-governance compacts and annual funding agreements with participating Tribal governments; (8) identifies the amount of Area Office and Headquarters managed funds necessary to implement the annual funding agreements and prepares annual budgets for available Tribal shares in conjunction with IHS Area and Headquarters components; (9) coordinates semi-annual reconciliation of funding agreements with IHS Headquarters components, Area Offices, and participating Tribes; (10) serves as the principal IHS office for developing, releasing, and presenting information on behalf of the IHS Director related to the IHS Tribal self-governance activities to Tribes, Tribal organizations, HHS officials, IHS officials, and officials from other Federal agencies, State and local governmental agencies, and other agencies and organizations; (11) arranges national self-governance meetings to promote the participation by all AI/AN Tribes in IHS self-governance activities and program direction; (12) participates in meetings for Self-Governance Tribal delegations visiting IHS Headquarters; and (13) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Office of Tribal Programs (OTP) (GAB)

(1) Assures that Indian Tribes and Tribal organizations are informed regarding pertinent health policy and program management issues; (2) assures that consultation and participation by Indian Tribes and organizations occurs during the development of IHS policy and decision making; (3) provides overall Agency leadership concerning functions and responsibilities associated with self-determination contracting (Title I of the Indian Self-Determination Act); (4) advises the IHS Director and senior management on activities and issues related to self-determination

contracting; (5) monitors Agency compliance with self-determination policies, administrative procedures, and guidelines; (6) administers a national grant program designed to assist Tribes and Tribal organizations in beginning and/or expanding self-determination activities; (7) provides Agency leadership in the development of policy; (8) discharges operational responsibilities, with respect to the contract support cost (CSC) program administered by the IHS; (9) provides advice to the IHS Director and senior management on Tribal issues and concerns by acting as liaison with Tribal leaders, national Tribal organizations, inter-Tribal consortiums and Area health boards; (10) provides leadership in the management process of receiving visiting delegations of Tribal leaders and representatives to IHS Headquarters and provides staff assistance to the Office of the Director with respect to Tribal meetings at locations outside of Headquarters; (11) provides overall Agency leadership with respect to policy development and issues concerning the Federal recognition of new Tribes; (12) supports Tribes in managing health programs; (13) coordinates available support from other public and private agencies and organizations; (14) maintains a central database on relevant information to contact Tribal leaders, health programs, etc.; and (15) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Office of Urban Indian Health Programs (OUIHP) (GAC)

(1) Advises the IHS Director on the activities and issues related to the IHS'' implementation of Title V, ''Indian Health Care Improvement Act'', as amended; (2) develops and recommends policies, administrative procedures, and guidelines for IHS services and activities for Urban Indian health programs and organizations; (3) assures that Urban Indian health programs and organizations are informed of pertinent health policies; (4) ensures that consultation with Urban Indian health programs and organizations occurs during the development of IHS policy; (5) supports Urban Indian health programs and organizations in managing health programs; (6) coordinates support available from other public and private agencies and organizations; (7) advises the IHS Director on Agency compliance with Urban Indian health program policies, administrative procedures, and guidelines; (8) maintains relevant information on Urban Indian health programs and organizations; (9) coordinates meetings and other communications with Urban Indian health program representatives; and (10) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Policy Formulation and Communications Group (PFCG) (GAE)

(1) Coordinates the review and analysis of policy-related issues; (2) provides recommendations for resolving policy conflicts; (3) evaluates policy options and forecasts their costs, benefits, and long-term results; (4) ensures consistency between and within public agency statements, external correspondence, legislative and regulatory positions and internal policy development; (5) disseminates information to IHS consumers, stakeholders, and the general public regarding the activities of the IHS and the health status of AI/AN people and communities; and (6) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Public Affairs Staff (PAS) (GAE1)

(1) Serves as the principal advisor for strategic planning on communications, media relations, and public affairs policy formulation and implementation; (2) ensures IHS policy is consistent with directives from the Assistant Secretary for Public Affairs; (3) provides leadership and advocacy to establish and implement policy for internal and external dissemination of Agency information intended for public release or employee and stakeholder information; (4) serves as the central office for technical guidance and assistance to IHS staff for the development of internal and external communications; (5) coordinates public affairs activities with other public and private sector organizations; (6) coordinates the clearance of IHS public relations activities, campaigns, and communications materials; (7) represents the IHS in discussions regarding policy and public affairs initiatives/implementation; (8) provides technical assistance and advice relative to the effect public affairs initiatives/implementation would have on the IHS; (9) collaborates with the Division of Regulatory Affairs, Records Access and Policy Liaison for review and response to media requests received under the Freedom of Information Act (FOIA) or the Privacy Act, and ensures the security of IHS documents used in such responses that contain sensitive and/or confidential information; and (10) serves as the IHS liaison office for press and public affairs with HHS, IHS Area Offices, media and other external organizations and representatives.

Equal Employment Opportunity and Civil Rights Staff (EEO) (GAE2)

(1) Administers the IHS equal employment opportunity, civil rights, and affirmative action programs, in accordance with applicable laws, regulations, and HHS policies; (2) plans and oversees the implementation of IHS affirmative employment and special emphasis programs; (3) reviews data on IHS employee personnel actions and advises IHS managers of possible discriminatory trends; (4) ensures immediate implementation of required actions on complaints of alleged sexual harassment or discrimination; (5) decides on accepting, for investigation, or dismissing discrimination complaints and evaluates accepted complaints for procedural sufficiency and investigates, adjudicates, and resolves such complaints; and (6) develops EEO education and training programs for IHS managers, supervisors, counselors, and employees.

Executive Secretariat Staff (ESS) (GAE3)

(1) Serves as the Agency's liaison with the Office of the Secretary's Executive Secretariat on IHS program, policy, and special matters; (2) reviews correspondence received by the IHS Director and assigns reply or follow-up action to appropriate IHS Headquarters program offices and IHS Area Offices; (3) ensures the quality (responsiveness, clarity, and substance) of IHS-generated correspondence prepared for the IHS Director's signature by coordinating the review of integrity and policy issues, and performing standard edits and revisions; (4) reviews and coordinates clearance of decision documents for the IHS Director's approval to ensure successful operations and policy-making within the Agency; (5) assists IHS officials as they prepare documents for the HHS Secretary's review, decision, and/or signature; (6) performs special writing assignments for the IHS Director; (7) manages the flow of executive correspondence and related information to Tribes, Tribal organizations, heads of Federal

departments and agencies, Congressional Staff offices, and members of Congress; (8) maintains official records for the IHS Director's correspondence and conducts topic research of files, as needed; (9) maintains an automated document tracking and reporting system (ATS) to assist in managing the timely processing of internal and external executive correspondence; (10) conducts training to promote conformance by IHS Headquarters and Area staff to the IHS Executive Correspondence Guidelines and the ATS system; and (11) tracks reports required by Congress.

Congressional and Legislative Affairs Staff (CLAS) (GAE4)

(1) Serves as the principal advisor to the IHS Director on all legislative and Congressional relations matters; (2) advises the IHS Director and other IHS officials on the need for changes in legislation and manages the development of IHS legislative initiatives; (3) serves as the IHS liaison office for Congressional and legislative affairs with Congressional offices, the HHS, the Office of Management and Budget (OMB), the White House, and other Federal agencies; (4) tracks all major legislative proposals in the Congress that would impact Indian health; (5) ensures that the IHS Director and appropriate IHS and HHS officials are briefed on the potential impact of proposed legislation; (6) represents the IHS in discussions regarding policy and legislative initiatives/implementation; (7) provides technical assistance and advice relative to the effect that initiatives/implementation would have on the IHS; (8) establishes collaborations with Headquarters Offices on programmatic and financial issues related to budget formulation; (9) conducts legislative analysis; (10) provides support and serves as liaison to the IHS Director relative to IHS appropriations efforts; (11) directs the development of IHS briefing materials for Congressional hearings, testimony, and bill reports; (12) analyzes legislation for necessary action within the IHS; (13) develops appropriate Legislative Implementation Plans; and (14) coordinates with IHS offices as appropriate to provide leadership, advocacy, and technical support to respond to requests from the public, including Tribal governments, Tribal organizations, and Indian community organizations regarding IHS legislative issues.

Management Policy and Internal Control Staff (MPICS) (GAE5)

(1) Formulates, administers, and supports IHS-wide policies, delegations of authority, and organizations and functions development; (2) provides leadership, on behalf of the IHS Director, to functional area managers at IHS Headquarters in developing, modifying, and overseeing the implementation of IHS policies and procedures; (3) provides analysis, advisory, and assistance services to IHS managers and staff for the development, clearance, and filing of IHS directives and delegations of authority; (4) serves as principal advisor and source for technical assistance for establishment or modification of organizational infrastructures, functions, and Standard Administrative Code configurations; (5) administers the IHS Management Control Program for assuring IHS' compliance with management control requirements in the Federal Managers' Financial Integrity Act; (6) coordinates the development, clearance, and transmittal of IHS responses and follow-up to reports issued by the Office of Inspector General (OIG), the General Accounting Office (GAO), and other Federal internal and external authorities; (7) provides assistance and support to special assigned task groups; (8) conducts special program or management integrity reviews as required; and (9) oversees and coordinates the annual development and submission of the Agency's Federal Activities Inventory Reform Act report to the HHS.

Policy Support Staff (PSS) (GAE6)

(1) Organizes, facilitates, and supports stakeholder task teams to advise the IHS Director on major policy issues; (2) represents the IHS Director in meetings with IHS employees and high-level management officials within the IHS, the HHS, or other Federal agencies, Tribes, and other organizations; (3) provides staff support to the IHS Director, including preparation of presentations and briefings; (4) provides staff support to senior managers, councils and groups; (5) completes special assignments for the IHS Director that may require coordination with other IHS offices or other Federal agencies, Tribes, or Tribal organizations; (6) serves as the IHS liaison for inter-governmental and private sector initiatives that impact health care services and management of the IHS; and (7) participates on inter-governmental task forces.

Office of Clinical and Preventive Services (OCPS) (GAF)

(1) Serves as the primary source of national advocacy, policy development, budget development and allocation for clinical, preventive, and public health programs for the IHS, Area Offices, and Service Units; (2) provides leadership in articulating the clinical, preventive, and public health needs of AI/AN, including consultation and technical support to clinical and public health programs; (3) develops, manages, and administers program functions that include, but are not limited to, alcohol and substance abuse, behavioral health, chronic diseases such as diabetes, asthma, dental services, medical services, domestic violence, pharmacy and pharmaceutical acquisition, community health representatives, emergency medical services, health records, disabilities, Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS), maternal health, child health, clinical nursing, professional credentialing, public health nursing, women's health, nutrition and dietetics, and elder care; (4) investigates service delivery and community prevention evidence-based and best practice models for dissemination to community service locations; (5) expands the availability of resources available for AI/AN health by working with public and private entities as well as Federal agencies within and outside the HHS; (6) coordinates development of staffing requirements for new or replacement health care facilities and approves Congressional budget requests for staffing, in collaboration with the Office of Environmental Health and Engineering; (7) provides program oversight and direction for the facilities planning and construction process; (8) develops and coordinates various Health Initiative and Nursing grant programs; (9) provides the national focus for recruitment and retention of health professionals and coordinates with the scholarship and loan repayment programs; (10) works with the Contract Health Services (CHS) program on CHS denial appeals to the IHS Director and in determining CHS medical priorities; (11) manages the clinical (medical, nursing, pharmacy, dental) features of medical tort claims against the IHS; (12) works with the Office of Management Services in managing the clinical aspects of the IHS workman's compensation claims; (13) oversees IHS efforts in a variety of quality assurance and improvement activities, including patient safety; (14) monitors approximately one-half of the IHS' Government Performance and

Results Act (GPRA) indicators, overseeing indicator development, data collection, and reporting results; and (15) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, border health initiatives, Tribal delegation meetings, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Emergency Preparedness and Emergency Medical Services Staff (EPEMSS)

(1) Provides overall direction and leadership for the IHS in regard to establishing IHS goals and objectives consistent with those of the Department of Homeland Security and the HHS, addressing the mission critical elements of emergency preparedness; (2) provides leadership for the development of emergency preparedness plans, policies, and services, including the continuity of operations plans, deployment, public health infrastructure, and emergency medical services; (3) coordinates IHS activities and resources with the activities and available resources of other government and non-government programs for essential services related to homeland security and emergency preparedness; (4) advocates for the emergency preparedness needs and concerns of AI/AN and promotes these program activities at the local, State, national, and international levels; and (5) advocates and coordinates support for Tribal emergency medical services programs, including training and equipment.

Division of Behavioral Health (DBH) (GAFA)

(1) Applies identified profession and program standards, monitors and evaluates community and Area-wide services provided through grants or contracts with AI/AN Tribes, villages, organizations, and direct IHS operations for mental health, social services, and alcohol/substance abuse; (2) coordinates AI/AN community behavioral health programs including alcohol/substance abuse prevention and treatment, mental health, and social work with program directors, division staff, Area staff, and other agencies and institutions; (3) coordinates contracts and grants for behavioral health services and monitors services provided; (4) makes program and policy changes using data analysis, recommendations from operational levels, research results, and coordinates resource allocation from program policies; (5) provides behavioral health program consultation to AI/AN groups and IHS staff; (6) provides leadership in the identification of behavioral change interventions and supports implementation at the community level; (7) coordinates with Federal, State, professional, private, and community organizations on alternate health care resources; (8) works with other Federal agencies and departments to provide additional Federal resources for AI/AN behavioral health programs; (9) provides financial resources and programmatic oversight for complying with the Americans With Disabilities Act through programs such as the Indian Children's Program, and for elders through partnerships with the Administration on Aging and the National Indian Council on Aging; (10) measures and evaluates the quality of behavioral health care services; and (11) prepares information on behavioral health for budgetary hearings and provides program evaluation results to the IHS Director, the Congress, and the Administration.

Division of Clinical and Community Services (DCCS) (GAFB)

(1) Manages, develops, and coordinates a comprehensive clinical, preventive and public health approach to clinical and community programs focusing on maternal and child health, Indian children services including Head Start and Early Head Start Health Programs, medicine, nutrition, HIV/AIDS, pharmacy, laboratory, health records, health education, health promotion, and disease prevention; (2) develops objectives, priorities, and methodologies for the conduct and evaluation of clinical, preventive, and public health for community health-based programs; (3) provides, develops, and implements IHS guidelines, standards, policies, and procedures on clinical, preventive, and public health for community based programs and initiatives; (4) monitors, evaluates, and provides consultation to clinical and community programs; (5) plans jointly with other programs and divisions of the IHS and other agencies on research and coordination of services; (6) coordinates professional staff recruitment and training needs, and scholarship recipient assignments and development to meet Area Office, Service Unit, and Tribal health professional human resource needs; (7) coordinates and monitors contracts and grants with IHS programs and other entities, in collaboration with the Division of Acquisitions Policy and the Division of Grants Operations; (8) develops and disseminates information and materials to IHS facilities and to Tribes and Urban Indian health programs; (9) is responsible for resource management, program data collection, administrative system integrity and accountability by developing program budget materials and responding to Congressional and Departmental inquiries; and (10) manages the Veterans Affairs Pharmaceutical Prime Vendor Contract and IHS National Core Formulary.

Division of Nursing Services (DNS) (GAFC)

(1) Plans, develops, coordinates, evaluates, manages and advocates for the Nursing Services, Women's Health, and Community Health Representative Programs; (2) identifies and establishes standards for these programs; (3) provides leadership, professional guidance, and staff development; (4) plans, develops, coordinates, manages, and evaluates nursing education; (5) coordinates professional staff, including nursing recruitment, scholarship recipients, assignment and development to meet Area Office, Service Unit, and Tribal needs in accordance with IHS policies and procedures; (6) provides guidance in planning, developing, and maintaining management information systems; and (7) prepares budgetary data, analysis and program evaluations and prepares information for program and budget presentations, as well as Congressional hearings.

Division of Oral Health (DOH) (GAFD)

(1) Plans, develops, coordinates, and evaluates dental health programs; (2) establishes staffing, procedural, facility, and dental contract standards; (3) coordinates professional recruitment, assignment, and staff development; (4) represents dental staff and Area Dental Programs in personnel matters, including the monitoring of personnel orders for both appointments and transfers, establishing promotion priority lists, processing special pay and retention bonus contracts, and serving as the HQ representative on adverse action cases; (5) improves effectiveness and efficiency of dental programs; (6) develops resource opportunities and monitors utilization of resources for dental health programs; (7) formulates, allocates and analyzes dental program budget and prepares information for program and budget presentations as well as Congressional inquiries; (8) advocates for oral health needs of the AI/AN population; (9) coordinates health promotion and disease prevention activities for the dental program; (10) monitors oral health status and treatment needs of the AI/AN population; (11) provides clinical and technical support to field staff by way

of oral health surveys, provision of clinical trials, consultation on treatment cases, publication of quarterly newsletters and serving as liaison with public and private institutions, as well as major universities to evaluate new and existing strategies for addressing oral health problems in AI/AN; (12) serves as the IHS liaison for oral health issues with other Federal agencies; (13) serves as main source of information transfer to field staff via mediums including, but not limited to, teleconference hookups, electronics (email/listservs), conventional mail and meeting attendance; and (14) maintains and distributes information from the IHS centralized dental database, including workload, program resource directories and exploring the applicability of new health informatics technologies and systems.

Division of Diabetes Treatment and Prevention (DDTP) (GAFE)

(1) Plans, manages, develops, coordinates, and evaluates a comprehensive clinical and community program focusing on type 2 diabetes in AI/AN communities; (2) plans, manages, develops, coordinates, and evaluates the Congressionally-mandated Special Diabetes Program for Indians, a large grant program focused on the prevention and treatment of diabetes; (3) coordinates and monitors contracts and grants with IHS, Tribal, Urban Indian health programs and other entities; (4) develops objectives, priorities and methodologies for the conduct of clinical and community diabetes programs; (5) monitors, evaluates, and provides consultation to clinical and community diabetes grant programs and other new initiatives; (6) provides leadership, professional guidance, and staff development to Area Diabetes Consultants, Model Diabetes Programs and Diabetes Field Coordinators; (7) coordinates diabetes training needs for Area Offices, Service Units, and Tribes; (8) develops and implements IHS standards of care, clinical guidelines, policies, and procedures for diabetes and diabetes-related conditions; (9) coordinates model diabetes program sites; (10) develops and disseminates diabetes-related information and materials to IHS, Tribes and Urban Indian health programs; and (11) is responsible for preparing budgetary data, analysis and program evaluations for budget presentations and Congressional hearings.

Office of Information Technology (OIT) (GAG)

(1) Provides Chief Information Officer (CIO) services and advises the IHS Director on all aspects of information resource management and technology ensuring Agency compliance with related Federal laws, regulations and policies; (2) directs the development, implementation, and maintenance of policies, procedures, standards, and architecture for information resource management, technology activities, and services in the IHS; (3) directs strategic planning and budgeting processes for information resources and technology; (4) leads IHS efforts in the development and implementation of information resource and technology management initiatives in IHS; (5) directs the design, development, acquisition, implementation, and support of information systems and services used in the IHS; (6) directs the activities of the IHS Information Technology Investment Review Board in assessing, implementing, and reviewing the Agency's information systems; (7) contracts for information resource and technology-related software, equipment and support services in collaboration with appropriate acquisition authorities; (8) provides project management support for information resource and technology initiatives; (9) directs the development, implementation and management of the IHS Information Technology Security program to protect the information resources of the IHS; (10) provides information technology services and support to IHS, Tribal, and Urban Indian health programs; (11) ensures accessibility to information technology services; (12) represents the IHS and enters into information technology agreements with Federal, Tribal, State and other organizations; and (13) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations, and resolution of audit findings as may be needed and appropriate.

Division of Information Technology (DIT) (GAGA)

(1) Provides Chief Technology Officer services and advises the CIO on all aspects of information technology; (2) develops, implements, and maintains policies, procedures and standards for information resource management and technology products and services in the IHS; (3) develops and maintains information technology strategic planning documents; (4) develops and maintains the IHS enterprise architecture; (5) develops and implements information technology management initiatives in IHS; (6) ensures IHS information technology infrastructure resource consolidation and standardization efforts support IHS healthcare delivery and program administration; (7) represents the IHS to Federal, Tribal, State, and other organizations; and (8) participates in cross-cutting issues and processes that involve information technology.

Division of Information Resources Management (DIRM) (GAGB)

(1) Advises the CIO on all aspects of information resources management; (2) develops information resource policies and procedures; (3) develops the IHS information technology budget and related documents; (4) provides budget analyses and reports to the CIO; (5) develops strategies for presenting the IHS information technology budget to IHS, Tribal, and Urban Indian health programs; (6) provides technical analyses, guidance, and support for IHS capital planning and investment control activities; (7) manages the IHS portfolio management tool; (8) manages the activities of the IHS Information Technology Investment Review Board in assessing, implementing and reviewing the Agency's information systems; (9) represents the IHS to Federal, Tribal, State, and other organizations; and (10) participates in the cross-cutting issues and processes that involve information resources management.

Division of Enterprise Project Management (DEPM) (GAGC)

(1) Advises the CIO on all aspects of information technology project management; (2) develops project management policies and procedures; (3) identifies alternatives among internal and external sources and recommends the best sources to supply information resource and technology products and services to IHS; (4) develops information resource and technology project governance structures, management plans, evaluations, protocols, documentation guides, and related materials to support effective project management; (5) provides project management and related support for IHS developed and acquired information resource and technology products and services; (6) provides customer relationship management support to project stakeholders; (7) provides quality assurance and risk management support; (8) provides contract management support for information technology initiatives; (9) provides contract liaison services to appropriate acquisition authorities; (10) represents the IHS to Federal, Tribal, State, and other organizations; and (11) participates in cross-cutting issues and processes that involve information

resources and technology project management.

Division of Information Security (DIS) (GAGD)

(1) Advises the CIO on all aspects of information security; (2) develops, implements and monitors the IHS Information Technology Security program to protect the information resources of the IHS; (3) develops and maintains cyber security policies and guidance for hardware, software, and telecommunications within the IHS; (4) reviews IHS security plans for sensitive systems; (5) evaluates safeguards to protect major information systems and the information technology infrastructure; (6) monitors all IHS systems development and operations for security and privacy compliance; (7) establishes and leads IHS teams to conduct reviews of Agency programs to protect IHS' cyber and personnel security programs; (8) conducts vulnerability assessments of IHS' information technology infrastructure; (9) coordinates activities with internal and external organizations reviewing the IHS' information resources for fraud, waste, and abuse; (10) develops, implements, and evaluates an employee cyber security awareness and training program; (11) establishes and leads the IHS Computer Security Incident Response Capability team; (12) represents the IHS to Federal, Tribal, State, and other organizations; and (13) participates in cross-cutting issues and processes that involve information security.

Office of Public Health Support (OPHS) (GAH)

(1) Advises and supports the IHS Director on policy, budget formulation, and resource allocation regarding the operation and management of IHS, Tribal, and Urban Indian health programs; (2) provides IHS-wide leadership, guidance and support for public health program and activities including strategic planning, evaluation, Government Performance and Results Act (GPRA), research, epidemiology, statistics, and health professions; (3) provides Agency-wide leadership and consultation to IHS, Tribal, and Urban Indian health programs on IHS goals, objectives, policies, standards, and priorities; (4) advocates for the public health needs and concerns of AI/AN and promotes quality health care; (5) manages and provides national leadership and consultation for IHS on assessments of public health medical services, research agendas, special pay, and public health initiatives for the Agency; (6) provides national leadership for the IHS scholarship and loan repayment programs, including physician recruitment; (7) supports and advocates for AI/AN to access State and local public health programs; and (8) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Division of Epidemiology (GAHA)

(1) Prevents and controls chronic and communicable disease through epidemiology and applied public health practice; (2) builds capacity in Tribal communities through a network of Tribal Epidemiology Centers; (3) collaborates with the Centers for Disease Control and Prevention (CDC) staff detailed to the Division of Epidemiology from the CDC; (4) describes causes, patterns, and risk factors for disease and death, and develops public health policy; (5) serves IHS and Tribal communities through disease surveillance, health data management, analysis and reporting, community surveys, emergency response, training in public health practice and epidemiology, consultation to clinicians and technical support for public health activities and assessment of public health system performance; (6) supports epidemiology, disease control, and prevention programs for chronic diseases, including cancer, tobacco control, cardiovascular disease, diabetes, kidney disease, environmental health, maternal health, child health, and others; and (7) supports epidemiology, disease control, and prevention programs for communicable diseases, including tuberculosis, HIV/AIDS, sexually-transmitted diseases, hepatitis, hantavirus, antibiotic-resistant infections, immunizations, bioterrorism preparedness and others.

Chronic Disease Branch (CDB)

Supports epidemiology, disease control, and prevention programs for chronic diseases, including cancer, tobacco control, cardiovascular disease, diabetes, kidney disease, environmental health, maternal health, child health, and others.

Infectious Disease Branch (IDB)

Supports epidemiology, disease control, and prevention programs for communicable diseases, including tuberculosis, HIV/AIDS, sexually-transmitted diseases, hepatitis, hantavirus, antibiotic-resistant infections, immunizations, bioterrorism preparedness, and others.

Division of Program Statistics (DPS) (GAHB)

(1) Plans, develops, directs, and coordinates an analytical statistical reporting program to provide data for measuring the health status and unmet health needs of the AI/AN population; (2) develops and coordinates the collection, processing, and analysis of demographic, patient care, and clinical data for the Agency; (3) maintains, analyzes, makes accessible, and publishes results from national demographic and clinical analyses; and (4) provides statistical and analytical consultation to other divisions and agencies.

Demographics Staff (DS)

(1) Plans, develops and executes a major nation-wide statistical program for the collection, processing, analysis and dissemination of demographic characteristics of the AI/AN population located throughout the United States; (2) coordinates with the National Center for Health Statistics the analysis and reporting of vital event information for the AI/AN population; and (3) provides statistical and analytical consultation to other divisions and agencies.

Patient Care Statistics Staff (PCSS)

(1) Plans, develops and executes a major nation-wide statistical program for the collection, processing, analysis and dissemination of demographic data and special studies with emphasis on health and demographic characteristics of the AI/AN population located throughout the United States; (2) evaluates facility workload trends and participates in the development of methodologies for constructing long-range estimates of inpatient and ambulatory care workloads for use in facility construction and planning; and (3) coordinates with the IHS National Data Repositories, the analysis and reporting of program, patient care and clinical data for the Agency.

Division of Planning, Evaluation and Research (DPER) (GAHC)

(1) Develops and coordinates Agency strategic planning and performance measurement efforts (including GPRA and Program Assessment Rating Tool) with budgeting requirements in consultation with IHS program staff; (2) provides consultation and coordination on the IHS budget formulation activity for planning and data purposes; (3) conducts, facilitates, solicits, coordinates, and evaluates community-oriented practice-based research related to health problems and the delivery of care to AI/AN people and communities with a major focus on improving the

health status and systems of care; and (4) provides guidance and support for IHS-wide program evaluation projects.

Division of Health Professions Support (DHPS) (GAHD)

(1) Develops and implements IHS programs to recruit, select, assign, and retain health care professionals and coordinates these activities with the respective disciplines; (2) assesses professional staffing needs and coordinates the development of strategies and systems to satisfy these needs; (3) coordinates the planning and development of IHS strategies and systems to improve the morale and retention of all professionals; (4) coordinates Headquarters activities for physician residency and training programs; (5) coordinates the IHS National Health Service Corps (NHSC) program, including liaison and assignment of NHSC scholarship recipients to IHS; (6) develops priority sites for the loan repayment program; (7) coordinates placement of professionals with loan repayment obligations; (8) serves as IHS coordinator for pre-medical and medical school IHS scholarship recipients; (9) retrieves, establishes, and manages information and data on the IHS work force; and (10) conducts work force data analyses, including trends and projections, identifying work force needs by major personnel systems, categories, and disciplines.

Health Professions Support Branch (HPSB)

(1) Develops the IHS program to recruit, select, assign, and retain health care professionals, in accordance with policies and guidance provided by the Division of Human Resources; (2) assesses IHS professional staffing needs; (3) provides research and analysis functions for Chief Medical Officers, Clinical Directors, and senior clinicians; (4) manages and supports health professions education programs and activities; and (5) develops and administers Indian Health Professions programs authorized by the Indian Health Care Improvement Act (IHCIA), as amended.

Loan Repayment Branch (LRB)

(1) Awards, monitors, places (in IHS, Tribal, and Urban sites), and processes waivers and defaults of participants in the Loan Repayment Program (LRP) as mandated by Section 108 of the IHCIA; (2) coordinates the LRP payment and debt management function with the Program Support Center; and (3) coordinates program administration with the IHS Area Office and Service Unit personnel, particularly placement activities, including Clinical Directors, Chief Medical Officers, and professional recruiters.

Scholarships Branch (SB)

Develops, administers, and evaluates programs in the IHS Scholarship Program authorized under the IHCIA: Section 102 (Health Professions Recruitment Program for Indians), Section 103 (Health Professions Preparatory Scholarship Program for Indians), Section 104 (Indian Health Professions Scholarship Program), Section 105 (IHS Externs Program), Section 120 (Matching Grants to Tribes for Scholarship Programs), Section 217 (Indians Into Psychology Program), and other funded programs authorized under the IHCIA.

Office of Resource Access and Partnerships (ORAP) (GAJ)

(1) Provides Agency-wide leadership and consultation to the IHS direct operations and Tribal programs on IHS goals, objectives, policies, standards and priorities regarding the operations and management of the Business Office Services (BOS) and the Contract Health Services (CHS) programs; (2) develops and implements objectives, priorities, standards, measures and methodologies for the BOS and CHS programs; (3) manages and provides leadership, advocacy, consultation and technical support to Headquarters, IHS Areas and local levels on the full scope of BOS and CHS activities; (4) represents the IHS at meetings and in discussions regarding policy, legislation and other national issues; (5) provides oversight and monitors the BOS and CHS programs regarding compliance requirements, utilization reviews, revenue measures and reports; (6) formulates and analyzes BOS and CHS budgets and prepares information for program budget presentations; (7) collaborates and coordinates with IHS information technology staff and external organizations on new technologies, applications and business practices; (8) develops resource opportunities and coordinates the BOS and CHS activities with other governmental and non-governmental programs, promoting optimum utilization of all available health resources; (9) maintains a database of all inter-agency agreements, intra-agency agreements, memoranda of agreement and memoranda of understanding with external organizations; and (10) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, and resolution of audit findings as may be needed and appropriate.

Division of Business Office Enhancement (DBOE) (GAJA)

(1) Serves as the primary focal point for BOS program operations and policy issues and represents BOS in national forums; (2) provides consultation to Headquarters and Area Offices and is liaison to Tribal organizations, HHS and Office of Management and Budget (OMB) regarding BOS issues; (3) reviews and improves the efficiency of access to resources and provides support for local capacity building through technical assistance, training, consultation and information systems support; (4) develops, disseminates, and maintains BOS policy and procedures manuals; (5) provides national leadership for Medicare, Medicaid, and private insurance reimbursement policy and procedures; (6) serves as the primary liaison with the Center for Medicaid/Medicare Services for rate setting; (7) serves as the focal point regarding Medicare and Medicaid managed care activities, including the review, evaluation, and monitoring of Sections 1115 and 1915(b) Medicaid waiver proposals and other State and Federal health care reform activities; (8) provides programmatic management, review and analysis of information systems for patient registration and billing and collections systems; (9) assures training on operations, various regulatory issues and negotiated managed care provider agreements; and (10) develops third-party budget materials and responds to Tribal, Congressional and HHS inquiries relating to third-party issues.

Division of Contract Care (DCC) (GAJB)

(1) Plans, develops, and coordinates the CHS program and required business practices; (2) develops, disseminates, and maintains CHS policy and procedures manuals; (3) formulates and monitors the CHS budget and distribution methodologies; (4) administers the Catastrophic Health Emergency Fund; (5) administers the CHS Quality Assurance Fund; (6) administers the CHS claims adjudication activity for the IHS Headquarters; (7) monitors the implementation of the IHS payment policy and reports the status to the Director, ORAP; (8) administers the IHS Fiscal Intermediary contract; (9) conducts data analysis and national utilization review and utilization management of CHS services rendered by private sector providers; and (10) provides consultation to Headquarters and Area Offices, and responds to

inquiries from the Congress, Tribes, and other Federal agencies.

Office of Finance and Accounting (OFA) (GAK)

(1) Develops and prepares the budget submission for the Indian Health Service and Facilities appropriation to the HHS, OMB and the Presidents budget; (2) participates with HHS officials in budget briefings for the OMB and the Congress; (3) distributes, coordinates, and monitors resource allocations; (4) develops and implements budget, fiscal, and accounting procedures and conducts reviews and analyses to ensure compliance in budget activities in collaboration with Headquarters officials and the Tribes; (5) provides cost advisory and audit resolution services in accordance with applicable statutes and regulations; and (6) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Division of Audit (DA) (GAKA)

(1) Develops and recommends policies and procedures for Chief Financial Officer (CFO) audits; (2) develops and recommends policies and procedures for Tribes and Tribal organizations audit resolution within IHS; (3) provides advice, technical consultation, and training to IHS Headquarters, Area Offices, Tribal, and Urban Indian Health organizations for Title I, Title V, and Agency CFO audits; (4) provides audit resolution services in accordance with applicable statutes and regulations; (5) advises the Director, OFA, of proposed legislation, regulations, directives, and timelines that will affect audits within IHS, as well as how current legislation affects handling of audit-related issues; (6) manages the IHS Audit Information Management System (AIMS) and conducts analysis of data for reports and/or responses to internal and external inquiries; (7) serves as the IHS contact point to the HHS for the AIMS Report and the Accountability Report; (8) coordinates the collection of disallowed costs cited in Tribes and Tribal organizations audits; (9) coordinates the correction of non-monetary findings coded by the HHS in Tribes and Tribal organizations audits; (10) coordinates receipt of audits from all organizations funded by IHS; (11) formulates Corrective Action Plans for CFO audit deficiencies; (12) coordinates resolutions of deficiencies with IHS Headquarters senior managers and Area Directors; and (13) reports status of corrective actions to the IHS Headquarters senior managers and to the HHS.

Division of Budget Formulation (DBF) (GAKB)

(1) Interprets policies, guidelines, manual issuances, OMB circulars, and instructions from Congress, OMB, HHS, and IHS on formulation of preliminary, Departmental, and Congressional budget requests for the IHS and Indian Health Facilities appropriation requests; (2) directs the collection, review, and analysis of program and financial data from Headquarters, Area Offices, Tribes, Tribal and Urban Indian Health organizations used in determining resource requirements; (3) coordinates the preparation of the IHS preliminary, Departmental and Congressional budget justifications for the Indian Health Service and Facilities appropriations; (4) prepares witness information for hearings before the House and Senate Appropriations Committees, House Resource Committee on Interior and Insular Affairs, the Senate Committee on Indian Affairs, and other Congressional committees as requested; (5) coordinates development of responses and inserts to be used for the record by and for Congressional appropriations hearings; (6) coordinates development of briefing materials in response to Congressional concerns and hearings; and (7) develops, implements, and maintains IHS policies and procedures for Congressional budget liaison activities.

Division of Budget Execution (DBE) (GAKC)

(1) Interprets policies, guidelines, and directives from Congress, OMB, Government Accounting Office (GAO), Treasury, and the HHS on Tribal shares and execution; (2) recommends and coordinates IHS Area Budget Execution; (3) prepares apportionment requests for the Indian Health Service and Indian Health Facilities appropriations; (4) consults with the Headquarters officials on Area funding allocations; (5) maintains fund control; (6) establishes and maintains IHS Headquarters memorandum-accounts-of-obligations; (7) prepares reprogramming requests; (8) coordinates and maintains relevant information on IHS Headquarters and Area Tribal shares; (9) consults with Headquarters and Area components on Tribal share allocations; (10) advises the Director, OFA on Agency compliance with self-determination policies, administrative procedures and guidelines; (11) coordinates activities for resolution of problems with appropriate IHS Headquarters and Area staff; (12) participates in the review and reconciliation of Tribal funding agreements and certifies IHS Headquarters funding of proposals from Tribal governments in conjunction with the Office of Tribal Self-Governance and the Office of Tribal Programs; (13) manages the financial review of Tribal agreements to identify sources of funds necessary to implement the Tribal funding agreements; and (14) participates in meetings with Tribal delegations as requested.

Division of Systems Review and Procedures (DSRP) (GAKD)

(1) Reviews, interprets and comments on policies, guidelines, and manual issuances of Congress, Treasury, GAO, the HHS and IHS on systems of fiscal management, including the Unified Financial Management System (UFMS), Common Accounting Numbers/Budget and Accounting Classification Structure Crosswalk and the CORE Accounting System (CORE); (2) plans, directs, and implements fiscal policies and procedures on Headquarters and field accounting; (3) coordinates the cost accounting system for IHS; (4) reviews and analyzes accounting and financial management systems and related system interfaces; (5) supports the conversion of financial information from CORE to UFMS; (6) provides and assists Area accounting staff with accounting system transactions, correcting errors and system related emergencies; (7) serves as the Agency liaison between Agency components concerning the interface of administrative and other feeder applications with Oracle/UFMS; (8) serves as the liaison between IHS, the Program Support Center (PSC) and the HHS for reporting of prompt payment, debt management, and cash reconciliation processes; (9) coordinates, regulates, and manages the issuance of financial codes for IHS; and (10) coordinates year-end ''roll-over'' activities with PSC and IHS Headquarters and Area staffs.

Division of Financial Operations (DFO) (GAKE)

(1) Manages the IHS travel program, provides training, interprets travel regulations, conducts reviews and updates travel policy and procedures; (2) processes Headquarters travel orders and vouchers, including permanent change of station and international travel; (3) coordinates Area Directors' travel orders and vouchers; (4) coordinates the conference management functions for the Agency; (5) processes all Memoranda of Understanding (or Agreement) to verify accounting data

and ensure proper payment/collection; (6) prepares reports and analyzes third-party collection data for management; (7) analyzes various operating costs and provides PSC with Area breakouts; (8) monitors PSC disbursements to assure proper accounting; (9) participates in the development of Medicare cost reports with Headquarters, Area Offices, Service Units and contractors; (10) provides contractor with data from various data systems; (11) provides support and technical assistance to Headquarters operational components in the development of Headquarters operations budgets; (12) provides fund certification and maintains commitment registers for Headquarters components; (13) performs fund reconciliations and assists in coordination of discrepancies with financial officials; (14) maintains Headquarters staffing status reports; and (15) serves as coordinator and conducts training for the Headquarters Administrative Resource and Management System.

Office of Management Services (OMS) (GAL)

(1) Provides IHS-wide leadership, guidance and support for the management of human resources, grants, acquisition, records management, personal property and supply, and the regulations program; (2) develops and oversees the implementation of policies, procedures and delegations of authority for IHS grants management activities, including grants added to self-governance compacts; (3) ensures that Agency policies and practices for the administrative functions identified above are consistent with applicable regulations, directives and guidance from higher echelons in the HHS and other Federal oversight agencies; (4) advises the IHS Director, in conjunction with the Office of the General Counsel (OGC), on the resolution of statutory and regulatory issues related to the IHS and coordinates resolution of IHS legal issues with the OGC, IHS staff, and other Federal agencies; (5) assures that IHS appeal systems meet legal standards, in conjunction with the Office of the General Counsel; (6) provides leadership and direction of activities for continuous improvement of management accountability and administrative systems for effective and efficient program support services IHS-wide; (7) ensures the accountability and integrity of grants and acquisition management, records management, personal property utilization and disposition of IHS resources; (8) assures that the IHS management services, policies, procedures, and practices support IHS Indian Self-Determination Act policies; (9) assists in the assurance of Indian access to State, local, and private health programs; (10) provides leadership and advocacy of the IHS mission and goals with the HHS, Administration, Congress, and other external authorities; and (11) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Program Integrity and Ethics Staff (PIES) (GAL1)

(1) Directs the fact-finding and resolution of allegations of impropriety such as mismanagement of resources, fraud, waste, and abuse violations of the Standards of Ethical Conduct, Hatch Act and political activity and other forms of waste; (2) advises the IHS Director and IHS management of appropriate corrective and remedial actions to correct improprieties; (3) directs and provides leadership in the formulation of plans, guidance and evaluation of the IHS Personnel Security and Drug Testing Programs; (4) administers the IHS-wide management of the Agency hotline reports of allegations; (5) serves as the Agency coordinator for the HHS Office of the Inspector General (OIG), Office of Investigations; (6) manages and directs the IHS ''Ethics Program'', including the implementation of all requirements, providing advice to the IHS Director and serving as the Agency liaison with all outside investigative organizations such as the Office of Special Counsel, the General Accounting Office and the OIG; and (7) develops and implements IHS directives and training for Standards of Ethical Conduct, Hatch Act and political activity, allegations and investigations of administrative fraud, waste and abuse, drug testing, and personnel security.

Division of Commissioned Personnel Support (DCPS) (GALA)

(1) Acts as the liaison between IHS and the Program Support Center, Division of Commissioned Personnel, HHS; (2) advises the IHS Director, supervisors, administrators, managers, officers and dependents regarding commissioned personnel benefits, policies, procedures, regulations, as the IHS primary point of contact for commissioned personnel management; (3) develops policies, procedures, and recommendations to the Division of Commissioned Personnel, HHS; (4) provides direct support to the IHS Director and/or the Agency representative to the Office of the Surgeon General; and (5) produces resource materials and conducts training sessions on commissioned personnel issues for officers, supervisors, and commissioned personnel specialists in IHS Area Offices.

Division of Administrative Services (DAS) (GALB)

(1) Plans, develops and directs program support and general services programs; (2) develops and disseminates policy and procedural guidelines for uniform administrative services and practices; (3) provides guidance and support in the development, planning, and implementation of administrative functions; (4) serves as liaison with the HHS and the General Services Administration (GSA) on logistics issues affecting the IHS; (5) monitors, evaluates, and reports on administrative programs and services; (6) provides advice and technical assistance on design, layout, inventories, and print order tracking for IHS publications; and (7) manages a variety of special projects.

Office Services Branch (OSB)

(1) Administers physical security, supply, and space management services for Headquarters; (2) develops and disseminates policy and procedural guidelines for uniform office service programs; (3) provides leadership and coordination in the planning, development, operation, and evaluation of special office support programs in small purchase acquisitions, facilities management, office relocations, lease acquisition, GSA supplies, equipment, furniture, telecommunications, transportation, mail management, forms management, photocopying, and printing; (4) manages the Headquarters facilities program, physical security, motor vehicles, personal property, special projects and inter-agency activities; (5) develops and recommends policies and procedures for the protection and disposition of IHS records and oversees the evaluation of records management activities in the IHS; (6) provides leadership for special projects and inter-agency activities; (7) develops and recommends policies and procedures for the protection and disposition of IHS records; (8) oversees the evaluation of records management activities in the IHS; (9) provides leadership and guidance for the Agency Records Management Program; and (10) develops and implements a management control system for evaluation of records management functions Agency-wide.

Property and Supply Management Branch (PSMB)

(1) Plans, develops, and administers the IHS policies on personal property management in conformance with Federal personal property management laws, regulations, policies, procedures, practices, and standards; (2) interprets regulations and provides advice on execution and coordination of personal property management policies and programs; (3) administers management systems and methods for planning, utilizing, and reporting on administrative personal property management programs, including the IHS personal property accountability and controls systems; (4) provides guidance and serves as principal administrative authority on Federal personal property management laws, regulations, policies, procedures, practices, and standards, in conjunction with the Office of the General Counsel; (5) conducts surveys and studies involving evaluation and analysis of the personal property management activities Agency-wide; (6) maintains liaison with the HHS and the GSA on personal property management issues and programs affecting the IHS; (7) prepares reports on IHS personal property; and (8) develops statements for annual budget formulation and presentation.

Division of Acquisitions Policy (DAP) (GALC)

(1) Develops, recommends, and oversees the implementation of policies, procedures and delegations of authority for the acquisition management activities in the IHS, consistent with applicable regulations, directives, and guidance from higher echelons in the HHS and Federal oversight agencies; (2) advises the Director, Office of Management Services, of proposed legislation, regulations, and directives that affect contracts in the IHS; (3) provides leadership for compliance reviews of all IHS procurement operations; (4) oversees completion of necessary corrective actions; (5) manages for the Agency, the HHS acquisition training and certification program and the project officer training program; (6) supports and maintains the IHS Contract Information System and controls entry of data into the HHS Contract Information System; (7) serves as the IHS contact point for contract protests and the HHS contact for contract-related issues; (8) reviews and makes recommendations for approval/disapproval of contract-related documents such as: Pre- and post-award documents, unauthorized commitments, procurement planning documents, Justification for Other Than Full and Open Competition documents, waivers, deviations, and determinations and findings that require action by the Agency Principal Official Responsible for Acquisition, the Agency Head of Contracting, or the Office of the Secretary; (9) processes unsolicited proposals for the IHS; (10) coordinates the IHS Small, Disadvantaged, and Women-Owned Business programs; (11) oversees compliance with the Buy Indian Act; and (12) provides advice to Agency officials negotiating inter- and intra-agency agreements, in accordance with the IHS agreements program.

Division of Grants Operations (DGO) (GALD)

(1) Directs grants management and operations for the IHS; (2) awards and administers grants and cooperative agreements for IHS financial assistance programs; (3) provides leadership for the resolution of audit findings for grant programs; (4) manages for the Agency, the HHS grants training and certification program; (5) continuously assesses grants operations; (6) oversees completion of necessary corrective action plans; (7) reviews and makes recommendations for improvements in grantee and potential grantee management systems; (8) serves as the IHS liaison with the HHS and the public for grants and other financial assistance programs within the IHS; (9) maintains the Catalog of Federal Domestic Assistance for IHS financial assistance programs; (10) conducts grants-related training for IHS staff, grantees, and potential grantees; (11) coordinates payment to grantees, including scholarship recipients; and (12) establishes and maintains the IHS automated Grants Information System and controls data entry into the HHS automated Grants Information System.

Division of Regulatory Affairs, Records Access and Policy Liaison (GALE)

(1) Manages the IHS' overall regulations program and responsibilities, including determining the need for and developing plans for changes in regulations, developing or assuring the development of needed regulations, and maintaining the various regulatory planning processes; (2) serves as IHS liaison with the Office of the Federal Register on matters relating to the submission and clearance of documents for publication in the **Federal Register**; (3) assures proper Agency clearance and processing of **Federal Register** documents; (4) informs management and program officials of regulatory activities of other Federal agencies; (5) manages the IHS review of non-IHS regulatory documents that impact the delivery of health services to Indians; (6) advises the IHS Director and serves as liaison with the Office of the General Counsel (OGC) on such matters as litigation, regulations, related policy issues, and administrative support issues; (7) determines the need for and obtains legal clearance of IHS directives and other issuances; (8) coordinates legal issues with the OGC, IHS, HHS components, and other Federal agencies, including the identification and formulation of legal questions and advising on the implementation of OGC opinions; (9) assures that IHS' appeals processes meet legal standards; (10) advises on and participates in Indian Self-Determination and Education Assistance Act appeals and hearings; (11) provides guidance and assistance on State and Federal health reform efforts, including access and civil rights aspects and State Medicaid waiver applications; (12) advises on the administration of the contract health services (CHS) appeals system and is a participant in the IHS Director's CHS appeal decisions; (13) manages the retrieval and transmittal of information in response to requests received under the FOIA or the Privacy Act, in collaboration with the Public Affairs Staff; (14) ensures the security of sensitive and/or confidential information when responding to FOIA or Privacy Act issues; and (15) advises the IHS Director regarding requests for IHS employees to serve as expert witnesses when IHS is not a party to the suit.

Regulations and Records Access Branch (RRAB)

(1) Manages the Agency's regulation program and responsibilities; (2) serves as liaison with the Office of the Federal Register; (3) advises on the need for or changes in current regulations; (4) develops or assures the development of IHS regulations; (5) keeps IHS officials informed on relevant regulatory activities of other agencies of the Government; (6) coordinates regulations activities with agencies within the HHS that impact on the delivery of health services to Indians; (7) maintains and updates various regulatory agendas; (8) assures that all IHS materials for publication in the **Federal Register** are properly cleared, processed, and in proper format; (9) manages the retrieval, review, and appropriate transmittal of information in response to FOIA requests, including ensuring the appropriate security of such documents; (10) manages, administers, implements and monitors the Agency's Paperwork

Reduction Act (PRA) and OMB information collection/activities; (11) provides guidance and technical assistance to IHS regarding information collection requirements and procedures for obtaining OMB approvals and extensions for IHS information collections; and (12) coordinates the implementation and the application of Privacy Act requirements, including but not limited to Health Insurance Portability and Accountability Act implementation and compliance.

Policy Liaison Branch (PLB)

(1) Coordinates the resolution and development of legal advice to the IHS Director on IHS legal issues with the OGC, IHS senior staff, and other Federal agencies; (2) provides liaison with the OGC in such matters as litigation, regulations, legislation, policy review, civil rights, and administrative appeals; (3) provides advice on the development and implementation of non-personnel appeals processes to assure they meet legal standards; (4) maintains and distributes the Compendium of Legal Opinions; (5) reviews IHS directives and other issuances for needed legal clearances; (6) advises on the impact on IHS and the Indian community of State and Federal health reforms; and (7) provides policy review and advice on the need for or application of legal opinions.

Division of Human Resources (DHR) (GALG)

(1) Advises the IHS Director on personnel management issues, programs and policies for civil service and commissioned corps personnel programs; (2) assures implementation of the Indian preference policy in all personnel practices; (3) develops personnel management policies, programs, and reports in accordance with applicable laws, regulations, and policies; (4) provides personnel management and services throughout IHS, to include, but not limited to, manpower planning and utilization, staffing, recruitment, compensation, classification, human resource development, pay administration, labor, and employee relations; (5) provides advice, consultation, and assistance to IHS management and Tribal officials on Tribal health program personnel policy issues; (6) provides technical support, guidance, and assistance on all personnel programs to IHS Headquarters operations and other organizations as necessary; and (7) represents IHS in all personnel management matters.

Human Resources Advisory Branch (HRAB)

(1) Plans, conducts, and evaluates personnel functional programs; (2) develops IHS personnel policies, programs, and reports; (3) provides personnel program and policy advice and assistance throughout IHS; (4) provides advice and assistance to IHS management and Tribal officials on Tribal health program personnel policies; and (5) develops and implements Indian preference policies and procedures.

Human Resources Operations Branch (HROB)

(1) Plans and implements personnel servicing responsibilities for IHS programs covered by the Headquarters appointing authority, including staffing, recruitment, classification, pay administration, and employee relations; (2) provides staff support for the establishment and recruitment of Senior Executive Service positions, including performance management, compensation and award nominations; (3) processes personnel actions and appoints all civil service employees; and (4) provides advice and training on timekeeping and pay administration.

Office of Environmental Health and Engineering (OEHE) (GAM)

(1) Advises and supports the IHS Director on policy, budget formulation, and resource allocation regarding environmental health and engineering activities of IHS and Tribal facilities programs; (2) provides Agency-wide leadership and consultation to IHS, Tribal, and Urban Indian health programs on IHS goals, objectives, policies, standards, and priorities; (3) represents the IHS within the HHS and external organizations for purposes of liaison, professional collaboration, cooperative ventures, and advocacy; (4) serves as the primary source of technical advice for the IHS Director, Headquarters, Area Offices, Tribal, and Urban Indian health programs on the full scope of health care facilities construction and operations, sanitation facilities construction and management, environmental health services, environmental engineering, clinical engineering, and realty services management; (5) develops and recommends policies, administrative procedures and guidelines for Pub. L. 93–638 construction activities; (6) develops objectives, priorities, standards, and methodologies to conduct and evaluate environmental health, environmental engineering, and facilities engineering and management activities; (7) coordinates the formulation of the IHS Facilities appropriation budget request and responds to all inquiries about the budget request and programs funded by the IHS Facilities appropriation; (8) maintains needs-based and workload-based methodologies for equitable resource distribution for all funds appropriated under the IHS Facilities appropriation; (9) provides leadership, consultation, and staff development to assure functional, safe, and well-maintained health care facilities, a comprehensive environmental health program, and the availability of water, sewer, and solid waste facilities for Indian homes and communities; (10) coordinates the IHS OEHE responsibilities in responding to disasters and other emergency situations, in collaboration with the Office of Clinical and Preventive Services; and (11) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Division of Sanitation Facilities Construction (DSFC) (GAMA)

(1) Develops, implements, and manages the environmental engineering programs, including the Sanitation Facilities Construction (SFC) program, and compliance activities associated with environmental protection and historic preservation legislation; (2) provides Agency-wide management assistance and special support/consultation to address special environmental public health problems for environmental engineering/construction activities, and for compliance with environmental legislation; (3) works closely with other Federal agencies to resolve environmental issues and maximize benefits to Tribes by coordinating program efforts; (4) develops, implements, and evaluates Agency program activities, objectives, policies, plans, guidelines, and standardized data systems for SFC activities; (5) consults with Tribal groups/organizations in the development and implementation of SFC policies and initiatives, and in the identification of sanitation needs; (6) maintains a national inventory of current Tribal sanitation facilities needs, and past and present projects to address those needs; and (7) allocates financial resources Agency-wide based on need and workload using the national data inventories, in collaboration with the OFA.

Division of Facilities Operations (DFO) (GAMB)

(1) Develops, implements, and manages the programs affecting health care facilities operations, including the routine maintenance and improvement, real property asset management, quarters, and clinical engineering programs; (2) develops, implements, monitors and evaluates Agency program activities, objectives, policies, plans, guidelines, and standardized data systems for health care facilities operations; (3) serves as the principal resource for coordination of facilities operations and provides consultation to IHS and the Tribes on health care facilities operations; (4) maintains real property asset and quarters management systems; (5) maintains clinical engineering management systems; (6) formulates financial resources allocation methodologies Agency-wide based on need and workload data; (7) maintains Agency-wide data on Federal and Tribal facilities for program budget justification; (8) develops and evaluates technical standards and guidelines for health care facilities operations; and (9) monitors construction activities and the improvement, alteration, and repair of health care facilities.

Division of Facilities Planning and Construction (DFPC) (GAMC)

(1) Develops, implements, and manages the IHS Health Care Facilities Planning and Construction program, including the facilities planning process, facilities design process, facilities acquisition, and construction project management; (2) develops, implements, monitors, and evaluates Agency program activities, objectives, policies, plans, guidelines, and standardized data systems for health care facilities planning and construction; (3) develops and maintains construction priority systems, and with the Division of Engineering Services, develops project budget documents for the health care facilities construction program; (4) serves as the principal resource in providing leadership, guidance, and coordination of health care facilities engineering activities for the IHS Headquarters, Area Offices, Tribal and Urban Indian health programs; (5) evaluates justifications for major improvement and alteration projects and other large scale construction activities; and (6) develops and evaluates technical standards and guidelines for health care facilities construction.

Division of Environmental Health Services (DEHS) (GAMD)

(1) Develops, implements, and manages the IHS Environmental Health Services programs, including the Injury Prevention and Institutional Environmental Health programs; (2) serves as the primary source of technical and policy advice for IHS Headquarters and Area Offices on the full scope of environmental health issues and activities; (3) maintains relationships with other Federal agencies and Tribes to maximize responses to environmental health issues and maximize benefits to Tribes by coordinating program efforts; (4) provides leadership in identifying and articulating environmental health needs of AI/AN populations and support efforts to build Tribal capacity; (5) provides personnel support services and advocates for environmental health providers; (6) maintains, analyzes, makes accessible, and publishes results from national databases; (7) manages resource allocation activities in accordance with established criteria based on workload; (8) develops and evaluates standards and guidelines for environmental health programs and activities; and (9) performs functions related to environmental health programs such as injury prevention, emergency response, water quality, food sanitation, occupational health and safety, solid and hazardous waste management, environmental health issues in health care and non-health care institutions, and vector control.

Division of Engineering Services (Dallas/Seattle) (DES) (GAME)

(1) Administers health care facilities engineering and construction projects for specified Area Offices and administers the engineering and construction of certain projects for other Federal agencies through inter-agency agreements; (2) carries out management activities relating to IHS-owned and utilized health care facilities, including construction, contracting, realty, and leasing services; (3) serves as the source of engineering and contracting expertise for assigned programs/projects and other technical programmatic areas affecting the planning, design, alteration, leasing, and construction of IHS health care and sanitation facilities for Indian homes and communities; and (4) assists in the development of Area Office annual work plans, studies, investigations, surveys, audits, facilities planning, and technical standards development, for IHS-owned and Tribal health care facilities.

Section GA–30, Indian Health Service—Order of Succession

During my absence or disability of the IHS Director or in the event of a vacancy in that office, the following IHS Headquarters officials, in the order listed below, shall act as the IHS Director. In the event of a planned extended period of absence, the IHS Director may specify a different order of succession. The order of succession will be:

(1) Deputy Director.

(2) Deputy Director for Indian Health Policy.

(3) Deputy Director for Management Operations.

(4) Chief Medical Officer.

Section GA–40, Indian Health Service—Delegations of Authority

All delegations of authority and re-delegations of authority made to IHS officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

Chapter GF

IHS Area Offices

Section GF–00, Indian Health Service Area Offices—Mission

The IHS Area Offices carry out the mission of the IHS by providing a system of health care unique to the Area population.

Section GF–10, Indian Health Service Area Offices—Organization

An Area Office is a bureau-level organization under the direction of an Area Director, who reports to the IHS Director.

The following are the Area Offices of the IHS:

- Aberdeen Area Office (GFA)
- Alaska Area Office (GFB)
- Albuquerque Area Office (GFC)
- Bemidji Area Office (GFE)
- Billings Area Office (GFF)
- California Area Office (GFG)
- Nashville Area Office (GFH)
- Navajo Area Office (GFJ)
- Oklahoma City Area Office (GFK)
- Phoenix Area Office (GFL)
- Portland Area Office (GFM)
- Tucson Area Office (GFN).

Section GF–20, Indian Health Service Area Offices—Functions

The specific functions of the IHS Area Offices vary, however, each Area Office includes functions organized to support major categories of administrative management and clinical activities. Examples include:

Administration and Management—Financial management, administrative

and office services, contract/grant administration, procurement, personnel management, facilities management, management information systems, contract health services, and equal employment opportunity;

Program Planning, Analysis and Evaluation Programs—Program planning, statistical analysis, legislative initiatives, research and evaluation, health records, management information systems, and patient registration/third party collection;

Tribal Activity Programs—Provision of Pub. L. 93–638, Indian Self-Determination and Education Assistance Act, health services delivery, community health representative services, Urban Indian health, alcoholism and substance abuse, and health education;

Health Programs—Primary care, clinical activities, mental health, nursing services, health promotion, disease prevention, professional recruitment, community services, and the Joint Commission on Accreditation of Healthcare Organizations;

Environmental Health/Sanitation Facilities Programs—Environmental health and engineering/sanitation facilities construction programs; and

Information Resources Management Programs—Automated data processing (ADP), ADP planning and operations, management information systems, office automation systems, and voice/data telecommunications management.

Section GF–30, Indian Health Service Area Offices—Order of Succession

The order of succession for Area Directors at the IHS Area Offices are determined by each Area Director and continue in effect until changed.

Section GF–40, Indian Health Service Area Offices—Delegations of Authority

All delegations and re-delegations of authority made to officials in the IHS Area Offices that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization shall be effective on August 23, 2004.

Dated: April 28, 2005.

Phyllis Eddy,

Acting Deputy Director, Indian Health Service.

[FR Doc. 05–9012 Filed 5–5–05; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health, National Library of Medicine

Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the fifth meeting of the Commission on Systemic Interoperability.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The mission of the Commission on Systemic Interoperability is to submit a report to the Secretary of Health and Human Services and to Congress on a comprehensive strategy for the adoption and implementation of health care information technology standards that includes a timeline and prioritization for such adoption and implementation. In developing that strategy, the Commission will consider: (1) The costs and benefits of the standards, both financial impact and quality improvement; (2) the current demand on industry resources to implement the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and other electronic standards, including HIPAA standards; and (3) the most cost-effective and efficient means for industry to implement the standards.

Name of Committee: Commission on Systemic Interoperability.

Date: May 18, 2005.

Time: 8 a.m. to 4 p.m.

Agenda: Healthcare Information Technology Standards.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, Washington, DC 20201.

Contact Person: Ms. Dana Haza, Director, Commission on Systemic Interoperability, National Library of Medicine, National Institutes of Health, Building 38, Room 2N21, Bethesda, MD 20894, 301–594–7520.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The comments should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

Dated: April 28, 2005.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–9047 Filed 5–5–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Dental-Biology and Material Sciences.

Date: May 11, 2005.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tamizchelvi Thyagarajan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016K, MSC 7814, Bethesda, MD 20892, (301) 451–1327, *tthyagar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PA–04–002: ICOHRTA.

Date: May 27, 2005.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dan D. Gerendasy, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5132, MSC 7843, Bethesda, MD 20892, (301) 594–6830, *gerendad@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics B Study Section.

Date: June 2–3, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Admiral Fell Inn, 888 South Broadway, Historic Fell's Point, Baltimore, MD 21231.

Contact Person: Richard A. Currie, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN–A (06) Member Conflict: Drug Abuse in Primates.

Date: June 3, 2005.

Time: 11 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1713, *melchioc@csr.nih.gov*.

Name of Committee: Digestive Sciences Integrated Review Group, Hepatobiliary Pathophysiology Study Section.

Date: June 6–7, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–2359, *shayiqr@csr.nih.gov*.

Name of Committee: Digestive Sciences Integrated Review Group, Clinical and Integrative Gastrointestinal Pathobiology Study Section.

Date: June 6–7, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Natural Products Roadmap.

Date: June 6, 2005.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW, Washington, DC 20037.

Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4178, MSC 7806, Bethesda, MD 20892, 301–435–1725, *bowersj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BDCN A 07S: Clinical Neuroscience and Disease SRA Conflicts.

Date: June 6, 2005.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW, Washington, DC 20007.

Contact Person: David M. Armstrong, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, 301–435–1253, *armstrda@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Pathogenic Eukaryotes Study Section.

Date: June 9–10, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3194, MSC 7808, Bethesda, MD 20892, (301) 435–1146, *hickmanj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Computational Biophysics.

Date: June 9, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: George W. Chacko, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7849, Bethesda, MD 20892, 301–435–1220, *chackoge@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Genetics Study Section.

Date: June 9–10, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Zhiqiang Zou, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, 301–451–0132, *zouzhiq@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology Fellowship and AREA.

Date: June 9–10, 2005.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Paek-Gyu Lee, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 402–7391, *leepg@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genetics of Human Tumors.

Date: June 9–10, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov*.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: June 9–10, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Disease and Sleep Epidemiology.

Date: June 9–10, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Versailles 3, Bethesda, MD 20814.

Contact Person: Scott Osborne, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, 301–435–1782, *osbornes@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group, Membrane Biology and Protein Processing.

Date: June 9–10, 2005.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, 301–435–1026, *nayakr@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Macromolecular Structure and Function A Study Section.

Date: June 9–10, 2005.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Janet Nelson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, 301–435–1723, *nelsonja@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurotoxicology and Alcohol Study Section.

Date: June 9–10, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Joseph G. Rudolph, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, 301–435–2212, *josephru@csr.nih.gov*.

Name of Committee: Health of the Population Integrated Review Group, Community-Level Health Promotion Study Section.

Date: June 9–10, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: William N. Elwood, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3162, MSC 7770, Bethesda, MD 20892, 301–435–1503. *elwoodwi@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group, Community Influences on Health Behavior.

Date: June 9–10, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW, Washington, DC 20037.

Contact Person: Ellen K. Schwartz, EDD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, 301–435–0681, *schwarte@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Biobehavioral Regulation, Learning and Ethology Study Section.

Date: June 9–10, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcello, 2121 P Street, NW, Washington, DC 20037.

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, 301–435–0692, *roberlu@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN A (05) Member Conflicts: Selective Effects of Ethanol.

Date: June 9, 2005.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1713, *melchioc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Short-term Training: Students in Health Professional Schools.

Date: June 10, 2005.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sandy Warren, MPH, DMD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7843, Bethesda, MD 20892, 301–435–1019, *warrens@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Technology Centers for Networks and Pathways.

Date: June 12–14, 2005.

Time: 7:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Marc Rigas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7826, Bethesda, MD 20892, 301–402–1074, *rigasm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–04–023: Bioengineering Research Partnerships.

Date: June 13, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Behrouz Shabestari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7854, Bethesda, MD 20892, (301) 435–2409, *shabestb@csr.nih.gov*.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Hypertension and Microcirculation Study Section.

Date: June 13–14, 2005.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.

Contact Person: Ai-Ping Zou, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–435–1777, *zouai@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Central Visual Processing Study Section.

Date: June 13–14, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael A. Steinmetz, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, 301–435–1247, *steinmem@csr.nih.gov*.

Name of Committee: Renal and Urological Studies Integrated Review Group, Cellular and Molecular Biology of the Kidney Study Section.

Date: June 13–14, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198, *hildens@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurodegeneration and Biology of Glia Study Section.

Date: June 13–14, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Toby Behar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Pregnancy and Neonatology Study Section.

Date: June 13–14, 2005.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Motor Function, Speech and Rehabilitation Study Section.

Date: June 13, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Weijia Ni, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507, *niw@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review

Group, Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: June 13–14, 2005.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Maribeth Champoux, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7759, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Neurobiology of Addiction II ZRG1 IFCN–A (04).

Date: June 13, 2005.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 28, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–9048 Filed 5–5–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Call Monitoring of National Suicide Prevention Lifeline Form—NEW

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Mental Health Services has funded a National Suicide Prevention Lifeline Network, consisting of a single toll-free telephone number that routes calls from anywhere in the United States to a network of local crisis centers. In turn, the local centers link callers to local emergency, mental health, and social service resources.

To ensure quality, the vast majority of crisis centers conduct on-site monitoring of selected calls by supervisors or trainers using unobtrusive listening devices. To monitor the quality of calls and to inform the development of training for networked crisis centers, the National Suicide Prevention Lifeline proposes to remotely monitor calls routed to seven crisis centers during the shifts of consenting staff. The procedure will be anonymous, in that neither staff nor callers will be identified on the Call Monitoring Form. The monitor, a trained crisis worker, will code the type of problem presented by the caller, the elements of a suicide risk assessment that are completed by the crisis worker, as well as what action plan is developed with and/or what referral(s) are provided to the caller. No centers will be identified in reports.

During the shifts of consenting crisis staff, a recording will inform callers that some calls may be monitored for quality assurance purposes. Previous comparisons of matched centers that did and did not play the recording found no difference in hang-up rates before the calls were answered or within the first 15 seconds of the calls.

The seven centers to be monitored will be selected based on the geographic regions(s) they serve. Once a center has agreed to participate, the crisis workers will be provided an Informed Consent Form describing the purpose and procedures of the monitoring process and inviting them to participate. The Form also informs workers that they are free to participate or not, that they may withdraw their acceptance to participate at any time, and that if they choose not to participate, no calls during their shift will be monitored.

A total of 180 calls will be monitored during the first 5-month period. One year later, an additional 360 calls will be monitored, yielding a total of 540 monitored calls.

The estimated annual response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Burden/response (hours)	Annual burden (hours)
Informed Consent Form	180	1	.07	13
National Suicide Prevention Lifeline—Call Monitoring Form	180	3	.33	178
Total	180	.....	.....	191

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1045, 1 Choke Cherry Road, Rockville, MD 20850. Written comments should be received by July 5, 2005.

Dated: April 29, 2005.

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 05–9059 Filed 5–5–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Suicide Prevention Lifeline—Call Log and Crisis Center Survey—NEW

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Mental Health Services has funded a National Suicide Prevention Lifeline Network, consisting of a single toll-free telephone number that routes calls from anywhere in the United States to a network of local crisis centers. In turn, the local centers link callers to local emergency, mental health, and social service resources.

Through its grantee which is administering the National Suicide Prevention Lifeline Network, SAMHSA developed a Call Log and Crisis Center Survey in an effort to monitor basic trends in calls received and to learn more about the capacities, skills, and unmet needs of the crisis centers involved in the Network. The completed Call Logs and Surveys will inform the Network's planning around network recruitment strategies, technology, training, marketing, and other network resource development activities. The goal of these efforts is to enhance services provided by networked crisis centers, increase their accessibility to people at risk for suicidal behavior, and optimize public health efforts to prevent suicide and suicidal behavior.

All 104 networked crisis centers will be invited to complete the Call Logs, which will be available in both Web-based and hardcopy formats. Trained crisis counselors will use their judgment as to whether to complete the form at the conclusion of individual calls. Completing the form entails asking callers several basic questions (*e.g.*, zip code, age, how they heard about the Lifeline service). No identifiable information will be collected.

The Web-based Crisis Center Survey, which will be administered only one time, requests information about crisis centers' infrastructure and services. The Survey includes questions about organizational structure, scope of services, telephone technology and equipment, staffing, training, and quality assurance.

The estimated annual response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Burden/response (hours)	Annual burden (hours)
National Suicide Prevention Lifeline—Call Log	250	4	.03	30
National Suicide Prevention Lifeline: Crisis Center Survey	104	1	.33	34
Total	354			64

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1045, 1 Choke Cherry Road, Rockville, MD 20850. Written comments should be received by July 5, 2005.

Dated: April 29, 2005.

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 05–9060 Filed 5–5–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council in May 2005.

A portion of the meeting will be open and include discussion of the Center's policy issues, current administrative, legislative, and program developments.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed below as contact to make arrangements to comment or to request special accommodations for persons with disabilities.

The meeting will also include the review, discussion, and evaluation of individual grant applications. Therefore a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, Section 10(d).

Substantive program information and a roster of Council members may be obtained by accessing the SAMHSA Advisory Council Web site (*www.samhsa.gov*), as soon as possible after the meeting or by communicating with the contact whose name and telephone number are listed below. The transcript for the open session will also be available on the SAMHSA Advisory Council Web site by June 10.

Committee Name: Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment National Advisory Council.

Meeting Dates: May 19—9 a.m.–5 p.m., May 20—9 a.m.–1 p.m.

Place: 1 Choke Cherry Road, Sugar Loaf and Seneca Conference Rooms, Rockville, Maryland 20857.

Type: Open: May 19—9 a.m.–5 p.m., *Closed:* May 20—9 a.m.–9:45 a.m., *Open:* May 20—10 a.m.–1 p.m.

Contact: Cynthia Graham, M.S., Executive Secretary, SAMHSA/CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1036, Rockville, MD 20857, Telephone: (240) 276–1692, FAX: (240) 276–1690, E-mail: *cynthia.graham@samhsa.hhs.gov.*

Dated: April 29, 2005.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 05–9062 Filed 5–5–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–20338]

Collection of Information Under Review by Office of Management and Budget (OMB): 1625–0067 and 1625–0068

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded two Information Collection Requests (ICRs)—(1) 1625–0067, Claims Under the Oil Pollution Act of 1990, and (2) 1625–0068, State Access to The Oil Spill Liability Trust Fund For Removal Costs Under the Oil Pollution Act of 1990—abstracted below, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before June 6, 2005.

ADDRESSES: To make sure that your comments and related material do not reach the docket [USCG–2005–20338] or OIRA more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th St NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at (202) 493–2298 and (b) OIRA at (202) 395–6566, or e-mail to OIRA at *oira-docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*. (b) OIRA does not have a Web site on which you can post your comments.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is (202) 267–2326.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone (202) 267–2326 or fax (202) 267–4814, for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, Docket Operations, (202) 366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on the proposed collections of information to determine whether the collections are necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to DMS or OIRA must contain the OMB Control Number of the Information Collection Reports (ICRs) addressed. Comments to DMS must contain the docket number of this request, [USCG 2005–20338]. For your comments to OIRA to be considered, it is best if OIRA receives them on or before the June 6, 2005.

Public participation and request for comments: We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*, and they will include any personal information you have provided. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2005–20338], indicate the specific section of this document or the ICR to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**, but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard and OIRA will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has already published the 60-day notice required by 44 U.S.C. 3506(c)(2) (70 FR 8399, February 18, 2005). That notice elicited no comments.

Information Collection Request

1. *Title:* Claims Under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0067.

Type of Request: Extension.

Affected Public: Claimants and responsible parties of oil spills.

Forms: None.

Abstract: The Coast Guard will use the information collected under this information collection request to (1) determine whether oil-spill-related claims submitted to the Oil Spill Liability Trust Fund are compensable and, (2) if they are, to ensure proper compensation for the claimant.

Burden Estimates: The estimated burden is increased from 13,722 to 14,800 hours a year.

2. *Title:* State Access to the Oil Spill Liability Trust Fund for Removal Costs Under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0068.

Type of Request: Extension.

Affected Public: State Governments.

Forms: None.

Abstract: The Coast Guard will use information provided by the State to the Coast Guard National Pollution Funds Center to determine whether expenditures submitted by the state to the Oil Spill Liability Trust Fund are compensable and, if they are, to ensure payment of the correct amount of funding from the Fund.

Burden Estimates: The estimated burden remains the same, 3 hours a year.

Dated: April 27, 2005.

Nathaniel S. Heiner,

Acting, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 05–9035 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD09–05–006]

Update of Implementation of Sector Detroit, Sector Sault Ste. Marie, Sector Buffalo, and Sector Lake Michigan

AGENCY: Coast Guard, DHS.

ACTION: Notice of organizational change.

SUMMARY: The Coast Guard previously announced the stand-up of Sector Detroit, Sector Sault Ste. Marie, Sector Buffalo, and Sector Lake Michigan under this docket. This notice provides an update to the process of establishing Sectors in the Ninth Coast Guard District. The date on which all boundaries of areas of responsibility will shift has changed from August 12, 2005 to July 29, 2005 to coincide with the stand-up of the last Sector, Sector Lake Michigan. The Commanding Officer of each Sector will have the authority, responsibility and missions of its corresponding Group, Captain of the Port (COTP) and Marine Safety Offices. The Coast Guard has established a continuity of operations whereby all previous practices and procedures will remain in effect until superseded by an authorized Coast Guard official or document.

DATES: The effective dates of sector stand-up are: Sector Detroit on March 31, 2005; Sector Sault Ste. Marie on June 27, 2005; Sector Buffalo on July 22, 2005; and Sector Lake Michigan on July 29, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD09–05–006 and are available for inspection or copying at Commander, Ninth Coast Guard District (rpl), 1240 E. Ninth Street, Cleveland, Ohio 44199–2060 between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Christopher Blomshield, Ninth District Planning Office at (216) 902–6101.

SUPPLEMENTARY INFORMATION:

Discussion of Notice

This notice confirms the stand-up of Sector Detroit and announces the prospective dates for the establishment of three other Sectors in the Ninth Coast Guard District. A prior notice stated that all areas of responsibility and authorities would remain unchanged until August 12, 2005. That date has changed to July 29, 2005. Until July 29, 2005, only the names of some units will change. Boundaries of areas of responsibility for all Sectors will change simultaneously on July 29, 2005. Another notice will be issued prior to that date with a detailed description of each Sector's boundaries.

Sector Detroit is located at 110 Mt. Elliot Ave., Detroit, Michigan 48207–4380. Sector Detroit stood-up on March 31, 2005 and is composed of a Response Department, Prevention Department, and Logistics Department. As of March 31, 2005, Group/Marine Safety Office Detroit no longer exists as an organizational entity. On July 29, 2005, Marine Safety Office Toledo will be renamed Marine Safety Unit Toledo.

The Sector Detroit Commander is vested with all the rights, responsibilities, duties, and authority of a Group Commander and Commanding Officer Marine Safety Office, as provided for in Coast Guard regulations, and is the successor in command to the Commanding Officer of Group/Marine Safety Office Detroit. As of July 29, 2005, the Sector Detroit Commander will be designated: (a) Captain of the Port (COTP) for the Detroit, Toledo, and a portion of the Sault Ste. Marie COTP zones; (b) Federal Maritime Security Coordinator (FMSC) for the Detroit, Toledo, and a portion of the Sault Ste. Marie COTP zones; (c) Federal On Scene Coordinator (FOSC) for the Detroit, Toledo, and a portion of the Sault Ste. Marie COTP zones, consistent with the National Contingency Plan; (d) Officer in Charge of Marine Inspection (OCMI) for the Detroit, Toledo, and a portion of the Sault Ste. Marie Marine Inspection Zones; and (e) Search and Rescue Mission Coordinator (SMC). The Deputy Sector Commander will be designated alternate COTP, FMSC, FOSC, SMC and Acting OCMI. These functions will remain with the officers, or their successors, who currently hold them until July 29, 2005. A continuity of operations order has been issued ensuring that all previous Group/Marine Safety Office Detroit, Marine Safety Office Toledo, and Group/Marine Safety Office Sault Ste. Marie practices and procedures will remain in effect until superseded by Commander, Sector Detroit. This continuity of operations order addresses existing COTP regulations, orders, directives and policies.

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones:

Name: Sector Detroit.

Address: Commander, U.S. Coast Guard Sector Detroit, 110 Mt. Elliot Ave., Detroit, Michigan 48207–4380.

Contact: General Number, (313) 568–9580, Sector Commander: Captain Patrick Brennan; Deputy Sector Commander: Commander Christopher Roberge.

Chief, Prevention Department: (313) 568–9490.

Chief, Response Department: (313) 568–9521.

Chief, Logistics Department: (313) 568–9551.

Sector Sault Ste. Marie will be located at 337 Water Street, Sault Ste. Marie, Michigan 49783–9501. Sector Sault Ste. Marie will be composed of a Response Department, Prevention Department, and Logistics Department. Effective June 27, 2005, Group/Marine Safety Office Sault Ste. Marie will no longer exist as an organizational entity. On July 29, 2005, Marine Safety Office Duluth will be renamed Marine Safety Unit Duluth and the southern portions of the Sault Ste. Marie COTP zone will transfer to Sector Detroit and Sector Lake Michigan.

The Sector Sault Ste. Marie Commander will be vested with all the rights, responsibilities, duties, and authority of a Group Commander and Commanding Officer Marine Safety Office, as provided for in Coast Guard regulations, and is the successor in command to the Commanding Officer of Group/Marine Safety Office Sault Ste. Marie. As of July 29, 2005, the Sector Sault Ste. Marie Commander will be designated: (a) Captain of the Port (COTP) for the remainder of the Sault Ste. Marie and the Duluth COTP zones; (b) Federal Maritime Security Coordinator (FMSC) for the remainder of the Sault St. Marie and the Duluth COTP zones; (c) Federal On Scene Coordinator (FOSC) for the remainder of the Sault St. Marie and the Duluth COTP zones, consistent with the National Contingency Plan; (d) Officer in Charge of Marine Inspection (OCMI) for the remainder of the Sault St. Marie and the Duluth Marine Inspection Zones; and (e) Search and Rescue Mission Coordinator (SMC). The Deputy Sector Commander will be designated alternate COTP, FMSC, FOSC, SMC and Acting OCMI. These functions will remain with the officers, or their successors, who currently hold them until July 29, 2005. Marine Safety Unit Duluth will retain COTP authority for the former Duluth COTP zone as a sub-zone of COTP Sault Ste. Marie. A continuity of operations order has been issued ensuring that all previous Group/Marine Safety Office Sault Ste. Marie and Marine Safety Office Duluth practices and procedures will remain in effect until superseded by Commander, Sector Sault Ste. Marie. This continuity of operations order addresses existing COTP regulations, orders, directives and policies.

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones:

Name: Sector Sault Ste. Marie.

Address: Commander, U.S. Coast Guard Sector Sault Ste. Marie, 337 Water Street, Sault Ste. Marie, Michigan 49783–9501.

Contact: General Number, (906) 635–3228, Sector Commander: Captain E. Q. Kahler; Deputy Sector Commander: Commander Larry Hewett.

Chief, Prevention Department: (906) 635–3220.

Chief, Response Department: (906) 635–3231.

Chief, Logistics Department: (906) 635–3265.

Sector Buffalo will be located at 1 Fuhrmann Blvd., Buffalo, New York 14203–3189. Sector Buffalo will be composed of a Response Department, Prevention Department, and Logistics Department. Effective July 22, 2005, Group Buffalo and Marine Safety Office Buffalo no longer exist as organizational entities. On July 29, 2005, Marine Safety Office Cleveland will be renamed Marine Safety Unit Cleveland.

The Sector Buffalo Commander will be vested with all the rights, responsibilities, duties, and authority of a Group Commander and Commanding Officer Marine Safety Office, as provided for in Coast Guard regulations, and will be the successor in command to the Commanding Officers of Group Buffalo and Marine Safety Office Buffalo. As of July 29, 2005, the Sector Buffalo Commander is designated: (a) Captain of the Port (COTP) for the Buffalo and Cleveland COTP zones; (b) Federal Maritime Security Coordinator (FMSC) for the Buffalo and Cleveland zones; (c) Federal On Scene Coordinator (FOSC) for the Buffalo and Cleveland COTP zones, consistent with the National Contingency Plan; (d) Officer in Charge of Marine Inspection (OCMI) for the Buffalo and Cleveland Marine Inspection Zones; and (e) Search and Rescue Mission Coordinator (SMC). The Deputy Sector Commander will be designated alternate COTP, FMSC, FOSC, SMC and Acting OCMI. These functions will remain with the officers, or their successors, who currently hold them until July 29, 2005. A continuity of operations order has been issued ensuring that all previous Group Buffalo, Marine Safety Office Buffalo, and Marine Safety Office Cleveland practices and procedures will remain in effect until superseded by Commander, Sector Buffalo. This continuity of operations order addresses existing COTP regulations, orders, directives and policies.

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones:

Name: Sector Buffalo.

Address: Commander, U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Blvd., Buffalo, New York 14203–3189.

Contact: General Number, (716) 843–9525, Sector Commander: Captain Scott Ferguson; Deputy Sector Commander: Commander Patrick Dowden.

Chief, Prevention Department: (716) 843–9525.

Chief, Response Department: (716) 843–9520.

Chief, Logistics Department: (716) 843–9525.

Sector Lake Michigan will be located at 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207–1997. Sector Lake Michigan will be composed of a Response Department, Prevention Department, and Logistics Department. Effective July 29, 2005, Group Milwaukee and Marine Safety Office Milwaukee will no longer exist as organizational entities. On July 29, 2005 Marine Safety Office Chicago will be renamed Marine Safety Unit Chicago and Group Grand Haven will be renamed Sector Field Office Grand Haven.

The Sector Lake Michigan Commander will be vested with all the rights, responsibilities, duties, and authority of a Group Commander and Commanding Officer Marine Safety Office, as provided for in Coast Guard regulations, and is the successor in command to the Commanding Officers of Group Milwaukee and Marine Safety Office Milwaukee. The Sector Lake Michigan Commander is designated: (a) Captain of the Port (COTP) for the Milwaukee, Chicago, and portions of the Sault Ste. Marie COTP zones; (b) Federal Maritime Security Coordinator (FMSC) for the Milwaukee, Chicago, and portions of the Sault Ste. Marie zones; (c) Federal On Scene Coordinator (FOSC) for the Milwaukee, Chicago, and portions of the Sault Ste. Marie COTP zones, consistent with the National Contingency Plan; (d) Officer in Charge of Marine Inspection (OCMI) for the Milwaukee, Chicago, and portions of the Sault Ste. Marie Marine Inspection Zones; and (e) Search and Rescue Mission Coordinator (SMC). The Deputy Sector Commander will be designated

alternate COTP, FMSC, FOSC, SMC and Acting OCMI. A continuity of operations order has been issued ensuring that all previous Group Milwaukee, Marine Safety Office Milwaukee, Marine Safety Office Chicago, and Group/Marine Safety Office Sault Ste. Marie practices and procedures will remain in effect until superseded by Commander, Sector Lake Michigan. This continuity of operations order addresses existing COTP regulations, orders, directives and policies.

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones:

Name: Sector Lake Michigan.

Address: Commander, U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207–1997.

Contact: General Number, (414) 747–7100, Sector Commander: Captain Scott LaRochelle; Deputy Sector Commander: Commander Mark Hamilton.

Chief, Prevention Department: (414) 747–7157.

Chief, Response Department: (414) 747–7145.

Chief, Logistics Department: (414) 747–7100.

Dated: April 26, 2005.

R.J. Papp, Jr.,

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

[FR Doc. 05–9037 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1587–DR]

Pennsylvania; Amendment No. 3 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Pennsylvania (FEMA–1587–DR), dated April 14, 2005, and related determinations.

DATES: Effective April 29, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Pennsylvania is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 14, 2005:

Susquehanna County for Individual Assistance (already designated for Public Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–9052 Filed 5–5–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1587–DR]

Pennsylvania; Amendment No. 2 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Pennsylvania (FEMA–1587–DR), dated April 14, 2005, and related determinations.

DATES: Effective April 29, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Pennsylvania is hereby amended to include Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 14, 2005:

Lackawanna and Susquehanna Counties for Public Assistance.

Bradford, Bucks, Columbia, Luzerne, Monroe, Northampton, Pike, Wayne, and Wyoming Counties for Public Assistance (already designated for Individual Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–9053 Filed 5–5–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1587–DR]

Pennsylvania; Amendment No. 1 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1587–DR), dated April 14, 2005, and related determinations.

DATES: Effective April 23, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 23, 2005.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management

Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–9054 Filed 5–5–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2001–11120]

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of a Current Public Collection of Information; Imposition and Collection of Passenger Civil Aviation Security Service Fees

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice.

SUMMARY: TSA invites public comment on a currently approved public information collection requirement abstracted below that will be submitted to OMB in compliance with the Paperwork Reduction Act.

DATES: Send your comments by July 5, 2005.

ADDRESSES: Comments may be mailed or delivered to Katrina Wawer, Information Collection Specialist, Office of Transportation Security Policy, TSA–9, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Ms. Wawer at the above address or by telephone (571) 227–1995 or facsimile (571) 227–2594.

SUPPLEMENTARY INFORMATION:

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Therefore, in preparation for submission for OMB clearance of the information collection discussed in this notice, TSA solicits comments in order to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

1652–0001; Imposition and Collection of Passenger Civil Aviation Security Service Fees

To help cover aviation security costs, as authorized by 49 U.S.C 44940, the Transportation Security Administration (TSA) imposed security service fees on passengers of air carriers and foreign air carriers on December 31, 2001, at 66 FR 67698 (codified at 49 CFR part 1510). This collection was initially required and granted approval under OMB control number 2110–0001, while TSA was under the Department of Transportation. When TSA was transferred to the Department of Homeland Security, the collection was subsequently transferred and assigned the current OMB control number 1652–0001.

This information collection requires the air carriers to submit to TSA certain information necessary for TSA to impose, collect, and regulate the Passenger Civil Aviation Security Service Fees (September 11th Security Fee), which is used to help defray the costs of providing Federal civil aviation security services, and to retain this information for a six-year rolling period. For instance, air carriers must keep the information collected during Fiscal Year 2005 until the expiration of Fiscal Year 2011. TSA collects the information related to the September 11th Security Fee to monitor carrier compliance with the fee requirements, for auditing purposes, and to track performance measures. The fee amount collected from each passenger is $2.50 per enplanement originating in the United States. Passengers may not be charged for more than two enplanements per one-way trip or four enplanements per round trip. 49 CFR 1510.5.

TSA rules require air carriers to impose and collect the fee on passengers, and to submit the fee to TSA by the final day of the calendar month following the month in which the fee was collected. 49 CFR 1510.13. Air carriers are further required to submit quarterly reports to TSA, which provide an accounting of the fees imposed, collected, refunded to passengers, and remitted to TSA. 49 CFR 1510.17.

Each air carrier that collects security service fees from more than 50,000 passengers annually is also required under 49 CFR 1510.15 to submit to TSA an annual independent audit, performed by an independent certified public accountant, of its security service fee activities and accounts. Although, the annual independent audit requirements were suspended January 23, 2003 (68 FR 3192), TSA conducts its own audits of the air carriers (49 CFR 1510.11).

TSA is seeking renewal of this collection to require air carriers to continue submitting the quarterly reports to TSA, and to retain the information for a six-year rolling period. This requirement includes retaining the source information for the quarterly reports remitted to TSA, and the calculations and allocations performed to remit reports to TSA. Should the auditing requirement be reinstated, the requirement would include information and documents reviewed and prepared for the independent audit: The accountant's working papers, notes, worksheets, and other relevant documentation used in the audit; and, if applicable, the specific information leading to the accountant's opinion, including any determination that the accountant could not provide an audit opinion. Although TSA suspended the independent audits, TSA conducts audits of the air carriers, and therefore, requires air carriers to retain and provide the same information as required for the quarterly reports and independent audits.

TSA estimates that 196 total respondent air carriers will spend approximately 1 hour per quarterly report, for a total of 784 hours per year. Should TSA reinstate the audit requirement, TSA estimates that 105 air carriers would be required to submit annual audits, on which they would spend approximately 20 hours for preparation, for a total of 2,100 hours annually. TSA estimates the total for quarterly reports and annual audits is 2,884 hours.

For the quarterly reports and TSA's audits, TSA estimates that the 196 air carriers and foreign air carriers will each incur an average cost of $282.08 annually. This estimate includes $100 in staff time for preparation of the reports (at $25 per hour, each quarterly report is estimated to take 1 hour to prepare), $361.20 in annual records storage related costs, and $1.48 for postage for the report (4 stamps at 37 cents each). TSA estimates an aggregate annual cost of $90,685.28 for each airline to submit quarterly reports and data retention, and an aggregate cost of

$272,055.84 for the three years of the renewal period.

Should TSA reinstate the annual audit requirement, TSA estimates the total annual cost for this collection at $315,000 (105 air carriers, at an estimated rate of $150 per hour, at 20 hours per report). For the three-year period of the renewal, TSA estimates the total aggregate cost to be $945,000, and $1,217,055.84 for the three-year extension of both quarterly reports and annual audits.

Issued in Arlington, Virginia, on May 3, 2005.

Lisa S. Dean,

Privacy Officer.

[FR Doc. 05–9130 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4977–N–04]

Notice of Submission of Proposed Information Collection to OMB: Emergency Comment Request, Survey of HUD Homeownership Fair Attendees

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 20, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within fourteen (14) days from the date of this notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to Mr. Mark Menchik, HUD Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from persons who attend HUD's Homeownership Fairs. This notice is soliciting comments from members of the public and affecting agencies and concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond including through the use of appropriate automated collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

This notice also lists the following information:

Title of Proposal: Survey of HUD Homeownership Fair Attendees.

Description of the Need for the Information and its Proposed Use: The U.S. Department of Housing and Urban Development plans to survey persons as they arrive to attend HUD's Homeownership Fairs in June. HUD is conducting the survey to determine the demographic characteristics of people who attend, how they heard about the fair, and what they hope to learn from attending the Fair. HUD will not collect the name or other identifying information from those attending. The purpose of collecting this data is to better design the marketing and content of future Homeownership Fairs. The three research questions are: (1) Is the fair attracting a broad demographic spectrum of potential homebuyers? (2) What advertising source led to attendees of different demographic backgrounds attending? (3) What types of information were attendees hoping to learn at the Fair? The Homeownership Fairs are to be conducted as part of Homeownership Month in June 2005. The Fairs will be conducted in four communities, Albuquerque, Cincinnati, Orlando, and New Orleans. As estimated 4,000 people will attend the fairs.

OMB Control Number: Pending OMB approval.

Agency Form Numbers: None.

Members of Affected Public: Attendees of HUD Homeownership Fair. Estimated of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: An estimation of the total numbers of hours needed to prepare the information collection is 320, number of respondents is 4,000, frequency of response is 1 per annum, and the total hours per respondent is 0.048.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 28, 2005.

Harold L. Bunce,

Deputy Assistant Secretary for Economic Affairs.

[FR Doc. 05–9024 Filed 5–5–05; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–24]

Notice of Submission of Proposed Information Collection to OMB; FHA Fee Inspector Panel Application Package

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The national FHA Inspector Roster is a listing of FHA approved inspectors. FHA approved mortgagees select inspectors from the roster. The information collection is essential to the Department's efforts to ensure that compliance Inspectors possess the prerequisite knowledge and skills to assess the quality of construction of homes before the homes can be accepted as security for FHA insured loans.

DATES: *Comments Due Date:* June 6, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0548) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or

Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: FHA Fee Inspector Panel Application Package.

OMB Approval Number: 2502–0548.

Form Numbers: HUD–92563.

Description of the Need for the Information and its Proposed Use: The national FHA Inspector Roster is a listing of FHA approved inspectors. FHA approved mortgagees select inspectors from the roster. The information collection is essential to the Department's efforts to ensure that compliance Inspectors possess the prerequisite knowledge and skills to assess the quality of construction of homes before the homes can be accepted as security for FHA insured loans.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	x	Annual responses	x	Hours per response	=	Burden hours
1,000	1	....	2.25	....	2,250		

Total Estimated Burden Hours: 2,250.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 28, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E5–2204 Filed 5–5–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–18]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 6, 2005.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilzed, under utilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 28, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 05–8835 Filed 5–5–05; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4914–N–05]

Mortgagee Review Board; Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, this notice advises of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: David E. Hintz, Secretary to the Mortgagee Review Board, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone: (202) 708–3856, extension 3594. A Telecommunications Device for Hearing- and Speech-Impaired Individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101–235, approved December 15, 1989), requires that HUD ''publish a description of and the cause for administrative action against a HUD-approved mortgagee'' by the Department's Mortgagee Review Board (Board). In compliance with the requirements of section 202(c)(5), this notice advises of administrative actions that have been taken by the Board from July 1, 2004, to December 31, 2004.

1. Academy Mortgage Corporation, Salt Lake City, Utah, [Docket No. 04–4399–MR]

Action: Settlement Agreement signed March 18, 2005. Without admitting fault or liability, Academy Mortgage Corporation (Academy) agreed to pay HUD a civil money penalty in the amount of $288,500 and indemnify HUD on four loans. Academy also agreed to reimburse each borrower identified in Attachment B to the Settlement Agreement, fees identified as unallowable by HUD.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where Academy: Violated requirements governing conflict of interest by paying commissions to loan officers who had received payment from another source in the same HUD/FHA loan transaction; failed to properly verify the effectiveness, adequacy and/or stability of income used in qualifying borrowers; failed to properly verify the source and adequacy of funds required for closing; failed to ensure outstanding judgments were satisfied prior to closing the loan; failed to document that it reviewed the real estate appraisals for 64 HUD/FHA insured mortgage loans that it underwrote. Specifically, Academy did not document that it analyzed appraisals that showed large increases in value and recent sales; charged borrowers unallowable fees, such as documentation preparation fee, document review fee, funding fee, wire fee, Administrative Compliance fee, Neighborhood Gold fee, and Wire review fee, among others; and failed to retain entire case files for loans it originated.

2. Chess Financial Services, Inc., Camp Springs, MD [Docket No. 04–4355–MR]

Action: The Board voted to reject Chess Financial Services, Inc.'s (Chess) settlement offer and imposed a civil money penalty of $43,500.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where Chess: permitted its employees to process loans in which they were interested parties; permitted three individuals who were not employees, or who were not excusive employees, to originate mortgages; failed to maintain a quality control plan for the origination of HUD/FHA insured mortgages for two fiscal years, and failed to complete quality control reviews in accordance with HUD/FHA requirements; and failed to maintain complete loan origination files for review and to comply with HUD's requests for documentation.

3. First Service Mortgage, Inc., College Park, GA [Docket No. 04–4440–MR]

Action: Settlement Agreement signed December 20, 2004. Without admitting fault or liability, First Service Mortgage, Inc. (First Service) agreed to pay an administrative payment of $16,350 and indemnify HUD for any losses on two loans.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where First Service: failed to remit Mortgage Insurance Premium (MIP) within 15 days; failed to ensure employees worked exclusively for First Service submitted false and conflicting documentation to obtain HUD/FHA Mortgage Insurance; failed to maintain a Quality Control Plan that complies with HUD/FHA requirements; and originated a second FHA-insured mortgage without obtaining the required information, and without resolving discrepancies.

4. First Union National Bank d/b/a Wachovia Bank, N.A., Raleigh, NC [Docket No. 04–4230–MR]

Action: Settlement Agreement signed January 6, 2005. Without admitting fault or liability, Wachovia Bank, N.A. (Wachovia) agreed to pay an administrative payment of $8,500.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where First Union National Bank (First Union): failed to notify HUD of its merger with Wachovia; and First Union failed to timely perform property inspection on one HUD/FHA insured multifamily project.

5. International Home Mortgage Capital Corporation, Las Vegas, NV [04–4388–MR]

Action: On November 29, 2004, the Board issued a letter to International Home Mortgage Capital Corporation (International Home Mortgage) immediately withdrawing its HUD/FHA approval for five years. The Board also voted to impose a civil money penalty in the amount of $118,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where International Home Mortgage: Failed to implement a Quality Control Plan in accordance with HUD/FHA requirements; failed to verify the source and adequacy of borrowers' funds to close their loans; failed to verify and analyze borrowers' effective income; failed to analyze borrowers' liabilities; failed to ensure compliance with HUD/FHA credit requirements for borrowers; and failed to calculate the maximum mortgage amount.

6. Mann Financial, Inc., Helena, MT [Docket No. 04–4280–MR]

Action: Settlement Agreement signed March 29, 2005. Without admitting fault or liability, Mann Financial, Inc. (Mann) agreed to pay HUD an administrative payment in the amount of $46,000 and indemnify HUD on four loans. Mann also agreed to pay HUD $3,982 as pay-down of principal on two loans.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where Mann: Failed to ensure HUD/FHA loans were originated by Mann employees; submitted false certifications to HUD regarding whether information was obtained directly from the borrowers by full-time employees of the lender; underwrote mortgages for mortgagees that were not approved loan correspondents for Mann; failed to implement fully its quality control plan in that it did not review eight defaulting mortgages; failed to document adequately the borrower's source of funds for the down payment and/or closing costs; failed to ensure that the allowable maximum mortgage amount was not exceeded; admitted underwriter error caused a mortgage amount in excess of the maximum allowed and has offered to pay-down the mortgage in connection with a settlement; failed to document accurately and/or calculate the borrower's effective income. Specifically, Mann failed to document that SSI income would continue for the first three years of a mortgage; failed to document income and Mann did not establish a sufficient employment history; failed to meet the underwriting requirements relative to a temporary interest rate buy down. Specifically, Mann did not demonstrate that borrowers for three mortgages had likelihood for increased income after the buy down period ended; and failed to document the contributory value of sweat equity labor. Mann failed to document the market value of a borrower's roofing, siding, framing, carpentry and painting.

7. Mirad Financial Group, Inc., San Diego, CA [Docket No. 03–3159–MR]

Action: Settlement Agreement signed October 1, 2004. Without admitting fault or liability, Mirad Financial Group, Inc., (Mirad) agreed to pay a civil money penalty of $46,000. Mirad also agreed to indemnify HUD for any losses incurred on six loans.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where Mirad: Failed to ensure that loan officer who originated three loans was not suspended from participating in government programs; used independent contractors to originate 18 FHA-insured loans; underwrote loans for mortgagees that were not on HUD's list of approved loan correspondents for

Mirad; failed to adequately document gift funds used for downpayment and/or closing costs; failed to ensure that the borrower met the 3 percent minimum downpayment requirement; failed to ensure the borrower did not exceed the maximum allowable mortgage; failed to obtain a satisfactory explanation of the borrower's late payments, charge-offs and collection accounts; and failed to adequately document that the seller owned the property.

8. Realty Mortgage Corporation, Flowood, MS [Docket No. 04–4443–MR]

Action: Settlement Agreement signed November 12, 2004. Without admitting fault or liability, Realty Mortgage Corporation (Realty Mortgage) agreed to pay HUD an administrative payment of $81,500 and indemnify HUD on three loans.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where Realty Mortgage: Accepted loans that were originated by a non-HUD approved lender; underwrote the loans which clearly indicated that a third party was involved in the origination; failed to adequately verify the source and/or adequacy of funds used for earnest money deposits and/or close loan transactions; closed loans in excess of the maximum allowable mortgage amount resulting in over-insured mortgages; and failed to close loans in accordance with the terms of the sales contracts and/or to obtain the required real estate certifications.

9. Seattle Mortgage Company, Seattle, WA [Docket No. 05–5021–MR]

Action: Settlement Agreement signed March 28, 2005. Without admitting fault or liability, Seattle Mortgage Company (Seattle Mortgage) agreed to pay HUD an administrative payment in the amount of $21,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements where Seattle Mortgage: Violated HUD/FHA conflict of interest provisions by paying commissions to a loan officer who originated HUD/FHA-insured loans and who also received 203(k) consultant fees in connection with those loans.

10. Tribeca Mortgage Corporation, Lake Success, NY [Docket No. 04–4367–MR]

Action: The Board voted to impose a civil money penalty on Tribeca Mortgage Corporation (Tribeca) in the amount of $30,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in origination of HUD/FHA-insured loans where Tribeca: Originated loans where the borrowers were charged fees in excess of the one percent allowable origination fee for services covered by the origination fee; originated loans without an approved relationship with the HUD-approved sponsor, and/or without being identified as the originating lender when the FHA Case Number was requested; failed to file required annual reports regarding loan origination activity; and failed to maintain and implement an adequate Quality Control Plan in compliance with HUD/FHA requirements.

Dated: April 29, 2005.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 05–9142 Filed 5–5–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Gulf and South Atlantic Regional Panel Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force Gulf and South Atlantic Regional Panel. The meeting is open to the public. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION** section.

DATES: The Gulf and South Atlantic Regional Panel will meet from 9 a.m. to 5 p.m. on Thursday, May 12, 2005, and 9 a.m. to noon on Friday, May 13, 2005.

ADDRESSES: The Gulf and South Atlantic Regional Panel meeting will be held at the Wyndham Casa Marine Resort, 1500 Reynolds Street, Key West, Florida 33040; (305) 296–3535 or (800) 626–0777. Minutes of the meeting will be maintained in the office of Division of Environmental Quality, Chief, Branch of Invasive Species, U.S. Fish and Wildlife Service, Suite 322, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622.

FOR FURTHER INFORMATION CONTACT: Ron Lukens, Gulf and South Atlantic Regional Panel Chair and Assistant Director, Gulf States Marine Fisheries Commission, at (228) 875–5912.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces the meeting of the ANS Task Force Gulf and South Atlantic Regional Panel. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. The Gulf of Mexico Regional Panel was established by the ANS Task Force in 1999, and renamed the Gulf and South Atlantic Regional Panel in 2004. The Gulf and South Atlantic Regional Panel, comprised of representatives from Federal, State, local agencies and from private environmental and commercial interests, performs the following activities:

a. Identifies priorities for activities in the Gulf of Mexico and the South Atlantic region,

b. Develops and submits recommendations to the national ANS Task Force,

c. Coordinates ANS program activities in the Gulf of Mexico and the South Atlantic region,

d. Advises public and private interests on control efforts, and

e. Submits an annual report to the Aquatic Nuisance Species Task Force describing activities within the Gulf of Mexico and South Atlantic region related to ANS prevention, research, and control.

The Panel membership includes six Gulf of Mexico and South Atlantic States: Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas. The Gulf and South Atlantic Regional Panel will discuss several topics at this meeting including: an overview from the Exotic Pest Plant Council; participation in the Habitattitude™ initiative; South Carolina's membership in the panel; Status of State plans for member States; the panel's 5-year strategic plan; Risk Assessment training; research on introduced fish in Florida Natural Areas; Hazard Analysis and Critical Control Point training; brown treesnake update; Southeast Aquatic Resources Partnership; Rapid Response Plans; ANS Task Force update; National Invasive Species Council/Invasive Species Advisory Committee; recommendations for the ANS Task Force; and updates from Panel members.

Dated: April 21, 2005.

Mamie A. Parker,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries & Habitat Conservation.

[FR Doc. 05–9020 Filed 5–2–05; 4:19 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force. The meeting is open to the public. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION** section.

DATES: The Aquatic Nuisance Species Task Force will meet from 8 a.m. to 5 p.m. on Tuesday, May 24, 2005, and Wednesday, May 25, 2005, and from 8 a.m to 1 p.m. on Thursday, May 26, 2005.

ADDRESSES: The Aquatic Nuisance Species Task Force meeting will be held at the Monterey Conference Center, One Portola Plaza, Monterey, CA 93940; (831) 646–3770. Meeting arrangements and rooms for attendees are being arranged by the Marriott Monterey, 350 Calle Principal, Monterey, CA 93940. For reservations call (831) 649–4234 or (800) 228–9290 by May 9, 2005. Minutes of the meeting will be maintained in the office of Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, Suite 322, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and will be made available for public inspection during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Don MacLean, Branch of Invasive Species, at (703) 358–2108.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces meetings of the Aquatic Nuisance Species Task Force. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics to be covered during the ANS Task Force meeting include: A discussion of the implementation of the ANSTF Strategic Plan; ANSTF Committee and Regional Panel reports; ANSTF Ex-officio member reports; an update on U.S. Coast Guard and International Maritime Organization ballast water activities; an update on the Ballast Water Demonstration Program; implementation of Habitattitude™ Campaign; Western Regional Panel Presentations; a panel discussion on risk analysis; and a field trip.

Dated: April 21, 2005.

Mamie A. Parker,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries & Habitat Conservation.

[FR Doc. 05–9021 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK964–1410–HY–P; AA–10538, BBA–3]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Olsonville, Incorporated. The lands are located in T. 19 S., R. 57 W., Seward Meridian, Alaska, in the vicinity of Olsonville, Alaska, and contain 1,206.44 acres. Notice of the decision will also be published four times in the Bristol Bay Times.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until June 6, 2005, to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: John Leaf, by phone at 907–271–3283, or by e-mail at *John_Leaf@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Leaf.

John Leaf,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. 05–9092 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–5420–EU–B136; CACA 42382]

Disclaimer of Interest in Lands; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Mr. Warren Hopkins has applied for a recordable disclaimer of interest in certain lands by the United States. The interest proposed to be disclaimed is fee title and not a request to validate an RS 2477 road.

DATES: Comments should be received by June 6, 2005.

ADDRESSES: Comments or objections should be sent to: Chief, Branch of Lands Management, 2800 Cottage Way, Rm. 1834, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825; 916–978–4677.

SUPPLEMENTARY INFORMATION: Mr. Warren Hopkins filed an application requesting that the United States issue a recordable disclaimer of the United States interest pursuant to Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), for the following land:

Mount Diablo Meridian

T. 45 N., R. 13 E.,

Land northerly of lot 4, Section 27, lying below the mean high water line in the bed of Goose Lake. Said mean high water line of Goose Lake is subject to change through natural processes.

The above described land was Quit Claimed to the State of California, on September 9, 1942 under the Act of February 3, 1905. Mr. Warren Hopkins is seeking clear title concerning the property Boundary in Goose Lake. The official records of the BLM were reviewed and a determination was made that lands northward of lot 4, Section 27, lying below the mean high water line of Goose Lake, were reconveyed to the State of California. As a result, the United States would not be precluded from issuing a disclaimer of interest to lands below the mean high water line of Goose Lake. The United States has no claim to or interest in the land described and issuance of a recordable disclaimer will remove a cloud of title to the land.

Comments, including names and street addresses of respondents will be available for public review at the California State Office, Bureau of Land

Management, 2800 Cottage Way, Sacramento, California during regular business hours 8:30 a.m. to 4:30 p.m. Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses and from individual identifying themselves as representatives or officials of organization or business will be made available for public inspection in their entirety.

Accordingly, a recordable disclaimer of interest will be issued no sooner than August 4, 2005.

Dated: March 9, 2005.

Howard Stark,

Chief, Branch of Lands Management.

[FR Doc. 05–9089 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–05–0777–XX]

Notice of Public Meeting, New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management, New Mexico Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting dates are June 8–9, 2005, at the Fechin Inn, 227 Paseo del Pueblo Norte, Taos, New Mexico. An optional field trip is planned for June 7, 2005. The public comment period is scheduled for June 7, 2005, from 6–7 p.m. at the Fechin Inn. The public may present written comments to the RAC. Depending on the number of individuals wishing to comment and time available, oral comments may be limited. The three established RAC working groups may have a late afternoon or an evening meeting on Wednesday, June 8, 2005.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in New Mexico. All meetings are open to the public. At this meeting, topics include issues on renewable and nonrenewable resources.

FOR FURTHER INFORMATION CONTACT: Theresa Herrera, New Mexico State Office, Office of External Affairs, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, (505) 438–7517.

Dated: May 3, 2005.

Gary L. Johnson,

Acting State Director.

[FR Doc. 05–9173 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–100–1060–JJ]

Helicopter and Motorized Vehicle Use While Capturing Wild Horses and Burros; Public Hearings (43 CFR 4740.1)

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of public hearings.

SUMMARY: A public hearing addressing the use of motorized vehicles and helicopters during the capture of wild horses from the Sand Wash Wild Horse Herd Management Area has been scheduled in Craig, Colorado.

DATES: The hearing date is scheduled as follows:

June 22, 2005; 6:30 p.m.; Craig, Colorado.

ADDRESSES: The hearing will be held at the following location:

Little Snake Field Office; 455 Emerson Street; Craig, Colorado.

FOR FURTHER INFORMATION CONTACT: Valerie Dobrich, Wild Horse and Burro Specialist at (970) 878–3839.

SUPPLEMENTARY INFORMATION: Immediately following the hearing there will be a public meeting to serve as a platform for discussion of the proposed wild horse gather. The Sand Wash wild horse gather is scheduled for completion in September 2005.

Dated: April 4, 2005.

David E. Blackstun,

Associate Field Manager.

[FR Doc. 05–9087 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–920–1310–05; OKNM 111355]

Proposed Reinstatement of Terminated Oil and Gas Lease OKNM 111355

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease OKNM 111355 for lands in Beckham County, Oklahoma, was timely filed and was accompanied by all required rentals and royalties accruing from January 1, 2005, the date of termination.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

SUPPLEMENTARY INFORMATION: No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16 ⅔ percent, respectively. The lessee has paid the required $500.00 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective January 1, 2005, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Lourdes B. Ortiz,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 05–9085 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; NVN–77821; 5–08807]

Public Land Order No. 7634; Withdrawal of Public Land for the United States Air Force; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,979 acres of public land from surface entry

and mining, for a period of 20 years, and reserves the land for use by the United States Air Force to protect support facilities for the safe and secure operation of national defense activities at the Nevada Test and Training Range.

DATES: *Effective Date:* May 6, 2005.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 775–861–6532.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (2000)), but not from leasing under the mineral leasing laws, for a period of 20 years, and reserved for use by the United States Air Force to protect support facilities for the safe and secure operation of national defense activities at the Nevada Test and Training Range.

Mount Diablo Meridian

From the northwest corner of section 12, T. 5 N., R. 50 E.,
Proceed southeast 1,874.10 feet on a bearing of 155°48′00″ to starting point;
Thence southeast 5,551.20 feet on a bearing of 122°54′00″;
Thence northeast 15,530.30 feet on a bearing of 33°18′00″;
Thence northwest 5,551.20 feet on a bearing of 302°54′00″;
Thence southwest 15,530.30 feet on a bearing of 213°18′00″ to the starting point, excepting Tybo Road.

The area described contains 1,979 acres in Nye County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (2000), the Secretary determines that the withdrawal shall be extended.

(Authority: 43 U.S.C. 1714(a); 43 CFR 2310.3–3(b)(1))

Dated: April 20, 2005.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 05–9091 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–422–1220–NX; 8364]

Limitation of Activities to Daylight Hours on Selected Public Lands Within the San Pedro Riparian National Conservation Area (SPRNCA), and Other Areas, Cochise County, AZ, To Provide for Public Safety

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: All public use, visitation and activity on affected lands in part of the San Pedro Riparian National Conservation Area (SPRNCA), and other land managed by the Bureau of Land Management in the area, are limited to daylight hours. Activity during the hours of darkness, which is described as official sunset to official sunrise, is prohibited year round. Other existing limitations established in the Safford District Resource Management Plan and applicable regulations remain unchanged except as modified by this notice. This notice is issued under the authority of 43 CFR 8364.1. This restriction is necessary for public health and safety, and to facilitate law enforcement efforts.

DATES: This notice is effective May 6, 2005, until rescinded or modified by the authorized officer.

ADDRESSES: You may direct inquiries or suggestions to the Tucson Field Office, 12661 East Broadway Boulevard, Tucson, Arizona 85748–7208; or the San Pedro River Riparian National Conservation Area, 1763 Paseo San Luis, Sierra Vista, Arizona 85635.

FOR FURTHER INFORMATION CONTACT: Steven Cohn, Acting Field Manager, Bureau of Land Management, Tucson Field Office, 12661 East Broadway Boulevard, Tucson, Arizona 85748–7208, telephone (520) 258–7200; or Bill Childress, Manager, San Pedro River Riparian National Conservation Area, 1763 Paseo San Luis, Sierra Vista, Arizona 85635, telephone (520) 439–6400.

SUPPLEMENTARY INFORMATION: Current use designations and regulations allow public use at all times in the SPRNCA. Part of the SPRNCA, and other lands, are affected by illegal immigration from Mexico, including smuggling of undocumented aliens and drug-smuggling that present serious safety concerns for visitors. Because of these illegal activities, intensive border-related law enforcement operations occur in the area. Public use in the affected area is also vulnerable to incidental criminal activity, and can conflict with law enforcement operations and management actions necessary to protect public safety.

The affected Federal lands include approximately 2,740 acres generally located south of State Highway 92, and north of the International United States-Mexico Boundary, including all or portions of Sections 3, 4, 8, 9, 17, 18, 19, and 20, Township 24 South, Range 22 East, Gila and Salt River Base Meridian, Cochise County, Arizona.

The affected area described here will be subject to the following restriction: Unless otherwise authorized, no person shall use, remain on or occupy any land in the affected area during the period of time from 30 minutes after official sunset to 30 minutes before official sunrise. Persons who are exempt from this restriction include:

(1) Any Federal, state, or local officers engaged in official fire, emergency or law enforcement activities;

(2) BLM employees engaged in official duties;

(3) Persons specifically authorized by BLM or by law to use, remain on, or occupy lands in the area affected by this notice. This includes persons with BLM permits or leases or other written authorizations, or occupying valid mining claims under the Mining Law.

Lawful uses and activities during daylight hours are not affected by this notice. The area affected by this notice will be posted with appropriate regulatory signs. Additional information is available in the Tucson Field Office, and at the SPRNCA headquarters at the addresses shown above.

Closure

1.0 Closure of Certain Public Lands to Overnight Activities

Unless otherwise authorized, no person shall use, remain on or occupy any land in the San Pedro River Riparian National Conservation Area during the period of time from 30 minutes after official sunset to 30 minutes before official sunrise.

2.0 Exceptions

This closure does not apply to:

a. Any Federal, state, or local officers engaged in official fire, emergency, or law enforcement activities;

b. BLM employees engaged in official duties;

c. Persons specifically authorized by BLM or by law to use, remain on, or occupy lands in the area affected by this notice; or

d. Lawful uses and activities during daylight hours, beginning 30 minutes before official sunrise and ending 30 minutes after official sunset.

3.0 Authority

The authority for this closure is found under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733 (a) and 43 CFR 9268.3(d)(1)(i) and 43 CFR 8364.1(a).

4.0 Penalties

1. On all public lands, under section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733(a), 43 CFR 8360.0–7 and 43 CFR 9212.4, any person who violates any of these closures or restrictions on public lands within the boundaries established in this notice may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

2. On public lands within grazing districts (43 U.S.C. 315) and grazing-leased lands (43 U.S.C. 315m), under the Taylor Grazing Act, 43 U.S.C. 315(a), any person who violates these restrictions on public lands within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $500.00. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

3. On public lands fitting the criteria in the Sikes Act, 16 U.S.C. 670j(a)(2), any person who violates any of these restrictions on public lands within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $500.00 or imprisoned for no more than six months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

4. On public lands within Wild and Scenic River corridors (16 U.S.C. 1281(c) and 16 U.S.C. 3), any person who violates any of these restrictions on public lands within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $500.00 or imprisoned for no more than six months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

5. On public lands within National Monuments and within the criteria found in 16 U.S.C. 433 and respective enabling legislation, any person who violates applicable restrictions within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $500.00 or imprisoned for no more than ninety days, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Dated: March 11, 2005.

Steven Cohn,

Acting Field Manager.

[FR Doc. 05–9090 Filed 5–5–05; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[SDM 94312]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Secretary of Agriculture has filed a withdrawal application asking the Secretary of the Interior to withdraw from mining 5,170.20 acres of public land, the surface of which is reserved as part of the Black Hills National Forest, Custer County, South Dakota.

DATES: Comments and requests for a public meeting must be received by August 4, 2005.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor, Black Hills National Forest, 25041 N. Highway 16, Custer, South Dakota 57730, acting at the request of the BLM State Director, Montana, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, 406–896–5052, or Valerie Hunt, Forest Service, Rocky Mountain Region, 303–275–5071.

SUPPLEMENTARY INFORMATION: The United States Department of Agriculture, acting through the Forest Service, has filed an application with the Bureau of Land Management to withdraw the following-described public land, the surface of which is reserved as part of the Black Hills National Forest, from location or entry under the United States mining laws, subject to valid existing rights:

Black Hills National Forest

Black Hills Meridian

T. 4 S., R. 2 E.,
- Sec. 12, E½SW¼ and SE¼;
- Sec. 13, E½ and E½NW¼.

T. 4 S., R. 3 E.,
- Sec. 5, lots 3 to 16, inclusive;
- Sec. 6, lots 1 to 5, inclusive, S½NE¼, SE¼NW¼, and E½SE¼;
- Sec. 7, lots 3 and 4, E½NE¼, E½SW¼, and SE¼;
- Sec. 8, lots 1 to 16, inclusive;
- Sec. 9, lots 4 to 8, inclusive, and lots 11 to 14, inclusive;
- Sec. 16, lots 4, 5, 8, and 9, NW¼NW¼ and SE¼SW¼;
- Sec. 17, lots 1 to 14, inclusive;
- Sec. 18, lots 1 to 4, inclusive, E½, and E½W½;
- Sec. 19, lots 1 and 2, NE¼, and E½NW¼;
- Sec. 20, lots 1 to 9, inclusive, S½NE¼, SW¼NW¼, NW¼SW¼, S½SW¼, and N½SE¼;
- Sec. 21, lots 1 to 9 inclusive, and NW¼SW¼;
- Sec. 28, lots 1, 2, and 3, SE¼NW¼;
- Sec. 29, lot 1, NW¼NE¼, S½NE¼, and NW¼.

The area described contains 5,170.20 acres in Custer County.

The purpose of the proposed withdrawal is to protect and preserve unique cave resources, including the caverns of great scientific and public interest, located around the Jewel Cave National Monument, one of the largest known cave systems in the world.

The use of a right-of-way or cooperative agreement would not provide adequate protection for this area due to the broad scope and nondiscretionary nature of the general mining laws.

As proposed, the withdrawal would be for a period of 20 years.

No alternative sites are feasible.

No water will be needed to fulfill the purpose of the requested withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor, Black Hills National Forest.

Comments, including names and street addresses of respondents, will be available for public review at the Forest Supervisor's Office, Black Hills National Forest, 25041 N. Highway 16, Custer, South Dakota 57730, during regular business hours. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent

allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or busineses, will be made available for public inspection in their entirety.

Notice is hereby given that there will be at least one public meeting in connection with the proposed withdrawal to be announced at a later date. A notice of the time, place, and date will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of a meeting.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated from location or entry under the United States mining laws, unless the application is denied or canceled or the withdrawal is approved prior to that date. The land will remain open to other uses within the statutory authority pertinent to National Forest lands and subject to discretionary approval.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

(Authority: 43 U.S.C. 1714 (b)(1); 43 CFR 2310.3–1(a).)

Dated: February 10, 2005.

Randy D. Heuscher,

Acting Deputy State Director, Division of Resources.

[FR Doc. 05–9088 Filed 5–5–05; 8:45 am]

BILLING CODE 3410–11–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–499]

In the Matter of Certain Audio Digital-To-Analog Converters and Products Containing Same; Notice of Commission Determination To Rescind a Limited Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to rescind the limited exclusion order in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3152. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 14, 2003, based on a complaint filed on behalf of Cirrus Logic, Inc. of Austin, TX (''Cirrus''). 68 FR 64641 (Nov. 14, 2003). The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, sale for importation, and sale within the United States after importation of certain audio digital-to-analog converters and products containing same by reason of infringement of claims 1 and 11 of U.S. Patent No. 6,492,928 (''the '928 patent''). The notice of investigation named Wolfson Microelectronics, PLC of Edinburgh, United Kingdom; and Wolfson Microelectronics, Inc. of San Diego, CA (collectively ''Wolfson'') as respondents.

On December 29, 2003, the ALJ issued an ID (Order No. 5) granting complainant's motion to amend the complaint and notice of investigation to add allegations of infringement of claims 2, 3, 5, 6, and 15 of the '928 patent, and of claims 9, 12, and 19 of U.S. Patent No. 6,011,501 (''the '501 patent''). 69 FR 4177 (Jan. 28, 2004). On July 1, 2004, the ALJ issued an ID (Order No. 16) granting complainant's motion to terminate the investigation as to claims 1 and 2 of the '928 patent. On July 27, 2004, the ALJ issued an ID (Order No. 24) granting complainant's motion to terminate the investigation in part as to claim 11 of the '928 patent. Orders Nos. 5, 16, and 24 were not reviewed by the Commission.

The ALJ held an evidentiary hearing in the investigation from August 3, 2004, to August 11, 2004, and on November 15, 2004, he issued his final ID finding a violation of section 337 based on his findings that the asserted claims of the '501 patent are infringed, that they are not invalid in view of any prior art, and that claims 9 and 12 of the '501 patent are not invalid because of failure to provide an enabling written description of the claimed invention. The ALJ found the '928 patent to be unenforceable because the inventors intentionally withheld highly material prior art from the examiner during the prosecution of the '928 patent application at the United States Patent and Trademark Office (''USPTO''). As an independent ground for unenforceability, the ALJ found that the '928 patent is unenforceable because one person was mistakenly listed on the patent as an inventor. The ALJ found that the accused devices infringe the asserted claims of the '928 patent, if enforceable, that the asserted claims of the '928 patent are not invalid in view of any prior art, or because of a failure to provide an enabling written description of the claimed invention, or for failure to disclose the best mode.

On November 23, 2004, the USPTO issued a certificate correcting the inventorship of the '928 patent thereby curing one ground on which the Commission had found the patent unenforceable. On December 30, 2004, the Commission determined to review and reverse the ID's finding that the '928 patent is unenforceable due to incorrect inventorship in view of the issued certificate of correction by the USPTO. 70 FR 1275 (Jan. 6, 2005). It further determined not to review the remainder of the ID, thereby finding a violation of section 337. *Id.*

On February 16, 2005, the Commission determined that the appropriate form of relief is a limited exclusion order prohibiting the importation of Wolfson's audio digital-to-analog converters that infringe claims 9, 12 and 19 of the '501 patent. The limited exclusion order applies to any of the affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or their successors or assigns, of Wolfson.

Complainants Cirrus and respondents Wolfson report that they have now settled all outstanding patent disputes and related actions. Accordingly, on April 4, 2005, pursuant to Commission rule 210.76(a)(1), Cirrus and Wolfson filed a joint petition for rescission of the limited exclusion order issued in the investigation.

Having reviewed the parties' submissions, the Commission has determined that the settlement agreement satisfies the requirement of Commission rule 210.76(a)(1), 19 CFR 210.76(a)(1), for changed conditions of fact or law. The Commission therefore has issued an order rescinding the limited exclusion order previously issued in this investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section

210.76(a)(1) of the Commission's Rules of Practice and Procedure (19 CFR 210.76(a)(1)).

By order of the Commission.

Issued: May 3, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–9133 Filed 5–5–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–531]

In the Matter of Certain Network Controllers and Products Containing Same; Notice of Decision Not To Review an Initial Determination Granting Complainant's Motion To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on April 12, 2005, granting complainant's motion to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of the public version of the IDs and all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On January 19, 2005, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by Marvell International, Ltd. of Hamilton, Bermuda, (''Marvell'') alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain network controllers and products containing same by reason of infringement of claims 68, 70, and 71 of U.S. Patent No. 6,462,688, and claims 22–32, 54, and 55 of U.S. Patent No. 6,775,529. 70 FR 31844 (January 19, 2005). The complainant named Realtek Semiconductor Corporation of Hsinchu, Taiwan, and Real Communications, Inc., of San Jose, CA (collectively, ''Realtek''), as respondents.

On March 31, 2005, complainant Marvell moved to amend the complaint and notice of investigation to add an additional respondent, Bizlink Technology, Inc. On April 11, 2005, the Commission investigative attorney filed a response in support of the motion. On the same day, respondents Realtek filed a response in opposition to the motion.

On April 12, 2005, the presiding ALJ issued an ID (Order No. 5) granting complainant's motion. No party petitioned for review of the ALJ's ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: May 3, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–9134 Filed 5–5–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–439 and 731–TA–1077, 1078, and 1080 (Final)]

Polyethylene Terephthalate (PET) Resin from India, Indonesia, and Thailand

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines,[2] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from India of PET resin, provided for in subheading 3907.60.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Government of India.[3]

The Commission also determines,[2] pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from India, Indonesia, and Thailand of PET resin that have been found by Commerce to be sold in the United States at less than fair value (LTFV).[4]

Background

The Commission instituted these investigations effective March 24, 2004, following receipt of a petition filed with the Commission and Commerce by the U.S. PET Resin Producers' Coalition, Washington, DC. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of PET resin from India were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports of PET resin from India, Indonesia, and Thailand were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 17, 2004 (69 FR 67365). The hearing was held in Washington, DC, on March 15, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Marcia E. Miller dissenting.

[3] On March 21, 2005, the Commission terminated its countervailing duty investigation with regard to Thailand (Inv. No. 701–TA–440) (70 FR 15884, March 29, 2005) as a result of Commerce's negative final determination of subsidies regarding imports of PET resin from Thailand (70 FR 13462, March 21, 2005).

[2] Commissioner Marcia E. Miller dissenting.

[4] On March 21, 2005, the Commission terminated its antidumping investigation with regard to Taiwan (Inv. No. 731–TA–1079) (70 FR 15884, March 29, 2005) as a result of Commerce's final determination of sales at not LTFV regarding imports of PET resin from Taiwan (70 FR 13454, March 21, 2005).

the Secretary of Commerce on May 3, 2005. The views of the Commission are contained in USITC Publication 3769 (May 2005), entitled Polyethylene Terephthalate (PET) Resin from India, Indonesia, and Thailand: Investigations Nos. 701–TA–439 and 731–TA–1077, 1078, and 1080 (Final).

By order of the Commission.

Issued: May 2, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–9136 Filed 5–5–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–376, 377, 379 and 731–TA–788–793 (Review)]

Certain Stainless Steel Plate From Belgium, Canada, Italy, Korea, South Africa, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject reviews.

EFFECTIVE DATE: May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: Effective August 26, 2004, the Commission established a schedule for the conduct of the subject reviews (69 FR 53946, September 3, 2004); that schedule was subsequently revised, effective January 21, 2005 (70 FR 3944, January 27, 2005), to reschedule the Commission's hearing. The Commission is further revising its schedule to extend the period of time before the final release of information to parties and the date when final party comments are due.

The Commission's new schedule for the reviews is as follows: the Commission will make its final release of information on May 25, 2005; and final party comments are due on May 27, 2005.

For further information concerning these reviews see the Commission's notices cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: May 3, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–9135 Filed 5–5–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–05–017]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 16, 2005, at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–1090 (Preliminary) (Artists' Canvas from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before May 16, 2005; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before May 23, 2005.)
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 3, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–9239 Filed 5–4–05; 2:30 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

April 29, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *Mills.Ira@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the data of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Alien Claims Activity Report.

OMB Number: 1205–0268.

Affected Public: State, local, or tribal government.

Type of Response: Reporting.

Frequency: Quarterly.

Number of Respondents: 53.

Annual Responses: 212.

Average Response Time: 1 hour.

Total Annual Burden Hours: 212.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The report allows assessment of cost efficiency of the U.S. Citizenship and Immigration Services verification system and determination of the national impact of the Immigration Reform and Control Act on the Unemployment Insurance System.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. 05–9056 Filed 5–5–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

April 29, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *Mills.Ira@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Internal Fraud Activities.

OMB Number: 1205–0187.

Affected Public: State, local, or tribal Government.

Type of Response: Program Evaluation.

Frequency: Annually.

Number of Respondents: 53.

Annual Responses: 53.

Average Response Time: 3 hours.

Total Annual Burden Hours: 159 hours.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The report categorizes the major areas susceptible to internal (employee) fraud and provides actual and ''estimated'' (predictability or cost avoidance measures) workload. The information from this report has been used and will be used to review Internal Security (IS) operations and obtain information on composite shifting patterns of nationwide activity and effectiveness in the area of internal fraud identification and prevention. The Employment and Training Administration has used this report to assess the overall adequacy of IS procedures in State Workforce Agencies' unemployment insurance program administration.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. 05–9057 Filed 5–5–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages and determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rate and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wage payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for the utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decisions, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon Act Related Acts,'' shall be the minimum paid by

contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration be the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decision being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription (s), be sure to specify the State (s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 28th day of April, 2005.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 05–8841 Filed 5–5–05; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternative method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based on the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term FR Notice appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. For further information contact Barbara Barron at (202) 693–9447.

Dated at Arlington, Virginia this 29th day of April 2005.

Rebecca J. Smith,

Acting Director, Office of Standards, Regulations, and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M–2004–028–C.
FR Notice: 69 FR 43628.
Petitioner: Snyder Coal Company.
Regulation Affected: 30 CFR 75.1100–2(a)(2).
Summary of Findings: Petitioner's proposal is to use portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage equipped with three (3) ten quart pails are not practical. The petitioner will use two (2) portable fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face for equivalent fire protection for the No. 1 Rock Slope Mine. This is considered an acceptable alternative method for the No. 1 Rock Slope Mine. MSHA grants the petition for modification for the No. 1 Rock Slope Mine with conditions.

Docket No.: M–2004–029–C.
FR Notice: 69 FR 43628.
Petitioner: Snyder Coal Company.
Regulation Affected: 30 CFR 75.1200(d),(h), and (i).
Summary of Findings: Petitioner's proposal is to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. This is considered an acceptable alternative method for the No. 1 Rock Slope Mine. MSHA grants the petition for modification for the No. 1 Rock Slope Mine with conditions.

Docket No.: M–2004–030–C.
FR Notice: 69 FR 43628.
Petitioner: Snyder Coal Company.
Regulation Affected: 30 CFR 75.1202–1(a).
Summary of Findings: Petitioner's proposal is to revise and supplement mine maps annually instead of every 6 months as required. Petitioner will continue to update maps daily by hand notations; and to conduct surveys prior to commencing retreat mining and whenever either a drilling program under 30 CFR 75.388 or plan for mining into inaccessible areas under 30 CFR 75.389 is required. This is considered an acceptable alternative method for the No. 1 Rock Slope Mine. MSHA grants the petition for modification for the No. 1 Rock Slope Mine with conditions.

Docket No.: M–2004–042–C.
FR Notice: 69 FR 61527.
Petitioner: Clintwood Elkhorn Mining Company.
Regulation Affected: 30 CFR 77.214(a).
Summary of Findings: Petitioner's proposal is to backfill a total of eight mine entries in the Blair #1 and Blair #2 mines with coarse coal refuse and scalp rock material generated from an adjacent underground mine. This is considered an acceptable alternative method for the Blair #1 Mine and Blair #2 Mine. MSHA grants the petition for modification for the Blair #1 Mine and Blair #2 Mine with conditions.

Docket No.: M–2004–047–C.
FR Notice: 69 FR 69414.
Petitioner: Arclar Company, LLC.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to operate its six-wheeled Getman RDG–1504S Diesel Road Grader, Serial No. 6760, powered by a Cat 3306PCNA 150 horsepower diesel engine used at the Willow Lake Portal Mine without front wheel brakes. The petitioner proposes to limit the speed of the diesel grader to 10 miles per hour and to train the grader operators in the proper techniques for lowering the blade to provide additional stopping capability in emergency situations. This is considered an acceptable alternative method for the Willow Lake Portal Mine. MSHA grants the petition for modification for the Willow Lake Portal Mine with conditions.

[FR Doc. 05–9058 Filed 5–5–05; 8:45 am]
BILLING CODE 4510–43–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that two meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows:

Folk & Traditional Arts (Access to Artistic Excellence): June 9–10, 2005, Room 716. This meeting, from 9 a.m. to 6:30 p.m. on June 9, and from 9 a.m. to 4 p.m. on June 10, will be closed.

Music (Access to Artistic Excellence): June 13–14, 2005, Room 714. A portion of this meeting, from 4:15 p.m. to 5 p.m. on Tuesday, June 14th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on June 13th, and from 9 a.m. to 4:15 p.m. and 5 p.m. to 5:30 p.m. on June 14th, will be closed.

These meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: May 2, 2005.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 05–9016 Filed 5–5–05; 8:45 am]
BILLING CODE 7537–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 155th Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held by teleconference on May 19, 2005 from 10:30 a.m.–11 a.m. (ending time is approximate) from the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a call in basis. After introductory remarks by Chairman Gioia, there will be a discussion and voice vote on the NEA Jazz Masters Fellowships. There will be discussion of other business items as necessary, followed by concluding remarks by the Chairman.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the

Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may call in and listen to the Council discussions and reviews that are open to the public. Please contact Ed Bishop at 202–682–5625 if you are interested in attending the teleconference. 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: May 2, 2005.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 05–9015 Filed 5–5–05; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Establishment

The Deputy Director of the National Science Foundation has determined that the establishment of the Advisory Committee for International Science and Engineering is necessary and in the public interest in connection with the performance of duties imposed upon the National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Advisory Committee for International Science and Engineering.

Nature/Purpose: The Advisory Committee will provide advice, recommendations, and oversight concerning support for research, education and related activities involving the U.S. science and engineering working within a global context as well as strategic efforts to promote a more effective NSF role in international science and engineering.

Responsible NSF Official: Dr. Kathryn Sullivan, Acting Director, Office of International Science and Engineering Programs, National Science Foundation, 4201 Wilson Boulevard, Room 935, Arlington, VA 22230. Telephone: (703) 292–8710.

Dated: May 3, 2005.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 05–9095 Filed 5–5–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–029]

Environmental Assessment and Finding of No Significant Impact Related to Exemption of Material in Accordance With 10 CFR 20.2002 for Proposed Disposal Procedures for the Yankee Atomic Electric Company; License DPR–003, Rowe, MA

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: John Hickman, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7E18, Washington, DC 20555–0001. Telephone: (301) 415–3017; e-mail *jbh@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) staff is considering a request dated December 22, 2004, as supplemented on February 7, 2005, by the Yankee Atomic Electric Company (YAEC or Licensee), to dispose of demolition debris from decommissioning of the Yankee Nuclear Power Station (YNPS) in Rowe, Massachusetts. The request for approval is submitted pursuant to section 20.2002 of title 10 of the Code of Federal Regulations (10 CFR 20.2002), ''Method of Obtaining Approval of Proposed Disposal Procedures.'' The licensee's request states that the material is acceptable for burial at a subtitle C Resources Conservation and Recovery Act (RCRA) hazardous waste disposal facility. The intended disposal location, Waste Control Specialists (WCS) located in Andrews, Texas has a RCRA permit issued by, and is regulated by, the State of Texas, Texas Commission of Environmental Quality (TECQ), and any disposal must comply with State requirements. This action, if approved, would also exempt the slightly contaminated material from further Atomic Energy Act and NRC licensing requirements. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has determined that a Finding of No Significant Impact (FONSI) is appropriate.

II. Environmental Assessment

Background

YNPS is a deactivated pressurized-water nuclear reactor situated on a small portion of a 2,200-acre site. The site is located in northwestern Massachusetts in Franklin County, near the southern Vermont border. The plant and most of the 2,200-acre site are owned by the YAEC. A small portion on the west side of the site (along the east bank of the Sherman Reservoir) is owned by USGen New England, Inc. The YNPS plant was constructed between 1958 and 1960 and operated commercially at 185 megawatts electric (after a 1963 upgrade) until 1992. In 1992, YAEC determined that closing of the plant would be in the best economic interest of its customers. In December 1993, NRC amended the YNPS operating license to retain a ''possession-only'' status. YAEC began dismantling and decommissioning activities at that time. On November 24, 2003, in accordance with 10 CFR 50.82, YAEC submitted a License Termination Plan (LTP) for NRC approval. The LTP is still under review by the NRC.

The waste material (the demolition debris) intended for disposal includes structural steel, soils associated with foundation excavations and PCB remediation, and concrete and/or pavement or other similar solid materials. The waste material proposed for disposal at the WCS facility will originate from the demolition and removal of structures and paved surfaces at the YNPS plant site, after the structure/surface has been decontaminated to remove areas of contamination above the release limits.

The physical form of this demolition debris will be that of bulk material of various sizes ranging from the size of sand grains up to occasional monoliths with a volume of several cubic feet. YAEC, for the purpose of calculations, assumed the material to be a homogeneous mixture with a specific density of 1 gram per cubic centimeter during shipment and 1.5 grams per cubic centimeter after compaction in the disposal cell at WCS. The material will be dry solid waste containing no

absorbents or chelating agents. It is estimated that the mass of demolition debris originating from the decommissioning of the YNPS will total approximately 60 million pounds. After compaction, the estimated volume of material to be disposed of is approximately 250,000 cubic feet.

Proposed Action

The proposed action is to approve the removal of approximately 30,000 tons of demolition debris from the YNPS, in Rowe, Massachusetts, transportation of the debris and disposition at the WCS facility in Andrews, Texas. The proposed action would also exempt the low-contamination material from further Atomic Energy Act and NRC licensing requirements. The 30,000 tons of demolition debris will consist of Steel, Soil and Asphalt, Reactor Support Structure (RSS) Concrete, and other Concrete. The proposed action is in accordance with the licensee's application dated December 22, 2004, as supplemented on February 7, 2005, requesting approval.

Need for Proposed Action

The licensee needs to dispose of 30,000 tons of demolition debris since the YNPS site is currently conducting decontamination and decommissioning as allowed by 10 CFR 50.82. The licensee proposes to dispose of 30,000 tons of demolition debris at the WCS facility in Andrews, Texas, which is a subtitle C RCRA hazardous waste disposal facility. This proposed action, would also require NRC to exempt the low-contaminated material authorized for disposal from further AEA and NRC licensing requirements.

Alternatives to the Proposed Action

Alternatives to the proposed action include: (1) No action alternative, (2) decontamination of the buildings and structures before demolition, or of the debris until no contamination can be detected, (3) decontaminating and conducting final status surveys of the buildings, and (4) handling demolition debris as low-level radioactive waste and shipping them to a low-level waste facility. YAEC has determined that disposal for these demolition wastes in a Subtitle C RCRA hazardous waste disposal facility is less costly than alternatives 2, 3 and 4. Disposal of the demolition debris in the manner proposed is protective of the health and safety, and is the most cost-effective alternative.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes there are no significant radiological environmental impacts associated with the disposal of 30,000 tons of demolition debris at WCS, a subtitle C Resources Conservation and Recovery Act (RCRA) hazardous waste disposal facility. This evaluation is for the disposal of the demolition debris at WCS irrespective of other materials disposed of at the facility. The licensee's analysis used conservative estimates of the average radionuclide concentrations based on ongoing site characterization. The licensee analyzed the dose to a transport driver, loader, disposal facility worker, and long-term impacts to a resident. Each of the analyses conservatively estimated the exposure to be less than 1.0 mrem total dose per year. The NRC has reviewed the licensee's analysis and agrees with the determination that the proposed action will not significantly increase occupational or public radiation exposures. The licensee's supplemental submittal provided an evaluation for an alternative transportation plan utilizing intermodal containers on a rail transport car. The licensee's analysis demonstrated that the exposure to workers involved in this shipment option was bounded by the analysis for truck shipment. The NRC has reviewed this analysis and agreed that the analysis for shipment by truck was bounding.

With regard to potential non-radiological impacts, the disposal of demolition debris does not affect non-radiological plant effluents. There may be a slight decrease in air quality and slight increase in noise impacts during the loading and transportation of the demolition debris. However, there are no expected adverse impacts to air quality as a result of the loading and transportation of the demolition debris. The disposal of demolition debris does not take place in the vicinity of any identified historic sites. Therefore, the proposed action does not have a potential to affect any historic sites.

YAEC initial submittal estimates that transportation of the demolition debris will require approximately 2,000 truck shipments. There is no anticipated overall impact from the alternate disposal as the shipping effort represents a small fraction of the national commercial freight activity. The total tonnage to be shipped represents <0.0005% of the total U.S. annual commercial freight trucking activity (based on 2002 data). Similarly, the total ton-miles for the alternate disposal represents <0.0087% of the total U.S. annual commercial freight trucking activity in the same time period. Additionally, these activities will be short in duration and minimal as compared to prior transportation of uncontaminated demolition debris from the YNPS. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). The implications from the no-action alternative is that the demolition debris would remain on site until disposition sometime in the future. The impacts would therefore be limited to the site, and there would be no transportation impacts and no disposal considerations or impacts until sometime in the future.

Two of the alternatives to the proposed action would be to decontaminate the buildings and structures prior to demolition or final status survey. The environmental impacts as a result of this alternative would decrease air quality, and increase the noise and water usage, as necessary, during the decontamination process. Additionally, there would be an increase in occupational exposure as a result of the decontamination process.

Disposing of the demolition debris in a low-level waste disposal facility is another alternative to the proposed action. This alternative has similar environmental impacts as the proposed action but is more expensive.

Agencies and Persons Consulted

This EA was prepared by John B. Hickman, Project Manager, Decommissioning Directorate, Division of Waste Management and Environmental Protection (DWMEP). NRC staff determined that the proposed action is not a major activity and will not affect listed or proposed endangered species, nor critical habitat. Therefore, no further consultation is required under section 7 of the Endangered Species Act. Likewise, NRC staff determined that the proposed action is not the type of activity that has the potential to cause previously unconsidered effects on historic properties, as consultation for site decommissioning has been conducted previously. There are no impacts to historic properties associated with the disposal method and location for demolition debris. Therefore, no

consultation is required under section 106 of the National Historic Preservation Act. The NRC provided a draft of its Environmental Assessment (EA) to the following individuals:

Mr. Dave Howland, Regional Engineer, Massachusetts Department of Environmental Protection, Western Regional Office, 436 Dwight Street, Springfield, MA 01103, Hartford, CT 06106–5127.

Mr. Michael Whalen, Radiation Control Program, Massachusetts Department of Public Health, 90 Washington Street, Dorchester, MA 02121.

Ms. Ruth McBurney, Texas Department of State Health Services, Radiation Control, 1100 West 49th Street, Austin, Texas 78756–3189.

Ms. Susan Jablonski, Texas Commission on Environmental Quality, Mail Code 122, P.O. Box 13087, Austin, Texas 78711–3087.

The Massachusetts Department of Environmental Protection stated the expectation that material leaving the YNPS site for disposal at WCS will be handled and transported consistent with all applicable Massachusetts Law and Regulation. The NRC staff also expects licensees to comply with all applicable transportation laws and regulations.

The Texas Department of State Health Services (DSHS) provided several comments by letter dated March 24, 2005. In response to the DSHS comments, a statement was added to the Environmental Impacts of the Proposed Action section that this evaluation is for the disposal of the demolition debris at a subtitle C RCRA hazardous waste disposal facility irrespective of other materials disposed of at the facility. In addition, the Texas licensing authority over the WCS facility was clarified.

DSHS also commented on the necessity of compliance with State regulatory requirements. The staff agrees with that comment and believes that the statement that, ''any disposal must comply with State requirements,'' adequately addresses that issue.

The Texas Commission on Environmental Quality (TCEQ) provided comments by letter dated April 26, 2005. The primary focus of the TCEQ comments were on the Texas licensing requirements for the WCS facility and the authority for WCS to receive the radioactive material. This NRC action would permit Yankee to dispose of slightly contaminated demolition debris at the WCS facility, but does not authorize WCS to accept any material it is not otherwise licensed to receive under Texas licensing authority. As previously noted, ''any disposal must comply with State requirements.''

TCEQ also noted that only the bounding transportation option, truck shipment, was addressed in the draft EA. The EA has bee revised to address the rail shipment option as well.

III. Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Sources Used

—U.S. NRC Power Reactor License: Yankee Atomic Electric Company Docket Number 050–00029, License Number DPR–03.

—Yankee Atomic Electric Company, December 22, 2004, Request for Approval of Proposed Procedures in Accordance with 10 CFR 20.2002 for alternate disposal at the Waste Control Specialist, LLC Facility in Andrews, Texas, (ML050110132) as supplemented on February 7, 2005. (ADAMS Accession Number ML050470301).

—NRC 10 CFR 20.2002, ''Method of Obtaining Approval of Proposed Disposal Procedures.''

—NUREG–1640, ''Radiological Assessment for Clearance of Materials from Nuclear Facilities.''

—NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.''

—U.S. DOT, Bureau of Transportation Statistics, ''Transportation Statistics Annual Report,'' September 2004.

—U.S. DOT, Bureau of Transportation Statistics, ''Freight Shipments in America,'' April 2004.

—NUREG–0586, Supplement 1, Generic Environmental Impact Statement of Decommissioning of Nuclear Facilities, November 2002.

IV. Further Information

For further details with respect to the proposed action, see the licensee's letter dated December 22, 2004 (ADAMS Accession No. ML050110132), as supplemented on February 7, 2005 (ADAMS Accession No. ML050470301). The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397–4209. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). 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 at *pdr@nrc.gov.*

Dated in Rockville, Maryland, this 28th day of April, 2005.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Deputy Director, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–2206 Filed 5–5–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Application Concerning Technical Specification; Improvement To Modify Requirements Regarding Steam Generator Tube Integrity; Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model application related to the revision of technical specifications (TS) on steam generator tube integrity for pressurized water reactors (PWRs). The purpose of this model is to permit the NRC to efficiently process amendments that propose to revise TS for steam generator tube integrity. Licensees of nuclear power reactors to which the model applies may request amendments utilizing the model application.

DATES: The NRC staff issued a **Federal Register** notice (70 FR 10298, March 2, 2005) that provided a model safety evaluation (SE) and a model no significant hazards consideration (NSHC) determination relating to changing TS on steam generator tube integrity for PWRs. The NRC staff hereby announces that the model SE and NSHC determination may be referenced in plant-specific applications to adopt the changes. The staff has posted a model application on the NRC Web site to assist licensees in using the consolidated line item improvement process (CLIIP) to revise the TS on steam generator tube integrity. The NRC

staff can most efficiently consider applications based upon the model application if the application is submitted within a year of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: William Reckley, Mail Stop: O7D1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1323.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The CLIIP is intended to improve the efficiency of NRC licensing processes. This is accomplished by processing proposed changes to the standard TS (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to TS are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the revision of limiting conditions for operation and related administrative controls in TS addressing steam generator tube integrity at PWRs. This proposed change was proposed for incorporation into the STS by participants in the Technical Specification Task Force (TSTF) and is designated TSTF–449, Revision 4. TSTF–449 can be viewed on the NRC Web site (*http://www.nrc.gov*).

Applicability

This proposed change to revise the TS on steam generator tube integrity is applicable to licensees for PWRs who have adopted or will adopt, in conjunction with the proposed change, technical specification requirements for a Bases control program consistent with the TS Bases Control Program described in Section 5.5 of the applicable vendor's STS.

To efficiently process the incoming license amendment applications, the staff requests each licensee applying for the changes addressed by TSTF–449 using the CLIIP to provide the information identified in the model application posted on the NRC Web site.

Public Notices

In a notice in the **Federal Register** dated March 2, 2005 (70 FR 10298), the staff requested comment on the use of the CLIIP to process requests to revise the TS regarding steam generator tube integrity. In addition, there have been several plant-specific amendment requests to adopt changes similar to those described in TSTF–449 and notices have been published for these applications.

TSTF–449, as well as the NRC staff's safety evaluation and model application, may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room).

The staff received one response with comments following the notice published March 2, 2005 (70 FR 10298), soliciting comments on the model SE and NSHC determination related to TSTF–449, Revision 3. The comments were offered by the Nuclear Energy Institute (NEI) in a letter dated April 1, 2005. The NEI comments suggested clarifications and minor corrections to Revision 3 of TSTF–449 and related changes to the staff's model SE. In response to comments, the TSTF submitted Revision 4 to TSTF–449 in its letter dated April 14, 2005. The NRC staff has made only minor changes to the model SE to address editorial issues and to reflect the revision of TSTF–449. The staff finds that the previously published models remain appropriate references (as modified slightly to reflect Revision 4 of TSTF–449) and has chosen not to republish the model SE and model NSHC determination in this notice. As described in the model application prepared by the staff, licensees may reference in their plant-specific applications to adopt TSTF–449, the SE (as revised above), NSHC determination, and environmental assessment previously published in the **Federal Register** (70 FR 10298; March 2, 2005).

Dated in Rockville, Maryland, this 2nd day of May 2005.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Section Chief, Technical Specifications Section, Operating Improvements Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. E5–2208 Filed 5–5–05; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review: Comment Request for Review of a Revised Information Collection: Procedures for Submitting Compensation and Leave Claims; OPM Form 1673

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the U.S. Office of Personnel Management (OPM) submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. OPM Form 1673, Procedures for Submitting Compensation and Leave Claims, is used to collect information from current and former Federal civilian employees who are submitting a claim for compensation and/or leave. OPM needs this information in order to adjudicate the claim.

We received no comments on our 60-day notice on OPM Form 1673, published in the **Federal Register** on August 24, 2004.

Approximately 40 claims are submitted annually. It takes approximately 60 minutes to complete the form. The annual estimated burden is 40 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, Fax (202) 418–3251, or e-mail to *mbtoomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Robert D. Hendler, Program Manager, Center for Merit Systems Compliance, Division for Human Capital Leadership and Merit System Compliance Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6484, Washington, DC 20415; and Brenda Aguilar, OPM Desk

Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

U.S. Office of Personnel Management.

Dan G. Blair,

Acting Director.

[FR Doc. 05–8977 Filed 5–5–05; 8:45 am]

BILLING CODE 6325–43–P

POSTAL SERVICE

Privacy Act of 1974, System of Records

AGENCY: Postal Service.

ACTION: Notice of modification to an existing system of records.

SUMMARY: The United States Postal Service® (USPS®) is proposing to modify two of its Privacy Act systems of records: USPS 810.200, www.usps.com Ordering, Payment, and Fulfillment, and USPS 900.000, International Services. The proposed modification reflects changes regarding how customs declaration information is collected and reported by USPS.

DATES: Any interested party may submit written comments on the proposed modification. This proposal will become effective without further notice on June 6, 2005, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Written comments on this proposal should be mailed or delivered to the Records Office, United States Postal Service, 475 L'Enfant Plaza, SW., Room 5846, Washington, DC 20260. Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jane Eyre at (202) 268–2608.

SUPPLEMENTARY INFORMATION: In this notice, the USPS is modifying two systems of records entitled USPS 810.200, *http://www.usps.com* Ordering, Payment, and Fulfillment, and USPS 900.000, International Services, pursuant to the Privacy Act of 1974, 5 U.S.C. 552a. The changes are needed in order to ensure that all customs declaration information collected for outgoing mail is covered by the Privacy Act, and to add a routine use allowing disclosures to the U.S. Customs and Border Protection (Customs) pursuant to recent federal law. The background of programs for international mail and customs declarations, as well as reasons changes are needed to the two Privacy Act systems, are described below.

I. Background

The following describes the background of how customs declaration information has been prepared for outgoing international mail, including a description of any applicable Privacy Act requirements. USPS customers must submit customs declaration information for mail weighing 16 ounces or more, as well as all mail containing potentially dutiable items regardless of their weight. The contents and value of an item must be declared on the applicable customs form, along with the name and address of the sender and the addressee. Customers may complete a hard copy form available at a Post Office™, or complete online forms using various tools available at usps.com. Customs declaration is also automated in various customized mailing agreements with mailers, including Express Mail Manifesting and International Customized Mailing.

USPS customers use two basic approaches to preparing customs declarations. First, customers can complete hard copy declaration forms at Post Offices when they submit outgoing international mail. These forms have not been covered in the past by a Privacy Act system of records. The Post Office, which filed a copy for 30 days, retrieved the form solely by date of mailing, for instance, for the occasional purpose of assisting in researching a problem at a customer's request.

Second, online services at usps.com offer alternatives to the hard copy forms available at Post Offices. Simple forms can be printed from usps.com, which do not require the customer to create an account at usps.com. For the same reasons as above, information prepared using these simple forms have not in the past been covered by the Privacy Act. Another alternative at usps.com is a comprehensive solution called Click-N-Ship®. Click-N-Ship allows customers to prepare and print labels and postage for both domestic and international mail. When using Click-N-Ship for international packages, customers open an account on usps.com, and then may prepare mailing labels and/or customs declarations online using a personal computer, printer, and Internet connection. Customers can print the shipping labels on their printer. The shipping label includes the customs declaration in the form ready to affix to the package. Click-N-Ship information is covered by the Privacy Act, and is included in system of records USPS 810.200, *www.usps.com* Ordering, Payment, and Fulfillment.

As a result of the above procedures, international outgoing mail will have affixed to it a customs declaration, whether the customer uses the hard copy form obtained at the Post Office or any of the usps.com services described above. Outbound international mail bearing a customs form has been subject to review by Customs when the mail is processed at mail processing centers. International mail, including any attached customs forms, is also subject to customs examination in the destination country.

II. Rationale for Changes to USPS Privacy Act Systems of Records

Section 343(a) of the Trade Act of 2002 (Pub. L. 107–210, 116 Stat. 933, enacted on August 6, 2002) authorizes Customs to promulgate regulations ''providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.'' These regulations were published by Customs on December 5, 2003 (68 FR 68140), but did not mandate requirements on USPS shipments. According to Public Law No. 107–210, Customs, ''in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service.''

Pursuant to this authority, Customs has since determined how USPS can provide advance notice about information on outgoing international mail. USPS plans to automate, as computer-readable records, customs declaration information and transmit these records to Customs. Because USPS plans to create such automated records and because the records will likely be retrieved by customer name or other identifier, USPS is bringing all customs declaration records under the protection of the Privacy Act. Hard copy forms will be covered by USPS system of records 900.000, International Services. Online forms, to the extent not already covered, will be protected by USPS system of records 810.200, *www.usps.com* Ordering, Payment, and Fulfillment. A change to both systems of records is also needed to add a routine use allowing disclosure of the records to customs officials.

III. Description of Changes to Systems of Records

To accomplish changes needed, the USPS is modifying two applicable systems of records. USPS Privacy Act system 900.000, International Services,

has been revised as follows. Customs declarations information provided by customers on paper forms is now established as a Privacy Act covered record under the system. Other associated changes relate to categories of records, routine uses, retrievability, retention, and system manager. Regarding categories of records, signature has been added as an element of customer information. A special routine use has been added to provide for the disclosure of customs declaration records to customs officials. Retrievability has been modified to add the personal identifiers and the mailpiece's barcode tracking numbers, which will be used to retrieve records. Retention has been modified to distinguish the retention of customs declaration records created by mailers under international customized mail agreements from the retention assigned to other mailer customs declaration records. The system manager designation has been changed to reflect current USPS operational responsibility for international postal shipments. The USPS will amend its hard copy forms to include an appropriate Privacy Act notice for customers.

USPS Privacy Act system 810.200, www.usps.com Ordering, Payment, and Fulfillment, has similarly been revised. Customs declaration information prepared after registering for or using an online service like Click-N-Ship was already protected by this system, and received a Privacy Act notice. Online forms not previously covered by the Privacy Act are also now covered by the system. The USPS has also amended these forms to provide an appropriate Privacy Act notice. This system of records has been modified to include a special routine use to authorize the disclosure of customs declaration information to customs officials. The system is also modified to reflect a maximum retention period of 90 days and to clarify disposal procedures.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed modification has been sent to Congress and to the Office of Management and Budget for their evaluation. The USPS does not expect this amended notice to have any adverse effect on individual privacy rights. The modifications serve to properly extend Privacy Act protections to hard copy and all online forms relating to customs declarations. With regard to the routine use applying to hard copy forms and online transactions, the information was already available to Customs when the mailpiece was subject to examination at mail processing centers. The disclosures are made pursuant to federal law to provide advance notice of customs information related to outgoing mailpieces.

Privacy Act systems of records USPS 810.200, *http://www.usps.com* Ordering, Payment, and Fulfillment, and USPS 900.000, International Services were last published in their entirety in the **Federal Register** on April 29, 2005 (70 FR 22516–22560). The USPS proposes amending the systems as shown below:

USPS 810.200

SYSTEM NAME:

www.usps.com Ordering, Payment, and Fulfillment.

* * * * *

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

[Revise to read as follows:]

Standard routine uses 1 through 7, 10, and 11 apply. In addition:

a. Customs declaration records may be disclosed to domestic and foreign customs officials pursuant to 19 U.S.C. 2071 (note) and international agreements or regulations.

* * * * *

RETENTION AND DISPOSAL:

[Revise to read as follows:]

1. Records related to mailing online and online tracking and/or confirmation services supporting a customer order are retained for up to 30 days from completion of fulfillment of the order, unless retained longer by request of the customer. Records related to shipping services and domestic and international labels are retained up to 90 days. Delivery Confirmation and return receipt records are retained for 6 months. Signature Confirmation records are retained for 1 year. ACH records are retained for up to 2 years.

2. Other customer records are retained for 3 years after the customer relationship ends.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

* * * * *

USPS 900.000

SYSTEM NAME:

International Services.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

[Revise to read as follows:]

1. Customer information: Customer name, customer ID(s), customer signature, and contact information.

* * * * *

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

[Revise to read as follows:]

Standard routine uses 1 through 7, 10, and 11 apply. In addition:

a. Customs declaration records may be disclosed to domestic and foreign customs officials pursuant to 19 U.S.C. 2071 (note) and international agreements or regulations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

[Revise to read as follows:]

By customer name(s) or address(es) (sender or recipient), ID number(s), and barcode tracking number(s).

* * * * *

RETENTION AND DISPOSAL:

[Revise to read as follows:]

1. Customs declaration records created by mailers under international customized mail agreements are retained 5 years, and then erased according to the requirements of domestic and foreign Customs services. Other customs declaration records are retained 30 days.

2. Records not related to customs declarations are retained 3 years after the relationship ends.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

[Revise to read as follows:]

Vice President, Network Operations Management, United States Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260.

Vice President, International Business, United States Postal Service, 1735 N. Lynn Street, Suite 6026, Arlington, VA 22209.

* * * * *

Neva Watson,

Attorney, Legislative.

[FR Doc. 05–9075 Filed 5–5–05; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51642; File No. SR–Amex–2005–041)]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Revisions to the Implementation Date of the ANTE System

May 2, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend: (i) Rule 900—ANTE to provide a revised date for the implementation of the ANTE System to the three hundred most actively traded option classes; and (ii) Rule 935—ANTE, Commentary .01 to establish a revised date for increased floor broker functionality in the ANTE System. The text of the proposed rule change is available on the Amex's Web site (*http://www.amex.com*), at the Amex's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Revised Implementation Date—Rule 900—ANTE. On May 20, 2004, the Commission approved the Amex's proposal to implement a new options trading platform known as the Amex New Trading Environment (''ANTE''). On May 25, 2004, the Amex began rolling out the ANTE System on its trading floor on a specialist's post-by-specialist's post basis. At that time it was anticipated that the three hundred most actively traded option classes would be trading on the ANTE System by January 31, 2005. On January 28, 2005, the Amex submitted a proposal to revise its implementation schedule and amend Rule 900—ANTE to provide that the 300 most active option classes will be on the ANTE System by March 31, 2005.[3] The Amex is now proposing to further revise its implementation schedule to provide that the remaining 10 of the 300 most active classes will be on the ANTE System by April 30, 2005. Due to various issues the Amex decided to slow the ANTE implementation schedule down for the more active option classes while it assess the impact of recent systems enhancements.

Thus, it is now anticipated that all of the three hundred most active option classes (that is, the remaining 10 classes) will be on the ANTE System by April 30, 2005. Maintaining two systems for the trading of options—the legacy system (XTOPS, AODB and Auto-Ex) and ANTE is costly. As a result, the Exchange is working diligently to have all option classes on the ANTE System by May 30, 2005 so that it can retire its legacy systems before its original estimated date of completion, which is the end of the second quarter.

Increased Floor Broker Functionality—Rule 935—ANTE. Rule 935—ANTE (b) provides for the post trade allocation of contracts executed as the result of the submission of orders to trade with orders in the ANTE Central Book. If more than one ANTE Participant[4] and/or a floor broker representing a customer order submits an order to trade with an order in the ANTE Central book within a period not to exceed five seconds after the initial ANTE Participant has submitted its order, all those ANTE Participants and the floor broker's customer will be entitled to participate in the allocation of any executed contracts. The ANTE System is currently unable to provide the functionality necessary for floor brokers representing customer orders in the trading crowd the ability to directly participate in the post trade allocation of orders taken off the Central Book. Commentary .01 to Rule 935—ANTE provides a temporary methodology for the specialist to disengage the post trade allocation system in a specific series, which allows the floor broker to alert the specialist within the five second timeframe whenever his customer wants to participate in post trade allocation, and allows the specialist to provide for the customer's participation in post trade allocation when appropriate. The Commission approved the procedures set forth in Commentary .01 as a ''reasonable, temporary solution.''[5] Commentary .01 to Rule 935—ANTE also provides that the ANTE System will give floor brokers greater functionality accessing the Central Book on March 31, 2005 or such other date as established by the Exchange and submitted to the Commission pursuant to Section 19(b) of the Act. The Exchange is now proposing to amend Commentary .01 to establish June 30, 2005, as the date the increased functionality will be available in the ANTE System.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[6] in general and furthers the objectives of Section 6(b)(5) of the Act[7] in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest; and is designed to prohibit unfair discrimination between customers, issuers, brokers and dealers.

[3] Securities Exchange Act Release No. 51306 (March 3, 2005), 70 FR 12250 (March 11, 2005) (SR–Amex–2005–013).

[4] Rule 900—ANTE (b)(45) defines ANTE Participant as the specialist and/or registered options trader(s) assigned to trade a specific options class on the ANTE System.

[5] Securities Exchange Act Release No. 49747 (May 20, 2004) 69 FR 30344 (May 27, 2004).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder[9] because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–Amex–2005–041 on the subject line.

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–Amex–2005–041. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2005–041 and should be submitted on or before May 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2210 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 7 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of Top Image Systems Ltd. To Withdraw Its Ordinary Shares, .04 NIS Par Value, From Listing and Registration on the Boston Stock Exchange, Inc., File No. 1–14552

April 29, 2005

On April 4, 2005, Top Image Systems Ltd., a company organized under the laws of the State of Israel (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its ordinary shares, .04 NIS par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

On March 10, 2005, the Board of Directors (''Board'') of the Issuer approved a resolution to withdraw the Security from listing and registration on BSE. In making the decision to delist the Security from BSE, the Issuer stated that the following reason factored into its decision: (i) There has been no trading activity in the Security on BSE for a significant period of time; and (ii) remaining on BSE subjects the Issuer to the rules and regulations of the Exchange in addition to the rules and regulations of Nasdaq SmallCap Market (''Nasdaq''). In addition, the Issuer stated that the Security has been listed on both BSE and Nasdaq since 1996. However, there has been no trading activity on BSE since at least the beginning of 2002. The Issuer intends to maintain its listing of the Security on Nasdaq.

The Issuer's application relates solely to withdrawal of the Security from listing on BSE and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before May 24, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of BSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–14552 or;

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 1–14552. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–2197 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26862]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

April 29, 2005.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of April, 2005. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 24, 2005, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0504.

Series Portfolio II [File No. 811–8077]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 1, 2001, applicant transferred its assets to corresponding series of J.P. Morgan Mutual Fund Trust and J.P. Morgan Institutional Funds, based on net asset value. All expenses incurred in connection with the reorganization were paid by J.P. Morgan Chase & Co., applicant's investment adviser.

Filing Dates: The application was filed on April 5, 2005, and amended on April 13, 2005.

Applicant's Address: J.P. Morgan Investment Management Inc., 522 Fifth Ave., New York, NY 10036.

The Series Portfolio [File No. 811–9008]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 1, 2001, applicant transferred its assets to corresponding series of J.P. Morgan Mutual Fund Group and J.P. Morgan Institutional Funds, based on net asset value. All expenses incurred in connection with the reorganization were paid by J.P. Morgan Chase & Co., applicant's investment adviser.

Filing Dates: The application was filed on April 5, 2005, and amended on April 13, 2005.

Applicant's Address: J.P. Morgan Investment Management Inc., 522 Fifth Ave., New York, NY 10036.

Oppenheimer Trinity Large Cap Growth Fund [File No. 811–8613]; Oppenheimer Trinity Core Fund [File No. 811–9361]; Oppenheimer Trinity Value Fund [File No. 811–9365]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. By September 19, 2003, applicants had transferred their assets to Oppenheimer Growth Fund, Oppenheimer Main Street Funds, Inc. and Oppenheimer Series Fund, Inc., respectively, based on net asset value. Expenses of approximately $37,107, $35,172 and $26,985, respectively, incurred in connection with the reorganizations were paid by applicants.

Filing Date: The applications were filed on April 6, 2005.

Applicants' Address: 6803 S. Tucson Way, Centennial, CO 80112.

Putnam Master Income Trust [File No. 811–5375]

Summary: Applicant, a closed-end management company, seeks an order declaring that it has ceased to be an investment company. On February 28, 2005, applicant transferred its assets to Putnam Premier Income Trust, based on net asset value. Expenses of approximately $889,072 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Putnam Investment Management LLC, applicant's investment adviser.

Filing Date: The application was filed on April 6, 2005.

Applicant's Address: One Post Office Sq., Boston, MA 02109.

CBA Money Fund [File No. 811–3703]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. November 22, 2004, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $68,000 incurred in connection with the liquidation were paid by Fund Asset Management, L.P., applicant's investment adviser.

Filing Date: The application was filed on April 15, 2005.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08543–9011.

The Maryland Tax-Exempt Trust, Series 1 [File No. 811–2880]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On June 8, 2004, applicant made a liquidating distribution to its unitholders, based on net asset value. The assets of 4 outstanding unitholders remain on applicant's transfer agency system. These assets will be distributed to the remaining unitholders upon presentation of their units. Any unclaimed assets will escheat to the state of the unitholder's residence. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on March 22, 2005.

Applicant's Address: 100 Light St., Baltimore, MD 21202.

Chesapeake Investors, Inc. [File No. 811–3087]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On or about February 7, 2005, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant's paying agent, Registrar and Transfer Company, is holding remaining assets for shareholders who have not been located. Any assets remaining after two transmittal letters have been sent to a shareholder's last address of record

[5] 17 CFR 200.30–3(a)(1).

will escheat to the relevant state. Expenses of $213,811 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on March 30, 2005.

Applicant's Address: 11785 Beltsville Dr., Suite 1600, Beltsville, MD 20705.

Weitz Series Fund, Inc. [File No. 811–5661]; Weitz Partners, Inc. [File No. 811–7918]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On March 31, 2004, each applicant transferred its assets to The Weitz Funds, based on net asset value. Expenses of $275,950 and $177,081, respectively, incurred in connection with the reorganizations were paid by each applicant.

Filing Date: The applications were filed on March 15, 2005.

Applicants' Address: Suite 600, 1125 South 103 St., Omaha, NE 68124–6008.

The Corporate Fund Accumulation Program, Inc. [File No. 811–2642]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 7, 2003, applicant transferred its assets to Core Bond Portfolio, a portfolio of Merrill Lynch Bond Fund, Inc., based on net asset value. Expenses of $103,701 incurred in connection with the reorganization were paid by the surviving fund.

Filing Date: The application was filed on March 11, 2005.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08543–9011.

The Municipal Fund Accumulation Program, Inc. [File No. 811–2694]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 5, 2004, applicant transferred its assets to National Portfolio, a portfolio of Merrill Lynch Municipal Bond Fund, Inc., based on net asset value. Expenses of $230,851 incurred in connection with the reorganization were paid by the surviving fund.

Filing Date: The application was filed on March 11, 2005.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08543–9011.

ASA Limited [File No. 811–833]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 19, 2004, applicant transferred its assets to ASA (Bermuda) Limited, based on net asset value. Expenses of approximately $2,447,747 incurred in connection with the reorganization were paid by applicant and the surviving fund.

Filing Date: The application was filed on March 10, 2005.

Applicant's Address: Paddock View, 36 Wierda Rd. West, Sandton 2196, South Africa.

International Equity Portfolio [File No. 811–10567]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 27, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant's transfer agent has established a money market fund account in which foreign tax reclaims are deposited for the benefit of applicant's shareholders. Periodic distributions will be made by the transfer agent to applicant's shareholders until no further foreign tax reclaims are owed. Expenses of less than $25 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on March 22, 2005.

Applicant's Address: 6125 Memorial Dr., Dublin, OH 43017.

Van Kampen New Jersey Value Municipal Income Trust [File No. 811–6734]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On May 18, 2001, applicant transferred its assets to Van Kampen Trust for Investment Grade New Jersey Municipals, based on net asset value. Applicant's preferred shares were converted into preferred shares of the acquiring fund on a one-for-one basis. Expenses of $224,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on March 28, 2005.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Putnam High Income Opportunities Trust [File No. 811–7253]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On January 24, 2005, applicant transferred its assets to Putnam High Income Bond Fund, based on net asset value. Expenses of $290,442 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Putnam Investment Management LLC, applicant's investment adviser.

Filing Date: The application was filed on March 30, 2005.

Applicant's Address: One Post Office Sq., Boston, MA 02109.

Safeco Tax-Exempt Bond Trust [File No. 811–7300]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 10, 2004, applicant transferred its assets to corresponding series of Pioneer Municipal Bond Fund, Pioneer Tax Free Income Fund, and Pioneer Series Trust II, based on net asset value. Expenses of $156,528 incurred in connection with the reorganization were paid by Symetra Financial Corporation, the parent company of Symetra Asset Management, applicant's former investment adviser, and Pioneer Investment Management, Inc., applicant's investment adviser.

Filing Dates: The application was filed on February 10, 2005, and amended on April 7, 2005.

Applicant's Address: Safeco Mutual Funds, 4854 154th Pl. NE, Redmond, WA 98052.

Safeco Managed Bond Trust [File No. 811–6667]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 10, 2004, applicant transferred its assets to corresponding series of Pioneer Bond Fund, based on net asset value. Expenses of $43,379 incurred in connection with the reorganization were paid by Symetra Financial Corporation, the parent company of Symetra Asset Management, applicant's former investment adviser, and Pioneer Investment Management, Inc., applicant's investment adviser.

Filing Dates: The application was filed on February 10, 2005, and amended on April 7, 2005.

Applicant's Address: Safeco Mutual Funds, 4854 154th Pl. NE, Redmond, WA 98052.

Safeco Taxable Bond Trust [File No. 811–5574]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 10, 2004, applicant transferred its assets to corresponding series of Pioneer High Yield Fund and Pioneer America Income Trust Fund, based on net asset value. Expenses of $101,636 incurred in connection with the reorganization were paid by Symetra Financial Corporation, parent company of Symetra Asset Management Company, applicant's former investment adviser, and Pioneer Investment Management, Inc., applicant's investment adviser.

Filing Dates: The application was filed on February 10, 2005, and amended on April 7, 2005.

Applicant's Address: Safeco Mutual Funds, 4854 154th Pl. NE, Redmond, WA 98052.

Safeco Common Stock Trust [File No. 811–6167]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 10, 2004, applicant transferred its assets to corresponding series of Pioneer Value Fund, Pioneer Fund, Pioneer Growth Shares, Pioneer Mid Cap Value Fund, Pioneer Small Cap Value Fund, Pioneer Series Trust II, Pioneer Balanced Fund and Pioneer International Equity Fund, based on net asset value. Expenses of $781,076 incurred in connection with the reorganization were paid by Symetra Financial Corporation, the parent of Symetra Asset Management, applicant's former investment adviser, and Pioneer Investment Management, Inc., applicant's investment adviser.

Filing Dates: The application was filed on February 10, 2005, and amended on April 7, 2005.

Applicant's Address: Safeco Mutual Funds, 4854 154th Pl. NE, Redmond, WA 98052.

Safeco Money Market Trust [File No. 811–3347]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 10, 2004, applicant transferred its assets to corresponding series of Pioneer Money Market Trust and Pioneer Series Trust II, based on net asset value. Expenses of $105,315 incurred in connection with the reorganization were paid by Symetra Financial Corporation, the parent company of Symetra Asset Management Company, applicant's former investment adviser, and Pioneer Investment Management, Inc., applicant's investment adviser.

Filing Dates: The application was filed on February 10, 2005, and amended on April 7, 2005.

Applicant's Address: Safeco Mutual Funds, 4854 154th Pl. NE, Redmond, WA 98052.

Oppenheimer Europe Fund [File No. 811–9097]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 17, 2003, applicant transferred its assets to Oppenheimer Global Fund, based on net asset value. Expenses of $30,295 incurred in connection with the reorganization were paid by applicant.

Filing Dates: The application was filed on September 7, 2004, and amended on March 28, 2005.

Applicant's Address: 6803 South Tucson Way, Centennial, CO 80112.

Oppenheimer World Bond Fund [File No. 811–5670]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 16, 2001, applicant transferred its assets to Oppenheimer International Bond Fund, based on net asset value. Less than $60,200 in expenses were incurred in connection with the reorganization and were paid by applicant.

Filing Dates: The application was filed on August 9, 2002, and amended on April 18, 2005.

Applicant's Address: OppenheimerFunds, Inc., 6803 South Tucson Way, Englewood, CO 80112.

Smith Barney Shearson Telecommunications Trust [File No. 811–3766]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 12, 2004, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $70,489 incurred in connection with the liquidation were paid by Smith Barney Fund Management LLC, applicant's investment adviser. Applicant has paid $450 in accounting expenses incurred in connection with the liquidation and has retained $13,766 in cash, which is being held by applicant's custodian, State Street Bank & Trust Co., to cover additional outstanding liabilities.

Filing Dates: The application was filed on July 28, 2004, and amended on April 7, 2005.

Applicant's Address: 125 Broad St., New York, NY 10004.

Protective Investment Company [File No. 811–8674]

Summary: Applicant seeks an order declaring that is has ceased to be an investment company. On December 19, 2003, pursuant to a Plan and Agreement of Reorganization, all of the assets of the following portfolios of the applicant, Protective CORESM U.S. Equity Fund, Protective Capital Growth Fund, Protective Small Cap Value Fund, Protective International Equity Fund, and Protective Growth and Income Fund were acquired and substantially all of the liabilities were assumed, by certain investment portfolios of the Goldman Sachs Variable Insurance Trust (''GSVIT''). On December 19, 2003, pursuant to a Plan of Liquidation the assets of the Protective Global Income Fund were liquidated and the proceeds from such liquidation were distributed to shareholders of that portfolio. Expenses of approximately $1,068,007.39 were incurred in connection with the reorganization and liquidation. All counsel fees and legal expenses incurred in connection with the plan of reorganization were paid by Protective Investment Advisors, Inc. (''PIA'') and all other fees and expenses were shared by PIA and Goldman Sachs Asset Management, L.P., the investment adviser to GSVIT.

Filing Date: January 5, 2005.

Applicant's Address: 2801 Highway 280 South, Birmingham, Alabama 35223.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–2202 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27964; International Series Release No. 1286]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 29, 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 May 24, 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 May 24, 2005 the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Wisconsin Electric Power Company (70–10110)

Wisconsin Electric Power Company (''Wisconsin Electric'') a Wisconsin corporation and a 3(a)(1) exempt holding company, 231 West Michigan Street Milwaukee, WI 53201, has filed an application (''Application'') with the Commission under sections 3(a)(1), 9(a)(2) and 10 of the Act.

Wisconsin Electric requests approval under sections 9(a)(2) and 10 in connection with Wisconsin Electric's lease and operation of the electric generation facilities owned by Port Washington Generating Station, LLC (''Project Company'') which are currently under construction. When its generating and interconnection facilities become operational, Project Company will be an electric utility company under the Act. Wisconsin Electric also requests an exemption by order under section 3(a)(1) from all of the provisions of the Act other than section 9(a)(2) of the Act.

I. Description of the Parties

A. Wisconsin Electric

Wisconsin Electric is a wholly owned combined electric and gas utility company subsidiary of Wisconsin Energy Corporation (''WEC''). WEC is a public utility holding company exempt by order under section 3(a)(1) of the Act under the 2000 Order. Wisconsin Electric currently claims an exemption under section 3(a)(1) of the Act by filing under rule 2. As a result of acquiring interests in two public utility companies, and the lease of Project Company's assets, Wisconsin Electric itself is a holding company as defined by section 2(a)(7) of the Act. Wisconsin Electric presently owns an interest in two public utility subsidiaries, American Transmission Company, LLC (''ATC'') and ATC Management Inc. (''ATC Management'').[1] Wisconsin Electric generates, distributes and sells electric energy at retail and wholesale in Wisconsin and the upper peninsula of Michigan.[2] Wisconsin Electric also purchases, distributes and sells natural gas to retail customers and transports customer owned gas in Wisconsin. As of December 31, 2004, Wisconsin Electric had 1,081,400 electric retail customers and 437,800 gas retail customers.

Wisconsin Electric states that all of its generating plants are located in Wisconsin, except the Presque Isle plant and 12 small hydro plants which are located in the upper peninsula of Michigan. As of December 31, 2004, Wisconsin Electric operated approximately 21,900 pole-miles of overhead distribution lines and 20,400 miles of underground distribution cable as well as approximately 352 distribution substations and 267,700 line transformers.

As of December 31, 2004, Wisconsin Electric's gas distribution system included approximately 8,983 miles of mains connected at 22 gate stations to the pipeline transmission systems of ANR Pipeline Company, Guardian Pipeline, L.L.C., Natural Gas Pipeline Company of America, Northern Natural Pipeline Company and Great Lakes Transmission Company. Wisconsin Electric has a liquefied natural gas storage plant which converts and stores in liquefied form natural gas received during periods of low consumption. The liquefied natural gas storage plant has a send-out capability of 70,000 dekatherms per day. Wisconsin Electric also has propane air systems for peaking purposes. These propane air systems will provide approximately 2,000 dekatherms per day of supply to the system.

Wisconsin Electric operates two district steam systems that supply steam for space heating and process uses. These systems are located in Milwaukee and in Wauwatosa, Wisconsin and are subject to regulation by the PSCW.

B. ATC

ATC is a Wisconsin limited liability company and electric public utility company which was formed to own all electric transmission facilities in Wisconsin, as well as certain very limited transmission facilities located in northern Illinois and the upper peninsula of Michigan.[3] As of February 2004, ATC owned a total of 8,776 miles of transmission lines, 6,882 miles of which are located in Wisconsin, 1,884 miles of which are located in the upper peninsula of Michigan and 12 miles of which are located in Illinois.[4] Wisconsin Electric states that it currently holds a 33.2% ownership interest in ATC as of December 31, 2004. Additionally, as of December 31, 2004, Edison Sault owns a 4.6% ownership interest in ATC.

C. ATC Management Inc.

ATC Management, a Wisconsin corporation, is the manager of ATC and as of December 31, 2004, has a nominal membership interest (a one/one millionth share) in ATC. Wisconsin Electric states that as of December 31, 2004, it held a 37.8% ownership interest in ATC Management.

II. Project Company Lease

W.E. Power, LLC (''W.E. Power'') is a Wisconsin limited liability company that is a wholly owned, direct subsidiary of Wisconsin Energy. Project Company, a Wisconsin limited liability company which is a wholly-owned subsidiary of W.E. Power, was formed specifically to develop, construct, and own a 100% interest in two 545 megawatt gas fired, combined cycle generating units located at Wisconsin Electric's existing Port Washington, Wisconsin power plant site (''Port Washington Units''). In addition, Project Company will develop, construct and own a 100% interest in certain generator interconnection equipment necessary to interconnect the Port Washington Units with the ATC transmission grid. W.E. Power does not and will not own any such facilities directly.

Wisconsin Electric requests authority to enter into this lease transaction once the Port Washington Units are complete. The Project Company has entered into two facility leases (''Facility Leases'') with Wisconsin Electric under which the Project Company will construct the Port Washington Units and, upon commencement of commercial operation and satisfaction of certain other conditions, will lease them to Wisconsin Electric. The site on which the Port Washington Units will be built is owned by Wisconsin Electric and is leased to the Project Company under the ground leases. Coincident with the commencement of the terms of the Facility Leases, the Project Company will sublease back to Wisconsin Electric the real property on which the Port Washington Units have been constructed under the ground sublease agreements ground Sublease Agreements.

Wisconsin Electric will recover lease payments in rates. Also recovered in rates are management costs, demolition costs and community impact mitigation costs. Lease payments will cover carrying costs during construction and

[1] *See* HCAR No. 27329 (December 28, 2000) (''2000 Order'').

[2] Wisconsin Electric is subject to regulation by a number of regulatory bodies including the Federal Energy Regulatory Commission (''FERC'') under the Federal Power Act's authority to regulate wholesale sales of electric power, accounting and certain other matters. Wisconsin Electric's hydroelectric facilities are also regulated by FERC. Wisconsin Electric is also subject to regulation by the Public Service Commission of Wisconsin (''PSCW'').

[3] *Id.*

[4] Wisconsin Electric states that a small number of miles of transmission lines are under construction by ATC in Minnesota.

plant costs plus an allowed return on equity during operation. The lease payments will be further adjusted to incorporate capital improvements the Project Company is obligated to fund under most circumstances.

Wisconsin Electric will make fixed payments over the terms of the respective Facility Leases beginning when each Port Washington Unit becomes operational. Each Facility Lease will be treated as an operating lease under regulatory accounting and as a capital lease under generally accepted accounting principles. Each Facility Lease is a ''net lease'' under which Wisconsin Electric's obligations to make rent payments is absolute and unconditional.

III. Section 3(a)(1) Exemption

Wisconsin Electric requests an order of exemption under section 3(a)(1) on the basis that its material public utilities are located substantially within the state of Wisconsin and derive their operating revenues substantially within the state of Wisconsin.[5] Wisconsin Electric states that its out of state operating revenue percentages for the years 2004, 2003 and 2002 respectively are 5.94%, 5.69% and 5.51%. In addition, ATC's out-of-state operating revenue for the years 2004, 2003 and 2002 respectively are 9.6%, 11.8% and 6.87% respectively. Wisconsin Electric further states that all of the operating revenue derived from the lease of the Port Washington Units will come from utility operations within Wisconsin.

Ohio Valley Electric Corporation, et al. (70–10187)

Ohio Valley Electric Corporation (''OVEC''), 3932 U. S. Route 23, P.O. Box 468, Piketon, OH 45661, a public utility subsidiary owned by American Electric Power, Inc., (''AEP'') and FirstEnergy Corp. (''FirstEnergy''), each a registered holding company under the Act, and other investor-owned utilities; and AEP MEMCo LLC, (''MEMCo''), 1 Riverside Plaza, Columbus, OH 43215, a wholly-owned nonutility subsidiary of AEP have filed an application under sections 13(b) of the Act and rules 54, 90 and 91 under the Act.

OVEC and its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation (''IKEC''), own two generating stations located in Ohio and Indiana with a combined electric production capability of approximately 2,256 megawatts. OVEC is owned by AEP, FirstEnergy and other investor-owned utilities. The owners and their respective ownership percentages are: Allegheny Energy (3.5%), AEP (39.17%), Buckeye Power Generating, LLC (9.0%), The Cincinnati Gas & Electric Company, a subsidiary of Cinergy Corp. (9.0%), Columbus Southern Power Company, a subsidiary of AEP (4.3%), The Dayton Power and Light Company, a subsidiary of DPL Inc. (4.9%), Kentucky Utilities Company, a subsidiary of E.ON AG (2.5%), Louisville Gas and Electric Company, also a subsidiary of E.ON AG (5.63%), Ohio Edison Company, a subsidiary of FirstEnergy (16.5%), Southern Indiana Gas and Electric Company, a subsidiary of Vectren Corporation (1.5%), and The Toledo Edison Company, also a subsidiary of FirstEnergy (4.0%). These entities or their affiliates (collectively, ''Sponsoring Companies'') purchase power from OVEC.

OVEC was formed in the early 1950s by a group of holding companies and utilities located in the Ohio Valley region in response to the request of the United States Atomic Energy Commission (''AEC'') to supply the electric power and energy necessary to meet the needs of a uranium enrichment plant being built by AEC in Pikes County, Ohio. The Department of Energy (''DOE'') subsequently became the successor to AEC.

OVEC owns two coal-fired generating stations: (i) The Kyger Creek Plant in Cheshire, Ohio, which has a generating capacity of 1,075 megawatts, and (ii) the Clifty Creek Plant in Madison, Indiana, which has a generating capacity of 1,290 megawatts and is owned by OVEC's wholly-owned subsidiary, IKEC. Upon its formation, OVEC entered into two power sales agreements: (i) The DOE power agreement between OVEC and the United States (through the DOE) and (ii) the inter-company power agreement among OVEC and the Sponsoring Companies. Each of the Sponsoring Companies is either an owner of OVEC's stock or an affiliate of an owner. Under the power agreement with the United States, the DOE was entitled to essentially all of the generating capacity of OVEC's generating facilities. The Sponsoring Companies were granted certain rights to surplus energy not needed to service the DOEs Ohio enrichment facility. The DOE terminated its power agreement as of April 30, 2003. As a result, each of the Sponsoring Companies is currently entitled to its specified share of all net power and energy produced by OVEC's two generating stations, and the Sponsoring Companies are required to pay their share of all of OVEC's costs resulting from the ownership, operation and maintenance of its generating and transmission facilities, except those costs that were paid by the DOE.

MEMCo is an inland marine transporter operating approximately 1,700 barges and 40 towboats on the Ohio, Mississippi and Illinois Rivers and along the inter-coastal canal of the Gulf Coast. In addition to other services, MEMCo provides barge transportation services to associates and non-affiliated companies.

OVEC states that the operation of OVEC's generating stations require the movement and storage of substantial quantities of coal to ensure the availability of power to its customers, and that barging has been, and continues to be, the cheapest mode of transporting bulk commodities such as coal.

OVEC and IKEC were under contract for barge services from American Commercial Barge Line, LLC (''ACBL'') through December 31, 2003. ACBL declared bankruptcy in January, 2003, and MEMCo began providing barge services to OVEC and IKEC at cost in March 2003 pursuant to rule 87(b)(2). MEMCo continued to provide services while OVEC and IKEC solicited bids for barge services from several non-affiliates, as well as MEMCo. MEMCo's bid at cost was lower than bids received from non-affiliates. Accordingly, MEMCo seeks approval in this filing to provide barge services to OVEC and IKEC at cost in accordance with rules 90 and 91.

National Grid Transco plc (70–10295)

National Grid Transco plc (''NGT''), 1–3 Strand, London WC2N 5EH, United Kingdom, a foreign registered holding company, has filed a declaration (''Declaration'') under sections 6(a)(2), 12(c) and 12(e) of the Act and rules 42, 62 and 65 under the Act.

By the Declaration, NGT requests various authorizations relating to the issuance and repurchase of certain preferred securities it would issue to effect a return of cash. The company also seeks authority to solicit shareholder consents in connection with these transactions.

I. The NGT System

NGT's ordinary shares are listed on the London Stock Exchange, and its American Depositary Receipts (''ADRs'') are listed on the New York Stock Exchange.

A. Domestic Operations

NGT's U.S. business is conducted through National Grid USA, a registered holding company and an indirect

[5] For a discussion of the ''materiality'' and ''substantially'' standards in the determination of exemptions under sections 3(a)(1) and 3(a)(2), see NIPSCO Industries, HCAR No. 26975 (February 10, 1999).

wholly-owned subsidiary of NGT. National Grid USA is held directly and indirectly by several intermediate registered holding companies. The National Grid USA group of companies includes five wholly-owned electricity distribution companies: Niagara Mohawk Power Corporation, Massachusetts Electric Company, The Narragansett Electric Company, Granite State Electric Company, and Nantucket Electric Company; and four other utility companies: New England Power Company, New England Electric Transmission Corporation, New England Hydro-Transmission Corporation and New England Hydro-Transmission Electric Company, Inc. Through these subsidiaries, National Grid USA provides electric transmission and distribution services to residential, commercial, and industrial customers in New England and the transmission and distribution of electricity and the distribution of natural gas to residential, commercial, and industrial customers in New York.[6]

In addition, other companies within the National Grid USA group: (1) Provide metering, billing, and customer services; manage, design and build transmission and distribution-related facilities; and (3) provide related products and services including energy efficiency programs for customers.

B. Foreign Operations

Through its direct wholly-owned subsidiary, National Grid Holdings One plc (''NGH One''), and that company's subsidiary, National Grid Holdings Limited, NGT owns The National Grid Company plc (''NGC'') and certain other non-U.S. subsidiaries. NGC is engaged in the transmission of electricity in England and Wales. NGC owns and operates a transmission system consisting of approximately 4,500 route miles of overhead lines and approximately 410 route miles of underground cable together with approximately 340 substations at some 240 sites.

Through NGH One, its subsidiary Lattice Group plc (''Lattice Group''), and its subsidiary Transco Holdings plc, NGT owns Transco plc (''Transco'') and certain other non-U.S. subsidiaries. Transco is the owner and operator of the majority of Great Britain's gas transportation and distribution system. Transco's transportation network comprises approximately 4,200 miles of high pressure national transmission pipelines and approximately 170,000 miles of lower pressure regional transmission and distribution systems pipelines. Gas is transported on behalf of approximately 70 ''shippers'' either to consumers or third party pipeline systems. Transco receives gas from several coastal reception terminals, storage sites, and onshore fields around Great Britain. An interconnector to Belgium links Transco's own gas transportation system to continental Europe. A second interconnector supplies gas to Eire and Northern Ireland. In addition, Transco is responsible for the safety, development and maintenance of the transportation and distribution system. The company, however, does not sell gas to consumers.

C. Foreign Assets Sale

On August 31, 2004, NGT announced the sale of four U.K. gas distribution networks for £5.8 billion in cash plus approximately £130 million of assumed liabilities. The transactions are subject to certain regulatory consents and approvals including from the U.K. Gas and Electricity Markets Authority, the U.K. Department for Trade and Industry and the U.K. Health and Safety Executive. The Office of Gas and Electricity Markets has issued a detailed timetable that outlines the consent and approvals process, and NGT aims to complete these transactions during the summer of 2005. Completion of the transactions is also subject to termination rights, exercisable by each of NGT and the purchasers, in the event of defined circumstances arising which would have a material adverse impact on the distribution networks being sold.

NGT has indicated that it would provide a one-time return of cash to its shareholders of £2.0 billion from the proceeds of the distribution networks sales. It is expected that the profit from the sale will be significantly in excess of the amount being distributed to shareholders.

D. Return of Cash

More specifically, NGT intends to return cash to its shareholders through a mechanism described below involving a *pro rata* issuance of preferred stock referred to as ''B shares.'' According to NGT, this method would afford its shareholders choices as to the form and timing of the receipt of funds. NGT would use its share premium account to issue the B shares to existing holders of NGT's ordinary shares following shareholder approval at an Extraordinary General Meeting (''EGM'') currently scheduled for July 25, 2005.

NGT's issuance of B shares would be accompanied by a share consolidation (*i.e.*, a reverse stock split). Shareholders would receive a reduced number of new NGT ordinary shares to replace their existing shares according to a ratio that would be set prior to the EGM. The ratio would be set using the trading price of NGT's shares immediately before announcement of the details of the transaction and would be designed so that, subject to normal market movements, the share price of the new shares immediately after the £2.0 billion distribution would be approximately equal to the share price of the existing shares immediately beforehand.[7] The priorities, preferences, voting rights and other terms of the NGT ordinary shares would not change as a consequence of the share consolidation.

The B shares would rank ahead of the ordinary shares for the payment of dividends and in liquidation and would vote only with respect to matters directly affecting the B share class. Shareholders would receive one B share for every ordinary share that they hold. Holders of NGT ADRs, which represent five NGT ordinary shares, would receive five B shares per ADR.

The B shares would be listed on the London Stock Exchange.[8] B share owners could elect to: (1) receive a dividend of 65 pence per share (''Income Election'') shortly after the EGM; (2) sell their shares for 65 pence per share (''Initial Capital Election'') shortly after the EGM; or (3) hold their shares and wait (a) to sell their shares for 65 pence per share at a later date (''Deferred Capital Election''); or (b) until NGT converts them into new NGT ordinary shares (''Final Maturity Election''). Shareholders that do not affirmatively make an election will be deemed to have selected the Income Election.

1. *Income Elections.* Shareholders choosing Income Elections would have all of their B shares converted into ''deferred shares'' with no voting rights and negligible value once the dividend is paid. NGT may repurchase all deferred shares in existence at any time for the aggregate consideration of one

[6] Collectively, National Grid USA's electric utility subsidiaries own and operate approximately 76,000 miles of transmission and distribution lines in New York and New England and deliver electricity to approximately 3.3 million customers in New York, Massachusetts, Rhode Island and New Hampshire.

[7] NGT states that, if it did not combine the B share issuance with the consolidation, the value of its ordinary shares would, all things being equal, be expected to decrease by 65 pence per share immediately after the distribution, and NGT's per share financial ratios would also be affected. The company also states that the share consolidation would help to maintain a consistent and less confusing presentation of per share information to the financial markets.

[8] These securities would not be listed on any securities exchange or quoted on an inter-dealer quotation system in the U.S.

pence, and then cancel those repurchased shares.

2. *Capital Elections.* Under the repurchase options, JPMorgan Cazenove Limited (''JPMorgan Cazenove'') would offer to buy B shares for 65 pence per share, free of all dealing expenses and commissions. The Initial Capital Election would occur shortly after the EGM. At present, NGT expects that JPMorgan Cazenove would offer Deferred Capital Elections in 2006 and 2007.

Following completion of any repurchase offer, JPMorgan Cazenove would have the right to require NGT to purchase at 65 pence per B share, those B shares purchased from shareholders pursuant to JPMorgan Cazenove's repurchase offer. All B shares repurchased by NGT from JPMorgan Cazenove would be cancelled, and would not be held as treasury shares. Those shareholders electing to hold their B shares for a period of time (including those that select the Final Maturity Election, described below) would be entitled to a dividend on the B shares at a rate per annum of 75% of 12-month Sterling London Inter-Bank Offer Rate on a value of 65 pence per B share (''Continuing Dividend'').

3. *Final Maturity Elections.* Under the terms and conditions of the B shares, NGT would convert all of the B shares outstanding after a certain date in 2007 (specified in the proxy materials) into ordinary shares. The conversion ratio would be one new ordinary share for every M/65 B shares, where M represents the average of the closing mid-market quotations in pence of the new ordinary shares on the London Stock Exchange, as derived from the Daily Official List (as maintained by the UK Listing Authority for the purposes of the Financial Services and Markets Act 2000, as amended) for the five business days immediately preceding the conversion date), fractional entitlements being disregarded and the balance of those shares (including any fractions) shall be deferred shares as described in the proxy materials. Conversions of the B shares would be effected by NGT through a reorganization of share capital that would result in the elimination of the B shares though their conversion into ordinary shares.

II. Proposed Transactions

NGT requests authority under section 12(c) and rule 42 to acquire, retire, redeem and/or convert the B shares in connection with Initial Capital Elections, Deferred Capital Elections and Final Maturity Elections.[9] The company also requests authority under section 6(a)(2) to effect the intended reverse stock split. Further, NGT requests authority to solicit shareholder consents with regard to the B share scheme under section 12(e) and rules 62 and 65. NGT states that it already has the necessary authority to issue the B shares.[10]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–2198 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

[9] Not all sellers of B shares would be unaffiliated with NGT, so those repurchases would not be exempt under rule 42.

[10] Economically, the issuance of B shares constitutes a dividend. This dividend, however, would not be subject to section 12(c) of the Act or rule 46 because it would be paid out of NGT's ''distributable reserves,'' which is generally equivalent to unrestricted retained earnings under U.S. GAAP. The issuance of B shares would be subject to sections 6 and 7 of the Act. NGT, however, is authorized through September 30, 2007 to issue various types of securities, including preferred stock and securities convertible into common stock, subject to certain conditions. *See* HCAR No. 27898 (September 30, 2004) (''Financing Order''). NGT states that the B shares issuance would comply with all of the conditions of the Financing Order.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51634; File No. SR–Amex–2005–036]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Listing and Trading of Notes Linked to the Performance of the CBOE S&P 500 BuyWrite Index(sm)

April 29, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade notes, the performance of which is linked to the S&P 500 BuyWrite Index(sm) (the ''BXM Index'' or ''Index''). The text of the proposed rule change is available on the Amex's Web site (*http://www.amex.com*), at the principal offices of the Amex, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 107A of the Amex Company Guide (''Company Guide''), the Exchange may approve for listing and trading securities that cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[3] The Amex proposes to list for trading under Section 107A of the Company Guide notes linked to the performance of the BXM Index (the ''Notes''). The BXM Index is determined, calculated and maintained solely by the Chicago Board Options Exchange, Inc. (''CBOE'').[4] Wachovia Corporation

[3] *See* Securities Exchange Act Release No. 27753 (Mar. 1, 1990), 55 FR 8626 (Mar. 8, 1990) (order approving File No. SR–Amex–89–29).

[4] If the CBOE discontinues publication of the Index and the CBOE or another entity publishes a successor or substitute index that the calculation agent determines, in its sole discretion, to be comparable to the Index (a ''Successor Index''), then the calculation agent shall substitute the Successor Index as calculated by the CBOE or any other entity for the Index and calculate the Redemption Amount (as defined below) by reference to the Successor Index. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005. In the event that the CBOE discontinues publication of the Index and (a) the

(''Wachovia'') will issue the Notes under the name ''Portfolio Tracking Securities.'' [5]

The Notes will conform to the initial listing guidelines under Section 107A [6] and continued listing guidelines under Sections 1001–1003 [7] of the Company Guide. The Notes are a series of medium-term debt securities of Wachovia that provide for a cash payment at maturity or upon earlier exchange at the holder's option, based on the performance of the BXM Index as adjusted by the Adjustment Factor (as defined below).[8] The principal amount of each Note is expected to be $1,000. The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the value of the BXM Index must increase for the investor to receive at least the $1,000 principal amount per security at maturity or upon exchange or redemption.[9] If the value of the BXM Index decreases or does not increase sufficiently, the investor will receive less, and possibly significantly less, than the $1,000 principal amount per security.[10] In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of at least one (1) but no more than ten years.[11] Commencing May 2006 and continuing on an annual basis, during the first fifteen calendar days of May, holders of the Notes will have the right to exchange the Notes for a cash amount equal to the Redemption Amount (as defined below) on the Exchange Valuation Date (as defined below) for such exchange.[12] The Notes are not callable by the issuer.

The payment that a holder of a Note will receive at maturity or exchange (the ''Redemption Amount'') will depend on the relation of the Index ending level (the ''Index Ending Level'') to the closing level of the Index on the pricing date (the ''Index Starting Level'') of the BXM Index, as adjusted by the Adjustment Factor (as defined below). The Index Ending Level, for Notes held to maturity, will equal the arithmetic average of the products of the closing levels of the Index on each Valuation Date (as defined below). For Notes exchanged pursuant to the exchange right, the Index Ending Level will equal the closing level of the Index on the applicable Exchange Valuation Date (as defined below). For purposes of determining the amount payable at maturity of the Notes, the Redemption Amount will be determined on each of the five scheduled trading days immediately prior to the maturity date (each a ''Valuation Date'' and collectively, the ''Valuation Dates''). In connection with an exchange, the Redemption Amount will be determined on the second scheduled trading day after the end of each exchange period (the ''Exchange Valuation Date''). In the event that a Valuation Date or an Exchange Valuation Date occurs on a non-scheduled trading day or if the calculation agent determines[13] that a market disruption event [14] occurs on

calculation agent does not select or approve a Successor Index or (b) the Successor Index is no longer published on any of the relevant scheduled trading days, the calculation agent will compute a substitute level for the Index in accordance with the procedures last used to calculate the level of the Index before any discontinuation but using only those securities that comprised the Index prior to such discontinuation. If a Successor Index is selected or the calculation agent calculates a level as a substitute for the Index, the Successor Index or level will be used as a substitute for the Index for all purposes going forward even if CBOE elects to begin republishing the Index, unless the calculation agent decides to use the republished Index. If the CBOE discontinues publication of the Index and the calculation agent determines that no Successor Index is available at that time, then on each scheduled trading day until the earlier to occur of (a) the determination of the Redemption Amount or (b) a determination by the calculation agent that a Successor Index is available, the calculation agent will determine the level that would be used in computing the Redemption Amount as if that day were a scheduled trading day. *See also infra* note 22.

First Union Securities, Inc. has been appointed as the initial calculation agent. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[5] Wachovia and Standard & Poor's (''S&P''), a division of the McGraw-Hill Companies, Inc. have entered into a non-exclusive license agreement providing for the use of the BXM Index by Wachovia in connection with certain securities including the Notes. S&P is not responsible for and will not participate in the issuance and creation of the Notes. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[6] The initial listing standards for the Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. Because the Notes will be issued in $1,000 denominations, the minimum public distribution requirement of one million units and the minimum holder requirement of 400 holders do not apply. In addition, the listing guidelines provide that the issuer has assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[7] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Notes, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than $400,000.

[8] The Adjustment Factor is an annual fee that accrues daily over the term of the Notes and is equal to 1.5% per annum, compounded daily on an actual/365 day count. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[9] The Notes are also subject to a 1.00% up-front fee, as well as a 1.50% annual fee, compounded daily. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[10] Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[11] The term of the Notes is expected to be five years and will be disclosed in the prospectus supplement.

[12] The ''Exchange Valuation Date'' is the second scheduled trading day following the end of each exchange period, provided that if such day is not a trading day or if a market disruption event occurs on such day, the Exchange Valuation Date will be the next following scheduled trading day on which no market disruption event has occurred. There is no minimum number of Notes required for an exchange. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[13] Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[14] A ''market disruption event'' is defined as the failure of the primary market or related markets to open for trading during regular trading hours or the occurrence or existence of any of the following events: (i) A trading disruption, if material, at any time during the one hour period that ends at the close of trading for the applicable exchange; (ii) an exchange disruption, if material, at any time during the one hour period that ends at the close of trading for the applicable exchange; or (iii) an early closure. A ''trading disruption'' generally means any suspension of, or limitation, imposed on trading by the primary exchange or related exchange or otherwise, whether by reason of movements in price exceeding limits permitted by the relevant exchange or related exchange or otherwise (i) relating to securities that comprise 20% or more of the level of the S&P 500® Index (the ''S&P 500'') or (ii) in options contracts or futures contracts relating to the Index or the S&P 500 on any relevant related exchange. An ''exchange disruption'' means any event (other than a scheduled early closure) that disrupts or impairs the ability of market participants in general to (i) effect transactions in, or obtain market values on, any primary exchange or related exchange in securities that comprise 20%

Continued

such date, the Valuation Date or the Exchange Valuation Date, as applicable, will be postponed to the next scheduled trading day on which no market disruption event occurs.

The Adjustment Factor will begin at 100% and will be reduced by the fee rate of 1.5% per annum, compounded daily on an actual/365 day count. On any calendar day, the adjustment factor is equal to:

$$(100\% - \left(\frac{1.5\%}{365}\right))^{n},$$

where ''n'' is the number of days from but excluding the pricing date to and including such calendar day.

A holder or investor on the maturity date or applicable exchange date will receive a Redemption Amount equal to:

$$\$990 \times \left(\frac{\text{Adjusted Index Ending Level}}{\text{Index Starting Level}}\right)$$

The Adjusted Index Ending Level for Notes held to maturity is equal to the average of the products of the Index Ending Level and the Adjustment Factor on each Valuation Date. In the case of an exchange, the Adjusted Index Ending Level is equal to the product of the Index Ending Level and the Adjustment Factor on the applicable Exchange Valuation Date.

The Notes are cash-settled in U.S dollars and do not give the holder any right to receive any of the component securities, dividend payments, or any other ownership right or interest in the securities comprising the BXM Index.[15] The Notes are designed for investors who want to participate in the exposure to the S&P 500 that the BXM Index provides while limiting downside risk, and who are willing to forego interest payments and principal protection on the Notes during their term.

The Exchange notes that the Commission has previously approved the listing on the Amex of securities with structures similar to that of the proposed Notes.[16] *Description of the Index.* The BXM Index is a benchmark index designed to measure the performance of a hypothetical ''buy-write''[17] strategy on the S&P 500. Developed by the CBOE in cooperation with S&P, the Index was initially announced in April 2002.[18] The Exchange states that the CBOE developed the BXM Index in response to several factors, including the repeated requests by options portfolio managers that the CBOE provide an objective benchmark for evaluating the performance of buy-write strategies, one of the most popular option trading strategies. Further, the CBOE developed the BXM Index to provide investors with a relatively straightforward indicator of the risk-reducing character of options that otherwise may seem complicated and inordinately risky.

The BXM Index is a passive total return index based on (1) buying a portfolio consisting of the component stocks of the S&P 500, and (2) ''writing'' (or selling) near-term S&P 500 call options (SPX), generally on the third Friday of each month. This strategy consists of a hypothetical portfolio consisting of a ''long'' position indexed to the S&P 500 on which are deemed sold a succession of one-month, at-the-money call options on the S&P 500 (SPX) listed on the CBOE. Dividends paid on the component stocks underlying the S&P 500 and the dollar value of option premium deemed received from the sold call options are functionally ''re-invested'' in the covered S&P 500 portfolio.

The value of the BXM Index on any given date will equal the value of the BXM Index on the previous day multiplied by the daily rate of return[19] on the covered S&P 500 portfolio on that date. Thus, the daily change in the BXM Index reflects the daily changes in value of the covered S&P 500 portfolio, which consists of the S&P 500 (including dividends) and the component S&P 500 option (SPX). The daily closing price of the BXM Index is calculated and disseminated by the CBOE on its Web site at *http://www.cboe.com* and via the Options Pricing and Reporting Authority (''OPRA'') at the end of each trading day.[20] The value of the S&P 500 is widely disseminated at least once every fifteen (15) seconds throughout the scheduled trading day. The Exchange believes that the intraday dissemination of the S&P 500, along with the ability of investors to obtain real time, intraday S&P 500 call option pricing provides sufficient transparency regarding the BXM Index.[21] In addition,

or more of the level of the S&P 500 or (ii) effect transactions in options contracts or futures contracts relating to the Index or the S&P 500 on any relevant related exchange. A ''related exchange'' is an exchange or quotation system on which futures or options contracts relating to the Index or the S&P 500 are traded.

[15] Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[16] *See* Securities Exchange Act Release Nos. 50719 (Nov. 22, 2004), 69 FR 69644 (Nov. 30, 2004) (approving the listing and trading of non-principal protected notes linked to the BXM Index) (File No. SR–Amex–2004–55).

[17] A ''buy-write'' is a conservative options strategy in which an investor buys a stock or portfolio and writes call options on the stock or portfolio. This strategy is also known as a ''covered call'' strategy. A buy-write strategy provides option premium income to cushion decreases in the value of an equity portfolio, but will underperform stocks in a rising market. A buy-write strategy tends to lessen overall volatility in a portfolio.

[18] The BXM Index consists of a long position in the component securities of the S&P 500 and options on the S&P 500. The Exchange notes that the Commission has approved the listing of numerous securities linked to the performance of the S&P 500 as well as options on the S&P 500. *See, e.g.*, Securities Exchange Act Release Nos. 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (approving the listing and trading of options on the S&P 500) (File No. SR–CBOE–83–8); 47911 (May 22, 2003), 68 FR 32558 (May 30, 2003) (approving the listing and trading of notes (Wachovia TEES) linked to the S&P 500) (File No. SR–Amex–2003–46); 47983 (June 4, 2003), 68 FR 35032 (June 11, 2003) (approving the listing and trading of a CSFB Accelerated Return Notes linked to the S&P 500) (File No. SR–Amex–2003–45); 48152 (July 10, 2003), 68 FR 42435 (July 17, 2003) (approving the listing and trading of a UBS Partial Protection Note linked to the S&P 500) (File No. SR–Amex–2003–62); and 48486 (Sept. 11, 2003), 68 FR 54758 (Sept. 18, 2003) (approving the listing and trading of CSFB Contingent Principal Protection Notes on the S&P 500) (File No. SR–Amex–2003–74). In addition, the Commission previously approved the listing and trading of a packaged buy-write option strategy known as ''BOUNDS.'' *See* Securities Exchange Act Release No. 36710 (Jan. 11, 1996), 61 FR 1791 (Jan. 23, 1996) (File Nos. SR–Amex–94–56, SR–CBOE–95–14, and SR–PSE–95–01).

[19] The daily rate of return on the covered S&P 500 portfolio is based on (a) the change in the closing value of the stocks in the S&P 500 portfolio, (b) the value of ordinary cash dividends on the stocks underlying the S&P 500, and (c) the change in the market price of the call option. The daily rate of return will also include the value of ordinary cash dividends distributed on the stocks underlying the S&P 500 that are trading ''ex-dividend'' on that date (that is, when transactions in the stock on an organized securities exchange or trading system no longer carry the right to receive that dividend or distribution) as measured from the close in trading on the previous day.

[20] The Exchange notes that the Commission, in connection with Bond Index Term Notes and the Merrill Lynch EuroFund Market Index Target Term Securities, has previously approved the listing and trading of these products where the dissemination of the value of the underlying index occurred once per trading day. *See* Securities Exchange Act Release Nos. 41334 (Apr. 27, 1999), 64 FR 23883 (May 4, 1999) (approving the listing and trading of Bond Indexed Term Notes) (File No. SR–Amex–99–03) and 40367 (Aug. 26, 1998), 63 FR 47052 (Sept. 3, 1998) (approving the listing and trading of Merrill Lynch EuroFund Market Index Target Term Securities) (File No. SR–Amex–98–24).

[21] Call options on the S&P 500 (SPX) are traded on the CBOE, and both last sale and quotation information for the call options are disseminated in real time through OPRA. The value of the BXM can be readily approximated as a function of observable market prices throughout the trading day. In particular, such a calculation would require information on the current price of the S&P 500 index and specific nearest-to-expiration call and put options on that index. These components trade in highly liquid markets, and real-time prices are available continuously throughout the trading day from a number of sources including Bloomberg and CBOE. The ''Indicative Value'' (as discussed below) may be a more accurate indicator of the valuation of the Notes because it reflects the fees associated with the Notes (*e.g.*, on the initial principal amount and the Adjustment Amount); however, the ''Indicative Value'' is also not adjusted intraday. Telephone conversation between Jeffrey P. Burns,

as indicated above, the value of the BXM Index is calculated once every scheduled trading day, thereby, providing investors with a daily value of such ''hypothetical'' buy-write options strategy on the S&P 500.

The Exchange states that the CBOE has represented that the BXM Index value will be calculated and disseminated by the CBOE once every scheduled trading day after the close. The daily change in the BXM Index reflects the daily changes in the S&P 500 and related options positions. The Exchange states that Wachovia has represented that it will seek to arrange to have the BXM Index calculated and disseminated on a daily basis through a third party if the CBOE ceases to calculate and disseminate the Index.[22] If, however, Wachovia is unable to arrange the calculation and dissemination of the BXM Index as indicated above, the Exchange will undertake to delist the Notes.[23]

In order to provide an updated value of the daily Redemption Amount for use by investors, the Exchange will disseminate over the Consolidated Tape Association's Network B, a daily indicative Redemption Amount (the ''Indicative Value''). The Indicative Value will be calculated by the Amex after the close of trading and after the CBOE calculates the BXM Index for use by investors the next scheduled trading day. It is designed to provide investors with a daily reference value of the Index. The Indicative Value may not reflect the precise value of the current Redemption Amount or amount payable upon exchange or maturity. Therefore, the Indicative Value disseminated by the Amex during trading hours should not be viewed as a real time update of the BXM Index, which is calculated only once a day. While the Indicative Value that will be disseminated by the Amex is expected to be close to the current BXM Index value, the values of the Indicative Value and the BXM Index will diverge due to the application of the Adjustment Factor.

From June 30, 1988 through March 18, 2005, the annualized returns for the BXM Index and the S&P 500 were 11.91% and 11.70%, respectively, with the annualized standard deviation of the daily returns during the same time period of 10.92% and 16.06%, respectively. As the chart in attached Exhibit 3 to the Exchange's Form 19b–4 indicates, the BXM Index will closely track the S&P 500 except in those cases where the market is significantly rising or decreasing. In the case of a fast rising market, the BXM Index will trail the S&P 500 due to the limited upside potential of the Index because of the ''buy-write'' strategy. Due to the cushioning effect of the ''buy-write'' strategy, the BXM Index has in the past exhibited negative returns that are less than the S&P 500 during a down market. The Exchange expects the BXM Index to continue to display these characteristics.

The call options included in the value of the BXM Index have successive terms of approximately one month. Each day that an option expires, which day is referred to as a ''roll'' date, that option's value at expiration is taken into account in the value of the BXM Index. At expiration, the call option is settled against the ''Special Opening Quotation,'' a special calculation of the S&P 500. The final settlement price of the call option at expiration is equal to the difference between the Special Opening Quotation and the strike price of the expired call option, or zero, whichever is greater, and is removed from the value of the BXM Index. Subsequent to the settlement of the expired call option, a new, ''short'' or sold at-the-money call option is included in the value of the BXM Index.[24] The initial value of the new call option is calculated by the CBOE and is based on the volume-weighted average of all the transaction prices of the new call option during a designated time period on the day the strike price is determined.[25]

As of March 18, 2005, the market capitalization of the securities included in the S&P 500 ranged from a high of $400.4 billion to a low of $579.04 million. The average daily trading volume for these same securities for the last six (6) months ranged from a high of 38.90 million shares to a low of 180,857 shares.

The Exchange represents that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.[26]

Because the Notes are issued in $1,000 denominations, the Amex's existing debt floor trading rules will apply to the trading of the Notes. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[27] Second, even though the Exchange's debt trading rules apply, the Notes will be subject to the equity margin rules of the Exchange.[28] Third, the Exchange will, prior to trading the Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer,[29] and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction. In addition, Wachovia will deliver a prospectus in connection with its sales of the Notes.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, the Amex will rely on its existing surveillance procedures governing equities and options that include additional monitoring on key pricing dates,[30] which the Exchange states have been deemed adequate under the Act. In addition, the Exchange also has a general policy which prohibits the distribution of material,

Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[22] Prior to such change in the manner in which the BXM Index is calculated, or in the event of any Index substitution, the Exchange will file a proposed rule change pursuant to Rule 19b–4, which must be approved by the Commission prior to continued listing and trading in the Notes. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

[23] *See supra* note 4 (regarding discontinuation of the calculation and dissemination of the Notes).

[24] Like the expired call option, the new call option will expire approximately one month after the date of sale.

[25] For this purpose, the CBOE excludes from the calculation those call options identified as having been executed as part of a spread (*i.e.*, a position taken in two or more options in order to profit through changes in the relative prices of those options).

[26] *See* 17 CFR 240.10A–3.

[27] Amex Rule 411 requires, among other things, that every member or member organization use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[28] *See* Amex Rule 462 and Section 107B of the Company Guide.

[29] *See* Amex Rule 411.

[30] Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission, and David Liu, Attorney, Division, Commission, on April 26, 2005.

non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [31] in general, and furthers the objectives of Section 6(b)(5) of the Act [32] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2005–036 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 No. SR–Amex–2005–036. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Amex–2005–036 and should be submitted on or before May 27, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

Amex has asked the Commission to approve the proposal on an accelerated basis to accommodate the timetable for listing the Notes. After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[33] The Commission finds that this proposal is similar to several approved instruments currently listed and traded on the Amex.[34] Accordingly, the Commission finds that the listing and trading of the Notes based on the BXM Index is consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities consistent with Section 6(b)(5) of the Act.[35]

The requirements of Section 107A of the Company Guide were designed to address the concerns attendant to the trading of hybrid securities, like the Notes. For example, Section 107A of the Company Guide provides that only issuers satisfying substantial asset and equity requirements may issue securities such as the Notes. In addition, the Exchange's ''Other Securities'' listing standards further require that the Notes have a market value of at least $4 million.[36] In any event, financial information regarding Wachovia, in addition to the information on the component stocks, which are reporting companies under the Act, and the Notes, which will be registered under Section 12 of the Act, will be available.

In approving the product, the Commission recognizes that the Index is a passive total return index based on (1) buying a portfolio consisting of the component stocks of the S&P 500, and (2) ''writing'' (or selling) near-term S&P 500 call options (SPX), generally on the third Friday of each month. Given the large trading volume and capitalization of the compositions of the stocks underlying the S&P 500, the Commission believes that the listing and trading of the Notes that are linked to the BXM Index should not unduly impact the market for the underlying securities compromising the S&P 500 or raise manipulative concerns.[37] Moreover, the issuers of the underlying securities comprising the S&P 500 are subject to reporting requirements under

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(5).

[33] 15 U.S.C. 78f(b)(5).

[34] *See, e.g.*, Securities Exchange Act Release Nos. 51426 (Mar. 23, 2005), 70 FR 16315 (Mar. 30, 2005) (approving the listing and trading of notes linked to the performance of the CBOE S&P 500 BuyWrite Index(sm)) (File No. SR–Amex–2005–022); 50719 (Nov. 22, 2004), 69 FR 69644 (Nov. 30, 2004) (approving the listing and trading of notes linked to the performance of the CBOE S&P 500 BuyWrite Index(sm)) (File No. SR–Amex–2004–55); 48486 (Sept. 11, 2003), 68 FR 54758 (Sept. 18, 2003) (approving the listing and trading of CSFB Contingent Principal Protected Notes on the S&P 500) (File No. SR–Amex–2003–74); 48152 (July 10, 2003), 68 FR 42435 (July 17, 2003) (approving the listing and trading of UBS Partial Principal Protected Notes linked to the S&P 500) (File No. SR–Amex–2003–62); 47983 (June 4, 2003), 68 FR 35032 (June 11, 2003) (approving the listing and trading of CSFB Accelerated Return Notes linked to S&P 500) (File No. SR–Amex–2003–45); 47911 (May 22, 2003), 68 FR 32558 (May 30, 2003) (approving the listing and trading of notes (Wachovia TEES) linked to the S&P 500) (File No. SR–Amex–2003–46); and 36710 (Jan. 11, 1996), 61 FR 1791 (Jan. 23, 1996) (approving the listing and trading of BOUNDS) (File Nos. SR–Amex–94–56, SR–CBOE–95–14, and SR–PSE–95–01).

[35] 15 U.S.C. 78f(b)(5). In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[36] *See* Company Guide Section 107A(c).

[37] The issuer, Wachovia, disclosed in the prospectus and prospectus supplement that the hedging activities of it and its affiliates, including taking positions in the stocks underlying the Index and selling call options on the Index, which could adversely affect the market value of the Notes from time to time and the redemption amount holders of the Notes would receive on the Notes. Such hedging activity must, of course, be conducted in accordance with applicable regulatory requirements.

the Act, and all of the component stocks are either listed or traded on, or traded through the facilities of, U.S. securities markets.

The Commission also believes that any concerns that a broker-dealer, such as Wachovia, or a subsidiary providing a hedge for the issuer, will incur undue position exposure are minimized by the size of the Notes issuance in relation to the net worth of Wachovia.[38]

Finally, the Commission notes that the value of the Index will be calculated and disseminated by the CBOE once every trading day after the close of trading. However, the Commission notes that the value of the S&P 500 will be widely disseminated at least once every fifteen seconds throughout the trading day and that investors are able to obtain real-time call option pricing on the S&P 500 during the trading day. Further, the Indicative Value, which will be calculated by the Amex after the close of trading and after the CBOE calculates the BXM Index for use by investors the next trading day, is designed to provide investors with a daily reference value of the adjusted Index. The Commission notes that Wachovia has agreed to arrange to have the BXM Index calculated and disseminated on a daily basis through a third party in the event that the CBOE discontinues calculating and disseminating the Index. In such event, the Exchange agrees to obtain Commission approval, pursuant to filing the appropriate Form 19b–4, prior to the substitution of the CBOE BXM Index. Further, the Commission notes that the Exchange has agreed to undertake to delist the Notes in the event that the CBOE ceases to calculate and disseminate the Index, and Wachovia is unable to arrange to have the BXM Index calculated and widely disseminated through a third party.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex.[39] The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Additionally, the Notes will be listed pursuant to Amex's existing hybrid security listing standards as described above. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[40] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[41] that the proposed rule change (File No. SR–Amex–2005–036) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[42]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2213 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51639; File No. SR–CHX–2005–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Participant Fees and Credits

April 29, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on April 21, 2005, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the CHX. The proposed rule change has been filed by the CHX as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to amend its Participant Fee Schedule to allow the Exchange to extend the fixed fee exemption for CHXpress® securities to new securities during the course of a month. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

PARTICIPANT FEES AND CREDITS

* * * * *

E. Specialist Fixed Fees

Except in the case of Tape B Exemption Eligible Securities (as defined above in Section D), and Designated CHXpress Securities (as defined below), which shall be exempt from assessment of fixed fees, specialists will be assigned a fixed fee per assigned stock on a monthly basis, to be calculated as follows:

* * * * *

''Designated CHXpress Securities'' are those issues which have been designated by the Exchange [on a monthly basis] as fixed-fee exempt *at the beginning of each month, or which have been added by the Exchange to the list of exempt securities during the month, with the consent of the specialist assigned to trade the issue.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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[38] *See* Securities Exchange Act Release Nos. 44913 (Oct. 9, 2001), 66 FR 52469 (Oct. 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (File No. SR–NASD–2001–73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR–Amex–2001–40); and 37744 (Sept. 27, 1996), 61 FR 52480 (Oct. 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (File No. SR–Amex–96–27).

[39] *See* supra notes 16 (citing previous approvals of securities with structures similar to that of the proposed Notes); and 18 (citing previous approvals of securities linked to the performance of the S&P 500 as well as options on the S&P 500).

[40] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[41] 15 U.S.C. 78s(b)(2).

[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange stated that it is rolling out a new, automated functionality for the handling of particular orders, called CHXpress.™ According to the Exchange, the CHXpress functionality is designed to provide additional opportunities for the Exchange's participants to seek and receive liquidity through automated executions of orders at the Exchange.[5] With a few exceptions, CHXpress orders will be executed immediately and automatically against same or better-priced orders in the specialist's book, or against the specialist's quote (when that functionality is available).[6] If a CHXpress order cannot be immediately executed, it will be placed in the specialist's book for instantaneous display or later execution.[7] A CHX specialist may not cancel or place a CHXpress order on hold or otherwise prevent the order-sending firm from canceling the order.

The Exchange stated that this new functionality currently is available in select issues, and the Exchange plans to extend the use of this functionality to additional issues in upcoming weeks. Last month, the Exchange began exempting, from the specialist fixed fees, securities in which CHXpress orders are processed by the Exchange.[8] The Exchange stated that it had planned to identify these securities, on a monthly basis, at the beginning of each month, based on business factors including the interest demonstrated by order-sending firms in trading a particular security. The Exchange also stated that the CHXpress functionality was to have been enabled for these designated CHXpress securities throughout the month.

The Exchange, however, has determined that it is not efficient, from a business perspective, to try to designate the CHXpress securities on a monthly basis, unless the Exchange has the authority to add to the list when necessary. The Exchange believes that it is important to be able to respond to potential new order flow during a month by allowing the Exchange to extend CHXpress functionality to additional issues, so long as the specialist in the security agrees to the addition.[9]

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(4) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[12] and Rule 19b–4(f)(2)[13] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR-CHX–2005–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–CHX–2005–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–

[5] *See* Securities Exchange Act Release No. 50481 (Sept. 30, 2004), 69 FR 60197 (Oct. 7, 2004) (SR–CHX–2004–12).

[6] CHXpress orders will not be executed if those executions would improperly trade-through another ITS market or if trading in the issue had been halted. CHXpress orders that would improperly trade through an ITS market or that are received during a trading halt will be cancelled. If trading in an issue has been halted, CHXpress orders in the book will be cancelled.

[7] A CHXpress order will be instantaneously and automatically displayed when it constitutes the best bid or offer in the CHX book. *See* CHX Article XX, Rule 37(b)11(D). CHXpress orders, like all other orders at the Exchange, will not be eligible for automated display if that display would improperly lock or cross the NBBO. A CHXpress order that would improperly lock or cross the NBBO will be cancelled. CHXpress orders cannot be excluded from the CHX's quote.

[8] *See* Securities Exchange Act Release No. 51430 (Mar. 24, 2005), 70 FR 16540 (Mar. 31, 2005) (SR–CHX–2005–03). According to the CHX, the fee exemption was designed to address concerns of CHX specialist firms, who have noted that they will be best able to handle issues associated with the automatic execution of CHXpress orders when two systems projects—to automatically execute inbound ITS commitments and to allow them to display (and have automatically executed) their manual proprietary quotes—have been completed.

[9] The Exchange believes that it is appropriate to consult with the specialist firm assigned to an issue before extending CHXpress functionality to that issue because of the potential double liability associated with the handling of ITS commitments when CHXpress orders are automatically executing against displayed bids and offers and because of the specialist's inability to manually post bids and offers in CHXpress-eligible securities until the two system projects described in note 8, *supra,* have been completed.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

2005–12 and should be submitted on or before May 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2205 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51630; File No. SR–NASD–2005–049]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. To Modify the Pricing for Non-NASD Members Using Nasdaq's Brut Facility

April 28, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 8, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On April 12, 2005, Nasdaq submitted Amendment No. 1 to the proposed rule change.[3] On April 27, 2005, Nasdaq submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and at the same time is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the pricing for non-NASD members using Nasdaq's Brut Facility (''Brut''). Nasdaq requests approval to implement the proposed rule change retroactively as of April 11, 2005. The text of the proposed rule change, as amended, is available on the NASD's Web site (*http://www.nasd.com*), at the NASD's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq currently charges a fee of $0.004 per share executed with respect to any order to buy or sell exchange-listed securities that is routed by Brut to an exchange using such exchange's proprietary order delivery system (such as the New York Stock Exchange's SuperDOT system). In SR–NASD–2005–048, which became effective immediately upon filing, Nasdaq reduced this fee for NASD members for some orders and eliminated it entirely for others effective April 11, 2005. In this filing, Nasdaq proposes to put in effect the same fee changes for non-members.

Under the proposal, the fee for orders to buy or sell exchange-listed securities (assuming such securities are subject to the Consolidated Quotations Service and Consolidated Tape Association Plans and are not Exchange Traded Funds listed on the American Stock Exchange) that are routed by Brut to an exchange using the exchange's proprietary order delivery system would be reduced to $0.0004 per share executed. This fee would only be charged, however, if the orders to which it otherwise applies are routed outside Brut and the Nasdaq Market Center (''NMC'') without first attempting to execute within Brut or the NMC. If an order to which this fee would otherwise apply first attempts to execute against the book maintained by Brut or the NMC, then this fee would no longer be applicable.

By lowering (and eliminating in many cases) the routing fees for certain orders for exchange-listed securities received by Brut, Nasdaq states that it seeks to continue to improve Brut's competitiveness in attracting buy and sell orders for exchange-listed securities. Nasdaq believes that its participants would benefit from the increased liquidity in exchange-listed securities that the proposal is designed to stimulate. Furthermore, Nasdaq states that all investors would benefit from increased competition in this area. Finally, Nasdaq believes that the distinction for fee purposes between orders that check the Brut (or NMC) book before routing and those that are designated for routing regardless of available prices in such book would encourage orders to check the Brut book, which it believes would benefit both the particular investor (who, as a result, may find a better execution) and the market as a whole.

At the same time, the proposed rule change seeks to apply to non-members a new fee (which is being instituted for members) designed to recover the commissions billed by NYSE specialists to Brut for certain types of limit orders. According to Nasdaq, generally, NYSE specialists charge Brut for executions of limit orders that remained unexecuted on the specialists' books for more than 5 minutes. While the specialists' fee schedules vary, Nasdaq states that the proposed Brut fee of $0.009 per share is generally designed to recover for Brut some of the associated cost.

The new fee would apply when a limit order is delivered to the NYSE via the NYSE's proprietary order delivery system and the time to execute such an order exceeds five minutes (measured as the difference between the time of the NYSE's electronic acknowledgment of the order and the time of execution). The new fee would not apply, however, to day orders executed in the specialists' opening and to good-till-cancelled orders if executed in the opening on the day when they were entered. The new fee would also not apply to any on-close orders or market orders.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,[5] in general, and with Section 15A(b)(5) of the Act,[6] in particular, in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 corrected a clerical error in the originally filed proposed rule change to clarify that the filing was submitted under Section 19(b)(2) of the Act.

[4] Amendment No. 2 replaced and superseded the originally filed proposed rule change, as amended.

[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78*o*–3(b)(5).

using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Nasdaq states that written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2005–049 on the subject line.

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to File Number SR–NASD–2005–049. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–049 and should be submitted on or before May 27, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization.[7] Specifically, the Commission believes the proposed rule change, as amended, is consistent with Section 15A(b)(5) of the Act,[8] which requires that the rules of the self-regulatory organization provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facilities or system which it operates or controls.

The Commission notes that this proposal, which permits the retroactive application of a routing fee for certain orders to buy or sell exchange-listed securities and a fee for certain limit orders delivered to the NYSE for non-NASD members to be effective as of April 11, 2005, would permit the schedule for non-NASD members to mirror the schedule applicable to NASD members that was effective as of April 11, 2005 pursuant to SR–NASD–2005–048.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day of the date of publication of notice thereof in the **Federal Register**. The Commission notes that the proposed fees for non-NASD members are identical to those in SR–NASD–2005–048, which implemented these fees for NASD members and which became effective as of April 11, 2005. The Commission notes that this change will promote consistency in Nasdaq's fee schedule by applying the same pricing schedule with the same date of effectiveness for both NASD members and non-NASD members. Therefore, the Commission finds that there is good cause, consistent with Section 19(b)(2) of the Act,[9] to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–NASD–2005–049), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2201 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

[7] The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78*o*–3(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51622; File No. SR–NYSE–2005–29]

Self-Regulatory Organizations; New York Stock Exchange, Inc; Notice of Filing of a Proposed Rule Change To Remove Incorrect Reference in Its Rule Relating to Failure To Honor an Arbitration Award

April 27, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 25, 2005, the New York Stock Exchange, Inc. (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 637 to delete NYSE Rule 637's reference to NYSE Rule 476A. The text of the proposed rule change is available on the NYSE's Web site (*http://www.nyse.com*), at the principal office of the NYSE, and at the Commission's Public Reference Room. The text of the proposed rule change also appears below. Deletions are bracketed.

Rule 637 Failure To Honor Award

Any member, allied member, registered representative or member organization who fails to honor an award of arbitrators appointed in accordance with these rules or who fails

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

to honor an award of arbitrators rendered under the auspices of any other self-regulatory organization or pursuant to the rules applicable to securities disputes before the American Arbitration Association, shall be subject to disciplinary proceedings in accordance with Rule 476 [, Rule 476A] or Article IX of the New York Stock Exchange Constitution and Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to current NYSE Rule 637, Exchange members, allied members, registered representatives, and member organizations that fail to honor arbitration awards of the NYSE, other self-regulatory organizations, or the American Arbitration Association are ''subject to disciplinary proceedings in accordance with NYSE Rule 476, NYSE Rule 476A [3] or Article IX'' of the NYSE Constitution and Rules.

Although current NYSE Rule 637 specifies NYSE Rule 476A as a possible vehicle for disciplinary action to remedy violations of NYSE Rule 637, NYSE Rule 637 was never added to NYSE Rule 476A's ''List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to NYSE Rule 476A.'' This discrepancy could be eliminated by adding NYSE Rule 637 to the list of rules in NYSE Rule 476A. However, due to the serious nature of any failure to honor an arbitration award,[4] the Exchange's management concluded that violations of NYSE Rule 637 are not properly remedied through disciplinary action pursuant to the minor fine provisions of NYSE Rule 476A. Therefore, the discrepancy would be more appropriately eliminated through an amendment deleting NYSE Rule 637's reference to NYSE Rule 476A, as proposed herein.

2. Statutory Basis

The proposed amendment to NYSE Rule 637 is consistent with Section 6(b) of the Act [5] in general and in particular furthers therequirements of Section 6(b)(6), [6] which requires the rules of the Exchange to provide that its members and persons associated with its members be appropriately disciplined for violation of Exchange rules by fitting sanction, in that it corrects a discrepancy between NYSE Rules 637 and 476A as to the appropriate sanction for violations of NYSE Rule 637.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–NYSE–2005–29 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–NYSE–2005–29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–29 and should be submitted on or before May 27, 2005.

[3] Rule 476A provides that the Exchange may impose a fine, not to exceed $5000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules. The NYSE represents that the purpose of the NYSE Rule 476A procedure is to provide a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under NYSE Rule 476 would be more costly and time consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than an admonition letter would convey. The NYSE states that NYSE Rule 476A preserves due process rights, identifies those rule violations that may be the subject of summary fines, and includes a schedule of fines.

[4] The NYSE Represents that NYSE arbitration awards rarely remain unsatisfied.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–2203 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51644; File Nos. SR–NYSE–2005–25; SR–NASD–2005–043]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes by the New York Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. Relating to an Exemption from the Research Analyst Qualification Examination for Certain Associated Persons Employed by Non-Member Foreign Affiliates Who Contribute to the Preparation of Member Research Reports

May 2, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 1, 2005, the New York Stock Exchange, Inc. (''NYSE'' or the ''Exchange'') and 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 and II below, which Items have been prepared by the respective self-regulatory organizations.[3] The NYSE and NASD (the ''SROs'') have each filed the proposed rule changes as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(1) thereunder,[5] which renders the proposed rule changes effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On May 2, 2005, the NYSE filed with the Commission Amendment No. 1 to its proposed rule change which made technical corrections to the proposed rule text of the proposed rule change.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The NYSE is filing with the Commission a proposed interpretation to NYSE Rule 344 to establish an exemption from the Research Analyst Qualification Examination Requirements for Certain Foreign Research Analysts.

Pursuant to the provisions of Section 19(b)(3) of the Act,[6] the NASD is filing with the Commission a proposed rule change to amend NASD Rule 1050 to create an exemption from the Research Analyst Qualification Examination (Series 86 and 87) for certain research analysts employed by foreign affiliates of a member who contribute to the preparation of a member's research reports. The proposed rule change also makes one non-substantive change to NASD Rule 1050 to correct a spelling error.

Below is the text of the proposed rule changes. Brackets indicate deletions; italics indicate additions.

A. NYSE's Proposed Rule Text

Interpretation

Rule 344 Research Analysts and Supervisory Analysts

/01 Research Analysts (No Change)

/02 Foreign Research Analysts Exemption

The requirement that a research analyst as defined under NYSE Rule 344.10 must be registered with, qualified by and approved by the Exchange shall not apply where such analyst is an associated person of a member or member organization who is an employee of a non-member foreign affiliate of such member or member organization who contributes to the preparation of the member's or member organization's research reports (''foreign research analyst''), provided the following conditions are satisfied;

- *The foreign research analyst resides and is employed in a jurisdiction that the NYSE has determined has registration and qualification requirements or other standards that reflect a recognition of principles that are consonant with NYSE Rule 344 and the research analyst conflicts of interest provisions pursuant to NYSE Rule 472;*
- *The foreign research analyst has satisfied all applicable registration and qualification requirements or other research-related standards in the jurisdictions in which the foreign research analyst resides and is employed;*
- *Members and member organizations have imposed on affiliates that employ foreign research analysts, and the foreign research analysts all research-related standards that the member or member organization imposes on its research reports and research analysts, including the provisions of NYSE Rule 472;*
- *Members, member organizations and their affiliates that distribute research reports partially or entirely prepared by a foreign research analyst must subject such research reports to pre-use review and approval by a supervisory analyst, as required by NYSE Rule 472;*
- *The annual attestation required under NYSE Rule 351(f) must include the global application of NYSE Rule 472 to foreign affiliates that employ foreign research analysts;*
- *In addition to the disclosure requirements of NYSE Rule 472, each research report must include a disclosure on the front page stating that:*
- *''This research report has been prepared in whole or part by foreign research analysts who may be associated persons of the member or member organization. These research analysts are not registered/qualified as a research analyst with the NYSE and/or NASD, but instead have satisfied the registration/qualification requirements or other research-related standards of a foreign jurisdiction that have been recognized for these purposes by the NYSE and NASD.''*

Disclosure on the front page of each research report must identify:

(1) Each affiliate contributing to the research report;

(2) The location of such affiliate; and

(3) The names of the foreign research analysts employed by each contributing affiliate.

The cover page must also contain general disclosure language describing the relationship between the contributing affiliates and the member or member organization.

The front page of the research report must also refer to a separate ''Foreign Affiliate Disclosures'' section (similar to the ''Required Disclosure'' section currently mandated by the NYSE and NASD under Rules 472 and 2711 respectively) located in close proximity to the ''Required Disclosure'' section.

In this disclosure section, the member or member organization must disclose the following:

(1) Information on the nature of the affiliation with the affiliate;

(2) Each affiliate's address; and

(3) The primary regulator in the jurisdiction(s) in which each affiliate is located.

[6] 15 U.S.C. 78s(b)(3).

Record Keeping

Members and member organizations must establish and maintain records that identify those individuals who have availed themselves of this exemption, the basis for such exemption, and evidence of compliance with the conditions of the exemption.

[/02]*/03* Supervisory Analysts Qualifications

Supervisory Analyst candidates shall qualify by taking and passing the Supervisory Analyst (Series 16) Examination.

Experience

Appropriate experience for a candidate for Supervisory Analyst means having at least three years prior experience within the immediately preceding six years involving securities or financial analysis.

Examples of appropriate experience may include the following:

- Equity or Fixed Income Research Analyst;
- Credit Analyst for a securities rating agency;
- Supervising preparation of materials prepared by financial/securities analysts;
- Financial analytical experience gained at banks, insurance companies or other financial institutions;
- Academic experience relating to the financial/securities markets/industry.

Director of Research

A person having the title of ''Director of Research'' need not be a supervisory analyst as defined by the Rule so long as he/she does not approve research reports. If, however, such a person is in charge of registered representatives, he/she must qualify as a supervisory person under Rule 342.13.

Exemptions

Successful completion of the CFA Level I Examination administered by the CFA Institute (in lieu of completion of Levels, I, II and III for a full CFA designation) will suffice to allow a Supervisory Analyst candidate to qualify by taking Part I of the Series 16 Qualification Examination.

B. NASD's Proposed Rule Text

1050. Registration of Research Analysts

(a) through (b) No change.

(c) Upon written request pursuant to the Rule 9600 Series, NASD will grant a waiver from the analytical portion of the Research Analyst Qualification Examination (Series 86) upon verification that the applicant has passed:

(1) Levels I and II of the Charter*ed* Financial Analyst (''CFA'') Examination; or

(2) Through (3) No change.

(d) Through (e) No change

(f) The requirements of paragraph (a) shall not apply to an associated person who is an employee of a non-member foreign affiliate who contributes to the preparation of a member's research report (''foreign research analyst''), provided the following conditions are met:

(1) The foreign research analyst resides and is employed in a jurisdiction that NASD has determined has registration and qualification requirements or other standards that reflect a recognition of principles that are consonant with this rule and the research analyst conflict of interest rules pursuant to Rule 2711;

(2) The foreign research analyst has satisfied all applicable registration and qualification requirements or other research-related standards in the jurisdiction in which the foreign research analyst resides and is employed;

(3) The NASD member (''U.S. member'') whose research reports a foreign research analyst contributes in the preparation of has imposed on its affiliates and the foreign research analysts they employ all of the provisions of Rule 2711 and all other research-related standards the member imposes on its own research reports and research analysts;

(4) The annual compliance attestation submitted by the U.S. member pursuant to Rule 2711(i) must encompass the global application of Rule 2711 to the U.S. member's foreign affiliates that participate in the preparation of the U.S. member's research reports;

(5) All U.S. member research reports to which a foreign research analyst contributes in the preparation must be approved by a properly registered principal or supervisory analyst pursuant to Rule 1022; and

(6) In addition to the disclosure requirements of Rule 2711, each U.S. member research report to which a foreign research analyst contributes in the preparation shall include the following on the front page:

(A) A statement that:

- *This research report has been prepared in whole or part by foreign research analysts who may be associated persons of the member or member organization. These research analysts are not registered/qualified as a research analyst with the NYSE and/or NASD but instead have satisfied the registration/qualification requirements or other research-related standards of a foreign jurisdiction that have been recognized for these purposes by the NYSE and NASD.''*

(B) disclosures identifying each affiliate contributing to the research report, the location of such affiliate, and the names of the research analysts employed by the affiliate that contributed to the preparation of the research report;

(C) a general description of the relationship between the contributing affiliates and the U.S. member; and

(D) a reference to the page on which a separate ''Foreign Affiliate Disclosures'' section can be found. Such section shall disclose information on the nature of the affiliation between the entities, the affiliates' addresses, and the primary regulator in the jurisdiction(s) in which each affiliated entity is located.

(7) Members must establish and maintain records that identify those individuals who have availed themselves of the exemption in paragraph (f), specify the basis for such exemption, and evidence compliance with the conditions of paragraph (f).

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the NYSE and NASD included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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

Recent amendments to NYSE Rule 344 (''Research Analysts and Supervisory Analysts'') require ''research analysts'' to be registered with, qualified by, and approved by the Exchange. The Exchange is proposing to adopt a new interpretation to NYSE Rule 344 to exempt certain foreign research analysts employed by a non-member affiliate of a member or member organization from the Research Analyst Qualification Examination (Series 86/87).

Background. Recent amendments to NYSE Rule 344 require that research analysts be registered and qualified by

the NYSE.[7] According to the NYSE, the Research Analyst Qualification Examination is part of the SRO's regulatory efforts to safeguard the investing public from potential conflicts of interest relating to research analysts. The NYSE believes that the purpose of requiring a qualification examination is to protect the investing public by helping to ensure that research analysts are competent to perform their jobs and are knowledgeable about the new regulatory requirements affecting them. Given the scope and magnitude of these requirements, the SROs developed an examination with a part designed specifically to address the new SRO rule requirements.

The Research Analyst Qualification Examination (Series 86/87) is a five-and-a-half hour examination, consisting of 150 questions. The exam is divided into two parts. Part I, the Series 86, consists of 100 questions, which address fundamental security analysis and valuation of equity securities. Part II, the Series 87, consists of 50 questions, which primarily address pertinent SRO and SEC rules and regulations, including the recent Research Analysts' Conflicts Rules.

The requirement to take and pass the Series 86/87 examination applies to all research analysts, as defined in Exchange Rule 344.10, which provides that the term ''research analyst'' includes a member, allied member, associated person or employee who is primarily responsible for the preparation of the substance of a research report and/or whose name appears on such report.[8] Research analysts, must be registered with, qualified and approved by the Exchange. The registration and qualification requirement became effective March 30, 2004. Candidates who have been functioning as research analysts as of the effective date of March 30, 2004, and submitted a registration application by June 1, 2004, have been given until April 4, 2005 to meet the qualification requirements.

Prerequisites to and Exemptions from the Qualification Examination. In March 2004, the SEC approved an interpretation to Exchange Rule 344 establishing certain prerequisites to and exemptions from the Research Analyst Qualification Examination.[9] The interpretation to NYSE Rule 344 requires, among other things, that each candidate pass the General Securities Registered Representative Examination (Series 7) prior to taking either Part I or Part II of the examination. The interpretation to Exchange Rule 344 also allows a research analyst candidate who has passed both Level I and Level II of the Chartered Financial Analyst (''CFA'') Examination administered by the CFA Institute to request an exemption from Part I (Series 86) of the Research Analyst Qualification Examination.[10]

Application of Examination Requirement to Foreign Research Analysts. In March 2004, the NYSE and NASD issued a Joint Memo providing guidance on research analyst issues. In that memo, the SROs stated that all of the SRO rule requirements would apply to any research report to whose preparation a research analyst employed or associated with a member or member organization contributed (*e.g.*, ''globally-branded'' and ''mixed research team'' [11] research reports, whether or not issued by a member or member organization).

In April 2004, the Exchange issued an Information Memo announcing the approval of the examination requirements noted above and discussing examination-related requirements.[12]

In June 2004, the SROs received a written submission from Goldman Sachs & Co. (''Goldman'') requesting relief under NASD Rule 1050 and NYSE Rule 344 for equity research analysts employed by its foreign broker-dealer affiliates, and seeking further clarification as to whether research analysts employed by a foreign broker-dealer should appropriately be deemed ''associated persons'' of the NASD/NYSE member firms in the context of global businesses.[13] In its submission, Goldman requested that U.S. regulators should consider the impact that such views could have on many firms' businesses, including possible licensing consequences on the U.S. broker-dealers in such foreign jurisdictions, and other issues of international comity.

In July 2004, the Exchange received a written submission from Smith Barney Citigroup (''Smith Barney'') requesting clarification with respect to treatment of research analyst employees of foreign broker-dealer affiliates.[14] Citing the SROs' memos, Smith Barney advised that there were widely divergent approaches and practices developing as a result of the interpretive guidance. In this regard, some firms had begun the process of having foreign research analysts prepare for the examination, while other firms, contrary to the express language in the interpretation, were applying the examination requirements only to U.S. research analysts. In its submission, Smith Barney requested further clarification of the interpretive guidance to facilitate consistent application by member organizations.

Smith Barney also requested that the SROs adopt a different approach, proposing that they recognize non-U.S. research analysts who (a) are properly registered and licensed to conduct securities business in their country of residence and (b) are subject to policies that are substantively identical to the SRO rules, could publish research in the U.S. under a global-research trademark without having to be licensed in the U.S. The term ''substantively identical'' was defined to include clearance of all research by a Series 16 supervisory analyst and supervision by a Series 24 principal. Under the requested relief, a non-U.S. research analyst would not have to take either the Series 7 prerequisite or the Series 86/87 examination.

According to the NYSE, in subsequent meetings and conference calls with member firms, they expressed their concern that the determination of ''associated person'' status can be very difficult to ascertain in a financial services enterprise that has a complex

[7] According to the NYSE, the amendments were the culmination of joint regulatory efforts among the SROs and the SEC to address potential conflicts of interest relating to research analysts. The amendments included, among other things, a new registration category and qualification examination for research analysts.

[8] *See* SR–NYSE–2005–24 amending the definition of ''research analyst'' in NYSE Rules 344.10 and 472.40 to include ''associated persons.''

[9] *See* Securities Exchange Act Release No. 49464 (March 24, 2004), 69 FR 16628 (March 30, 2004) (SR–NYSE–2004–03).

[10] In February 2005, the SEC provided public notice of a similar alternative qualification standard for the Series 86 examination requirement for research analysts who prepare only technical research reports and who have passed Levels I and II of the Chartered Market Technician (''CMT'') Program administered by the Market Technicians Association (''MTA''). *See* Securities Exchange Act Release No. 51240 (February 23, 2005), 70 FR 10451 (March 3, 2005) (SR–NYSE–2005–12).

[11] A ''globally-branded'' research report refers to the use of a single marketing identity that encompasses the member firm and its affiliates. A research report prepared by a ''mixed research team'' which includes at least one person who meets the definition of ''research analyst'' and is associated with a member or member organization would be considered a report prepared by the member or member organization. *See* NYSE Information Memo 04–10, dated March 9, 2004.

[12] *See* NYSE Information Memo 04–16, dated April 1, 2004. In these memos, the SROs advised that research analysts employed by foreign broker-dealer affiliates of a member or member organization are subject to the Series 86/87 examination to the extent that the research analyst is an ''associated person'' of the member or member organization.

[13] Letter dated June 1, 2004 from Pamela Root and John Curtis of Goldman to the Exchange and NASD.

[14] Letter dated July 23, 2004 from Michael Sharp of Smith Barney to Richard G. Ketchum, Chief Regulatory Officer of the NYSE.

structure of supervision and multiple reporting lines and subsidiaries and/or affiliated firms that span a multitude of foreign jurisdictions.

On February 25, 2005, the SROs received a written submission from an industry committee [15] requesting SRO interpretive guidance to establish a safe harbor pursuant to which non-U.S. research analysts that are associated with U.S. member firms would be permitted to disseminate research in the U.S., notwithstanding the fact that such research analysts have not taken the Series 86/87 examination. According to the NYSE, the proposed relief sought by the industry committee, and the conditions thereto, are substantially similar to the relief the SROs are implementing in this filing.[16]

According to the NYSE, in seeking this relief, the industry advised that the safe harbor was appropriate and reasonable for the following reasons: (1) It respects the primacy of the laws of other jurisdictions by avoiding circumstances under which research analysts could become subject to multiple licensing requirements and taking multiple exams in many different countries; (2) it makes clear that non-U.S. research analysts associated with a member firm are held to the principles enumerated in the SRO rules; and (3) U.S. investors would have sufficient notice through the disclosure to the effect that non-U.S. research analysts associated with a member firm are not subject to the SROs' registration and qualification standards.

According to the NYSE, while the SROs do not agree that the difficulty of the associated person analysis relieves a member firm from making the determination of such status, the SROs are concerned that, absent the safe harbor provided in this proposal, members and member organizations may have a pragmatic incentive, although not a defensible basis, for construing associated person status on an unduly narrow basis.

According to the NYSE, in order to address these issues while maintaining—and in fact, extending—the safeguards in the SRO rules that ensure objective and quality research, the SROs are proposing an exemption from the research analyst qualification requirements for certain analysts employed by foreign entities in jurisdictions that reflect a recognition of the principles that are consonant with the SRO qualification standards and research analyst conflict of interest rules.

According to the NYSE, the proposed exemption would, where appropriate, address: (1) the requirement that foreign research analysts, when they are ''associated persons,'' to register and qualify as research analysts under the SRO rules; (2) the applicability of the SRO rules with respect to research reports where foreign research analysts have contributed to the preparation; and (3) provide additional disclosure requirements related to such research reports, including but not limited to, globally branded and mixed research team reports.

Proposed Exemptive Relief. The NYSE and NASD are proposing to exempt from the Series 86 and 87 examination requirements certain research analysts employed by foreign affiliates who contribute to the preparation of a member or member organization's research reports.[17]

The SROs would recognize as the basis for exemptive relief from the Series 86 and 87 exams registration/qualification requirements, compliance with other standards in non-US jurisdictions that reflect recognition of the principles that are consonant with the SRO qualification standards and the research analyst conflict of interest rules.[18] The SROs will identify the jurisdictions that satisfy the prescribed criteria.

According to the NYSE, such principles generally would include a combination of: (1) Rules that govern research analysts and firm conflicts of interest in the preparation and distribution of research reports; (2) a requirement that research analysts be registered or licensed by a regulatory authority: or (3) a testing or experience requirement that demonstrates research analysts' skills and/or knowledge of rules and regulations applicable to research analysts and their firms in the preparation and distribution of research reports.

Foreign research analysts who participate in preparing a member firm's research reports, including but not limited to globally-branded and/or mixed research team reports, and have met applicable requirements in a jurisdiction with approved standards, will not be required to pass the Series 86 and 87 exams, provided the member or member organization complies with the other requirements set forth herein: [19]

1. The SROs would require global application of a member firm's own standards, including full compliance with the SRO research analyst conflict of interest rules, to a member's or member organization's affiliated entities and foreign research analysts that qualify for the use of, and who will rely upon, these exemptive provisions. Thus, a member or member organization would be required to subject any globally-branded, mixed-team or other research deemed under the SRO rules and interpretations to be that of the member or member organization, to all of the applicable provisions of the SRO rules as well as any other regulatory or supervisory standards applicable to a member's or member organization's research. Thus, the research provisions of NYSE Rule 472, *e.g.*, personal trading restrictions, would be applied to the specific research reports and the particular foreign research analysts that contributed to the preparation of a member's or member organization's research report. The conditions of this paragraph shall not apply to research reports that are wholly produced by a foreign affiliate and its employee and are clearly labeled as the product of that foreign affiliate.[20]

2. The annual compliance attestation required by NYSE Rules 472 and 351 would encompass the global application of the SRO rules to foreign affiliates that participate in preparing a member's or member organization's research report.

3. Members' and member organizations' research reports must be approved by a properly registered supervisory analyst/principal.[21]

4. In addition to the disclosure requirements of NYSE Rule 472, each report would include a disclosure on the front cover stating that:

This research report has been prepared in whole or part by foreign research analysts

[15] The signatories to the submission were representatives from Goldman, Morgan Stanley and Smith Barney.

[16] In addition, Commission staff received a copy of this submission with supporting documentation.

[17] The proposed rule change would have no impact on the obligation of any broker-dealer, including a foreign broker-dealer, to register pursuant to Section 15(a)(1) of the Securities Exchange Act of 1934 and the rules promulgated thereunder.

[18] Eligibility for the exemption contemplated by this proposed rule change in no way bears upon whether the foreign research analyst is an ''associated person'' of the member or member organization. To the extent that a member or member organization can determine that a foreign research analyst is not an ''associated person,'' those individuals need not satisfy the requirements of the rule or the exemption.

[19] Foreign research analysts in jurisdictions that do not have approved standards would still be required to pass the Series 86 and 87 examinations if they are ''associated persons'' and participate in the preparation of a member's or member organization's research report.

[20] *See* Information Memo Nos. 02–26 (June 26, 2002) and 04–10 (March 9, 2004) for a member's or member organization's disclosure requirements when distributing third party research of an affiliate or non-affiliate.

[21] NYSE Series 16.

who may be associated persons of the member or member organization. These research analysts are not registered/qualified as research analysts with the NYSE and/or NASD, but instead have satisfied the registration/qualification requirements or other research-related standards of a foreign jurisdiction that have been recognized for these purposes by the NYSE and NASD.

In addition, the front page of a research report must identify:

(1) Each affiliate contributing to the research report;

(2) The location of such affiliate; and

(3) The names of the research analysts contributing to the report employed by each affiliate.

The front page would also contain general disclosure language describing the relationship of the contributing affiliates to the NYSE/NASD member firm. The front page of the research report would also refer to a separate ''Foreign Affiliate Disclosures'' section (similar to the ''Required Disclosure'' section currently mandated by the SROs) located in close proximity to the Required Disclosure section.

In this disclosure section, the member or member organization would disclose the following:

(1) Information on the nature of the affiliation of the parties;

(2) The affiliates' addresses; and

(3) The primary regulator in the jurisdiction(s) in which each affiliate is located.

Members and member organizations must establish and maintain records that identify those individuals who have availed themselves of the exemption, the basis for such exemption, and evidence of compliance with the conditions of the exemption.

As of the date of this filing, the SROs have identified the following jurisdictions that have satisfied the applicable standards noted above: [22]

(1) China.

(2) Hong Kong.

(3) Japan.

(4) Malaysia.

(5) Singapore.

(6) Thailand.

(7) United Kingdom.

A review of jurisdictions named above revealed that they had in place registration/qualification requirements for research analysts and/or imposed conflict of interest disclosure requirements, and/or restrictions on research analysts' trading that were acceptable to the SROs. Accordingly, the proposed amendment seeks an exemption for foreign research analysts employed in these jurisdictions from the Research Analyst Qualification Examination requirement.

(2) NYSE's Statutory Basis

The statutory basis for this proposed rule change is Section 6(b)(5) [23] and Section 6(c)(3)(B) [24] of the Exchange Act. Under Section 6(b)(5), the rules of the Exchange must be designed to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) in that it will ensure that those research analysts contributing to the preparation of a member's or member organization's research reports are subject to a regulatory scheme that advances objective and unbiased research thereby enhancing investors protection.

Under Section 6(c)(3)(B), it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. In addition, the Exchange may bar a natural person from becoming a member or person associated with a member, if such natural person does not meet such standards of training, experience and competence as prescribed by the rules of the Exchange. Pursuant to this statutory obligation, the Exchange has developed a competency qualification examination for research analysts and is providing relief from this requirement where foreign research analysts and their member firms have demonstrated registration, qualification, and conflict of interest standards acceptable to the Exchange.

(3) NASD's Purpose

NASD Rule 1050 requires an associated person who functions as a research analyst to register as such with NASD and pass a qualification examination. According to NASD, NASD Rule 1050 is intended to ensure that research analysts possess a certain competency level to perform their jobs effectively and in accordance with applicable rules and regulations. In the context of this requirement, NASD Rule 1050 defines ''research analyst'' as ''an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report.'' The term ''research report'' in NASD Rule 1050 has the meaning as defined in NASD Rule 2711(a)(8): ''A written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.''

Pursuant to NASD Rule 1050, and in conjunction with the NYSE, NASD has implemented the Research Analyst Qualification Examination (Series 86/87). The examination consists of an analysis part (Series 86) and a regulatory part (Series 87). Prior to taking either the Series 86 or 87, a candidate also must have passed the General Securities Registered Representative Examination (Series 7), the Limited Registered Representative (Series 17), or the Canada Module of Series 7 (Series 37 or 38). Persons who were functioning as research analysts on the effective date of March 30, 2004 and submitted a registration application to NASD by June 1, 2004, have until April 4, 2005 to meet the registration requirements.

NASD Rule 1050 currently provides exemptions from the Series 86 examination for certain applicants who have passed Levels I and II of the Chartered Financial Analyst examination or have passed Levels I and II of the Chartered Market Technician Examination and produce only ''technical research reports'' as that term is defined in NASD Rule 1050.

NASD has observed that members with global operations sometimes produce research reports under a single global brand name or jointly with a research analyst employed by a non-member affiliate, *i.e.* a ''mixed team'' research report. NASD and NYSE have deemed such research reports to be attributable to the member and therefore subject to the applicable requirements of NASD Rule 2711. This interpretation has raised the question of whether a research analyst employed by a non-member foreign affiliate who contributes to the preparation of such a research report or whose name appears on such report must meet the licensing and examination requirements set forth in NASD Rule 1050. According to NASD, the determination turns on whether the research analyst employed by the foreign affiliate is an ''associated person'' of the NASD member.

According to NASD, several members have expressed to NASD and NYSE that the determination of ''associated person'' status can be very difficult to ascertain in a financial services enterprise that has a complex structure of supervision and multiple reporting lines and subsidiaries and/or affiliated firms that span a multitude of foreign jurisdictions. While NASD does not subscribe to the viewpoint that the difficulty of the associated person analysis relieves a member from making the determination of such status, it is

[22] The Exchange will announce these jurisdictions in an Information Memo and will issue subsequent Information Memos to update the list of the approved jurisdictions, as needed.

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f(c)(3)(B).

concerned that absent the safe harbor provided in this proposal, members may have a pragmatic incentive, although not a defensible basis, for construing associated person status on an unduly narrow basis.

According to NASD, in order to help alleviate these issues while maintaining—and in some cases, extending—the safeguards in NASD Rules 1050 and 2711 that ensure objective and quality research, NASD and the NYSE are proposing an exemption from the research analyst qualification requirements for certain analysts employed by member foreign affiliates in jurisdictions that reflect a recognition of the principles that are consonant with the SRO qualification standards and research analyst conflict of interest rules.

The conditions for eligibility for the proposed exemption are as follows:

1. The SROs would recognize as the basis for exemptive relief from the Series 86 and 87 examinations compliance with registration and qualification requirements or other standards in foreign jurisdictions that reflect a recognition of the principles that are consonant with the SRO qualification standards and the research analyst conflict of interest rules. According to NASD, such principles generally will include a combination of (1) rules that govern analyst and firm conflicts of interest in the preparation and distribution of research, (2) a requirement that analysts be registered or licensed by a regulatory authority, or (3) a testing or experience requirement that demonstrates analyst skills and/or knowledge of rules and regulations applicable to analysts and their firms in the preparation and distribution of research.

Foreign analysts who participate in preparing a member's research reports and have met such requirements in an approved jurisdiction will not be required to pass the Series 86 and 87 exams, provided the member complies with the other requirements set forth as conditions for the exemption. Analysts in jurisdictions that do not have approved standards still would be required to pass the Series 86 and 87 examinations if they are associated persons and participate in the preparation of a member's research report;

2. The SROs would require global application of member firm standards, including full compliance with the SRO research analyst conflict of interest rules, to a member's affiliated entities and foreign research analysts that qualify for the use of, and would rely upon, these exemptive provisions. Thus, a member would be required to apply to any globally-branded, mixed-team or other research deemed under SRO rules and interpretations to be that of the member, all of the applicable provisions of the SRO rules, as well as any other regulatory or supervisory standards applicable to a member's own research. The personal trading restrictions and other SRO rules applicable to the conduct of a research analyst need only be applied to the specific research reports in which a foreign research analyst contributed to the preparation. None of the conditions of this paragraph shall apply to research reports that are wholly produced by a foreign affiliate and its employees and are clearly labeled as the product of that foreign affiliate.

3. The annual compliance attestation required by NASD Rule 2711 would encompass the global application of the SRO rules to foreign affiliates that participate in preparing a member's research reports.

4. Members must agree to have their research approved by a properly registered supervisory analyst or principal in accordance with NASD Rule 1022; and

5. In addition to the disclosure requirements of NASD Rule 2711, each report would need to include, when applicable, a disclosure on the front cover stating that:

> This research report has been prepared in whole or part by foreign research analysts who may be associated persons of the member or member organization. These research analysts are not registered/qualified as a research analyst with the NYSE and/or NASD, but instead have satisfied the registration/qualification requirements or other research-related standards of a foreign jurisdiction that have been recognized for these purposes by the NYSE and NASD.

In addition, the cover page of a research report must identify: (1) Each broker-dealer entity contributing to the report; (2) its location; and (3) the research analysts contributing to the research report from each broker-dealer. The cover page would also contain general disclosure language regarding the relationship of the listed broker-dealers to the NYSE/NASD member firm.

The front page of the research report would need to reference to a separate ''Foreign Affiliate Disclosures'' section (similar to the ''Required Disclosure'' section currently mandated by the SROs) located in close proximity to that section. In this proposed disclosure section, the member would be required to disclose the following: (1) Information on the nature of the affiliation of the parties; (2) the affiliates' addresses; and (3) the primary regulator in the jurisdiction(s) in which each affiliate is located.

Eligibility for the exemption contemplated by this proposed rule change in no way bears upon whether the foreign research analyst is an associated person of the member. And to the extent that a member can determine that a foreign research analyst is not an associated person, those individuals need not satisfy the requirements of the exemption.

NASD will identify in a *Notice to Members* those jurisdictions that, based on a review of their regulatory and qualification requirements, meet the standard set forth above and shall issue subsequent *Notices to Members* to update the list of approved jurisdictions, as need.[25]

Members must establish and maintain records that identify those individuals who have availed themselves of the exemption, the basis for such exemption, and evidence compliance with the conditions of the exemption.

The proposed rule change would have no impact on the obligation of a broker-dealer, including a foreign broker-dealer, to register pursuant to Section 15(a)(1) of the Exchange Act[26] and the rules promulgated thereunder.

The proposed rule change also makes one non-substantive change to NASD Rule 1050 to correct a spelling error.

(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,[27] 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 that the proposed rule change is consistent with the provisions of the Act noted above in that it will ensure that those individuals contributing to the preparation of a member's research reports are subject to a regulatory scheme that advances objective and quality research, thereby enhancing investor protection.

B. Self-Regulatory Organizations' Statements on Burden on Competition

The NYSE and NASD do not believe that the proposed rule changes will result in any burden on competition that

[25] As of the date of this filing, the SROs have identified the following jurisdictions as having met the applicable standard: the United Kingdom, China, Hong Kong, Singapore, Thailand, Malaysia and Japan.

[26] 15 U.S.C. 78*o*(a)(1).

[27] 15 U.S.C. 78*o*–3(b)(6).

is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The NYSE and NASD have neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The foregoing rule changes have become effective pursuant to Section 19(b)(3)(A) of the Act [28] and paragraph (f)(1) of Rule 19b–4 thereunder,[29] in that the proposed rule changes constitute a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of the proposed rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are 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–2005–25 and/or SR–NASD–2005–043 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–2005–25 and/or SR–NASD–2005–043. These file numbers 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 offices 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–2005–25 and/or SR–NASD–2005–043 and should be submitted on or before May 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2212 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b4–4(f)(1).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51637; File No. SR–PCX–2004–65]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Pacific Exchange, Inc. Relating to the Deletion of Obsolete or Unnecessary Rules

April 29, 2005.

On July 9, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission (''Commission'') a proposed rule change to delete certain of its rules, or portions thereof, the Exchange determined to be obsolete or unnecessary. The Exchange amended the proposal on February 9, 2005,[3] and March 10, 2005.[4] The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for notice and comment in the **Federal Register** on March 24, 2005.[5] The Commission did not receive comments on the proposal. This order approves the proposed rule change, as amended.

The Exchange proposes to delete PCX Rule 4.7, PCX Rule 11.12(b), and PCX Options Floor Procedure Advice D–10, as the Exchange determined that such rules are obsolete or superfluous in the Exchange's current market structure.

PCX Rule 4.7 requires OTP Holders that are exempt from the net capital requirement filings (Options Market Makers without proprietary trading and inactive lessors) to file with the Exchange a balance sheet and income statement every calendar quarter. The Exchange represented that this rule is obsolete because the Exchange never implemented this reporting requirement as unnecessary. According to the Exchange, pursuant to Rule 17a–10 under the Act,[6] exempt OTP Holders are only required to file an annual FOCUS Report, which includes a balance sheet and income statement on an annual basis.

PCX Rule 11.12(b) relates to PCX Joint Accounts reporting requirements. The Exchange proposed to delete this provision as unnecessary. According to the Exchange, PCX, by policy, does not allow the use of joint accounts by OTP Holders or OTP Firms for which the Exchange serves as the Designated Examining Authority, with one exception. Joint accounts are allowed for Market Makers who trade on the floor. The use of these accounts is controlled by Shareholder and Registration Services (''SRS''). SRS assigns the acronyms for use of these accounts (*e.g.*, J68). Since these accounts are assigned by SRS, and all trades are monitored daily and fed through PCX's existing surveillance systems, the Exchange does not require a separate weekly reporting requirement.

PCX Options Floor Procedure Advice D–10 (Imprinting the Name of OTP Holder or OTP Firm on Trade Tickets) requires that the name of the OTP Holder or OTP Firm be imprinted on the trade tickets. The Exchange represented that it no longer imposes such requirement. The required ticket

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original proposal.

[4] Amendment No. 2 partially amended the proposed rule change.

[5] *See* Securities Exchange Act Release No. 51392 (March 17, 2005), 70 FR 15139.

[6] 17 CFR 240.17a–10.

information is now set forth in PCX Rule 6.68.

After careful review of the proposed rule change, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] Specifically, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. The Commission believes that the proposal amends the Exchange's rules to more accurately reflect the Exchange's actual practices and policies, and, therefore, should promote greater transparency and improved understanding of Exchange rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–PCX–2004–65) and Amendment Nos. 1 and 2 are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2199 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51641; File No. SR–PCX–2005–49]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees and Charges

May 2, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 8, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the PCX as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend its Schedule of Fees and Charges in order to adopt fees associated with the implementation of an electronic registration process through the National Association of Securities Dealers, Inc. (''NASD'') Web Central Registration Depository (''CRD''). The text of the proposed rule change is available on the PCX Web site (*http://www.pacificex.com/*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to adopt the fees associated with the implementation of an electronic registration process through NASD's CRD system. The Commission recently approved the PCX proposals to require all Option Trading Permit (''OTP'') Holders and OTP Firms[5] as well as all Equity Trading Permit (''ETP'') Holders[6] to use NASD's CRD system as the mechanism for submitting required Forms U–4 and U–5 filings to the Exchange. The proposed fees will apply to all OTP and ETP applicants. The proposed fees are similar to those fees charged by other SROs that use NASD's CRD. The proposed new fees are a NASD CRD Processing Fee, a NASD Disclosure Processing Fee, a PCX Transfer/Relicense Fee, a NASD Annual System Processing Fee and a NASD Manual Processing Fee for Fingerprint Results Submitted by Other SROs.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4) of the Act,[8] in particular, in that it is an equitable allocation of reasonable fees among Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become immediately effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2)[10] thereunder, because it establishes a fee imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[7] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 51398 (March 18, 2005), 70 FR 15672 (March 28, 2005) (SR–PCX–2005–10).

[6] *See* Securities Exchange Act Release No. 51399 (March 18, 2005), 70 FR 15674 (March 28, 2005) (SR–PCX–2005–11).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–49. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–49 and should be submitted on or before May 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2211 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51640; File No. SR–Phlx–2005–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, by the Philadelphia Stock Exchange, Inc. Relating to the Elimination of the Prohibition Against the Entry of Multiple Orders in an Option Within Any 15-Second Period for an Account or Accounts of the Same Beneficial Owner

April 29, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2005, the Philadelphia Stock Exchange, Inc. (''Phlx'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On April 11, 2005, the Phlx filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (''AUTOM'') System,[4] to eliminate the limitation contained in the rule providing that Order Entry Firms (as defined below) may neither enter nor permit the entry of multiple orders in an option within any 15-second period for an account or accounts of the same beneficial owner, and to remove a similar provision relating to orders submitted by off-floor broker-dealers (as defined below). The text of the proposed rule change is available on the Phlx's Web site (*http://www.phlx.com*), at the principal office of the Phlx, and at the Commission's Public Reference Room. The text of the proposed rule change also appears below. Deletions are [bracketed].

* * * * *

Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

Rule 1080. (a)–(b) No change.

(c) * * *

(i) No change.

(ii) Order Entry Firms and Users.

(A) No change.

(B) Obligations of Order Entry Firms. Order Entry Firms shall:

(1)–(2) No change.

[(3) Neither enter nor permit the entry of multiple orders in call options and/or put options in the same option issue within any 15-second period for an account or accounts of the same beneficial owner.]

(iii)–(iv) No change.

(d)–(k) No change.

Commentary:

.01–.04 No change.

.05 Off-floor broker-dealer limit orders delivered through AUTOM must be represented on the Exchange Floor by a floor member. Off-floor broker-dealer orders delivered via AUTOM shall be for a minimum size of one (1) contract. Off-floor broker-dealer limit orders are subject to the following other provisions:

(i)–(ii) No change.

[(iii) Off-floor broker-dealer limit orders that are eligible for automatic execution entered via AUTOM for the account(s) of the same beneficial owner may not be entered in options on the same underlying security more frequently than every 15 seconds.]

.06–.07 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposal and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised the statutory section under which the proposed rule change was filed from Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A), to Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2).

[4] AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution features, Book Sweep and Book Match. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. *See* Exchange Rule 1080.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to increase the number of orders handled electronically on the Exchange by eliminating the Exchange's current prohibition against the entry via AUTOM of multiple orders for an account or accounts of the same beneficial owner in the same option within any 15-second period.

In August, 2001, the Exchange adopted Rule 1080(c)(ii)(B)(3) providing that an Order Entry Firm [5] may neither enter nor permit the entry of multiple orders in an option into the AUTOM System within any 15-second period for an account or accounts of the same beneficial owner.[6] In April, 2002, the Exchange adopted, on a six-month pilot basis, rules allowing the entry via AUTOM of off-floor broker-dealer [7] limit orders (including Commentary .05(iii) to Rule 1080—a similar 15-second rule applicable to such off-floor broker-dealer limit orders).[8] The Commission approved the pilot rules on a permanent basis in October, 2002.[9]

The original purpose of the rules was to assist Exchange specialists and Registered Options Traders (''ROTs'') in managing their risk, and to protect investors and other market participants from the potential negative consequences that might result from Order Entry Firms or off-floor broker-dealers engaging in prohibited conduct.

Since the time of the adoption of the rules, the Exchange's electronic trading systems have been substantially enhanced such that the risk associated with multiple orders in the same option delivered for the account of the same or an affiliated beneficial account holder has become more manageable through electronic means.[10] For example, the Exchange has developed its fully electronic trading system, Phlx XL, which has been deployed for all equity and index options trading on the Exchange. Phlx XL and its automatic execution features, Book Match and Book Sweep, provide fully electronic executions and trade reports, and specialists and Streaming Quote Traders (''SQTs'') [11] submitting proprietary electronic quotations through Phlx XL are able to revise their quotations electronically, which the Exchange believes substantially reduces the risk of multiple executions of orders delivered in rapid succession before the specialist or SQT is able to revise their quotation.

The Exchange believes that the advent of Phlx XL and the substantial increase in automated option order handling obviate the need for the 15-second prohibition currently included in Exchange Rule 1080(c)(ii)(B)(3), and the similar prohibition concerning the delivery of proprietary orders by off-floor broker-dealers contained in Commentary .05(iii) to Exchange Rule 1080. The Exchange further believes that the removal of the 15-second prohibition should increase the number of orders handled electronically on the Exchange. Accordingly, the Exchange has determined to eliminate both of these rules.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(5) of the Act [13] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest by increasing the number of orders handled electronically on the Exchange through the elimination of the prohibition against the entry into AUTOM of multiple orders by the same beneficial account owner within a 15-second period.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2005–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–Phlx–2005–20. 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

[5] The Exchange defines an ''Order Entry Firm'' as a member organization of the Exchange that is able to route orders to AUTOM. *See* Exchange Rule 1080(c)(ii)(A)(1).

[6] *See* Securities Exchange Act Release No. 44687 (August 13, 2001), 66 FR 43287 (August 17, 2001) (SR–Phlx–2001–58).

[7] The term ''off-floor broker-dealer'' means a broker-dealer that delivers orders from off the floor of the Exchange for the proprietary account(s) of such broker-dealer, including a market maker located on an exchange or trading floor other than the Exchange's trading floor who elects to deliver orders via AUTOM for the proprietary account(s) of such market maker. *See* Exchange Rule 1080(b)(i)(C).

[8] *See* Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR–Phlx–2001–40).

[9] *See* Securities Exchange Act Release No. 46660 (October 15, 2002), 67 FR 64951 (October 22, 2002) (SR–Phlx–2002–50).

[10] The 15-second restriction is strictly rule based, and the Exchange's systems do not include an electronic ''governor.''

[11] An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with the AUTOM System via an Exchange approved proprietary electronic quoting device in eligible options to which the SQT is assigned. *See* Exchange Rule 1014(b)(ii)(A).

[12] 15 U.S.C. 78s(b).

[13] 15 U.S.C. 78s(b)(5).

change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2005–20 and should be submitted on or before May 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2200 Filed 5–5–05; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 6, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *David_Rostker@omb.eop.gov* or fax at 202–395–7285, Office of Management and Budget, Office of Information and Regulatory Affairs.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, at: *Jacqueline.white@sba.gov* (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Application for Section 504 Loan.

Form No: SBA Form 1244.

Frequency: On occasion.

Description of Respondents: Loan applicants.

Responses: 10,000.

Annual Burden: 10,000.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05–9055 Filed 5–5–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 23–17B, Systems and Equipment Guide for Certification of Part 23 Airplanes and Airships

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This advisory circular (AC) sets forth an acceptable means, but not the only means, of showing compliance with Title 14 Code of Federal Regulations (14 CFR), part 23, for the certification of systems and equipment in normal, utility, acrobatic, and commuter category airplanes and airships. The policy in this AC is considered applicable for airship projects; however, the certifying office should only use specific applicability and requirements if they are determined to be reasonable, applicable and relevant to the airship project. This AC applies to Subpart D from § 23.671 and Subpart F. This AC both consolidates existing policy documents, and certain ACs that cover specific paragraphs of the regulations, into a single document and adds new guidance. This revision has added preamble material, in italics, under the applicable rule and amendment level. Material in this AC is neither mandatory nor regulatory in nature and does not constitute a regulation.

The draft AC was issued for Public Comment on September 29, 2004 (69 FR 58213). No comments were received.

DATES: Advisory Circular (AC) 23–22 was issued by the Manager, Small Airplane Directorate on April 12, 2005.

How to Obtain Copies: A paper copy of AC 23–17B may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, Ardmore East Business Center, 3341Q 75th Avenue, Landover, MD 20785, telephone 301–322–5377, or by faxing your request to the warehouse at 301–386–5394. The AC will also be available on the Internet at *http://www.airweb.faa.gov/AC.*

Issued in Kansas City, Missouri on April 12, 2005.

Nancy C. Lane,

Acting Assistant Manager, Aircraft Certification Service.

[FR Doc. 05–9042 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2005–26]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of disposition of prior petition.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the disposition of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair (425–227–1556), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98055–4056; or John Linsenmeyer (202–267–5174), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 2, 2005.

Anthony F. Fazio,

Director, Office of Rulemaking.

Disposition of Petitions

Docket No.: FAA–2004–17629.

Petitioner: Gulfstream Aerospace.

[14] 17 CFR 200.30–3(a)(12).

Sections of 14 CFR Affected: 14 CFR 25.785(b).

Description of Relief Sought/ Disposition: To permit relief from the general occupant protection requirements and allow installation of single and multiple occupancy side-facing divans in Gulfstream 150 airplanes.

Grant of Exemption, 02/22/2005, Exemption No. 8498.

[FR Doc. 05–9137 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Air Traffic Management Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/ Industry Air Traffic Management Advisory Committee.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Government/Industry Air Traffic Management Advisory Committee.

DATES: The meeting will be held June 3, 2005, from 9 a.m.–12 p.m.

ADDRESSES: The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Bessie Coleman Conference Center (2nd Floor), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the Air Traffic Management Advisory Committee meeting. **Note:** *Non-Government attendees to the meeting must go through security and be escorted to and from the conference room. Attendees with laptops will be required to register them at the security desk upon arrival and departure.*

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 28, 2005.

Natalie Ogletree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 05–9040 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 05–09–C–00–CVG To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cincinnati/Northern Kentucky International Airport, Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/ Northern Kentucky International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 6, 2005.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 2862 Business Park Dr., Bldg. G, Memphis, Tennessee 38118–1555. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Holscher, Director of Aviation of the Kenton County Airport Board at the following address: P.O. Box 752000, Cincinnati, Ohio 45275–2000.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kenton County Airport Board under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Airports Program Manager, Memphis Airports District Office, 2862 Business Park Dr., Bldg. G, Memphis, Tennessee 38118–1555, (901) 322–8184. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 28, 2005, the FAA determined that the application to impose and use the revenue from a PFC submitted by Kenton County Airport Board was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 13, 2005.

The following is a brief overview of the application.

Proposed charge effective date: January 1, 2009.

Proposed charge expiration date: October 1, 2010.

Level of the proposed PFC: $3.00.

Total estimated PFC revenue: $47,222,000.

Brief description of proposed project(s): 1—Extend Terminal Access/ Service Road From Donaldson Road to Hossman Road; 2—Snow Equipment Replacements; 3—Deicing Trucks (2); 4—Crash Truck, Replace #970 1990 Crash Truck; 5—Quick Response Truck, Replace #967 1995 Quick Response Truck; 6—KR 212 Interchange (Airport Access) Improvements-Planning/Design; 7—Airport Security Master Plan (11 projects); 8—Sound Insulation of Schools and Churches; 9—Upgrade Runway 18R (Proposed 18C) and 18L ILS to Cat II (including ALSF II)–Environmental and Design; 10—Upgrade Terminal 3 and Concourses A, B and C Paging/Sound Systems; 11—Terminal 1 and Concourse Redevelopment Project Planning/ Design; 12—Deicing Enhancements (2 projects); 13—Terminal 2 Improvements; 14—Surface Movement Guidance and Control System (SMGCS); 15—Driver's Training Simulator; 16—CCTV Digital Recording System Upgrade; 17—Runway 9/27 Rehabilitation; 18—Runway 18R/36L (Proposed 18C/36C) Rehabilitation; 19—Security Screening Building for Concourse C—Planning and Preliminary Design; 20—Apron/Taxi Lane Pavement Rehabilitation—Phase I; and 21—ID Electronic Fingerprinting Equipment and Required ID Department Building Modifications.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: (1) FAR Part 121 supplemental operators which operate at the Airport without an operating agreement with the Board and enplane less than 1,500 passengers per year and (2) Part 135 on-demand air taxis, both fixed wing and rotary.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER**

INFORMATION CONTACT and at the FAA regional Airports office located at: 1701 Columbia Avenue, College Park, Georgia 30337.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Kenton County Airport Board.

Issued in Memphis, Tennessee, on April 28, 2005.

LaVerne F. Reid,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 05–9041 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–21104]

Hours of Service of Drivers; American Pyrotechnics Association Application for an Exemption From the 14-Hour Rule During Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on the American Pyrotechnics Association's application for an exemption from the prohibition against driving a commercial motor vehicle (CMV) after the 14th hour of coming on duty. The exemption would be applicable for a period beginning 7 days prior to, and 2 days immediately following Independence Day. Fireworks personnel who operate CMVs in conjunction with staging fireworks shows celebrating Independence Day would be allowed to exclude off-duty and sleeper berth time of any length in the calculation of the 14 hours. Drivers would not be allowed to drive after accumulating a total of 14 hours of on-duty time, following 10 consecutive hours off duty, and would continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour weekly limits. APA believes the exemption would achieve a level of safety equivalent to what would be provided by compliance with the 14-hour rule as it applies to other drivers of property-carrying vehicles.

DATES: Comments must be received on or before June 6, 2005.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2005–21140 by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* and/or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Robert F. Schultz, Jr., Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC–PSD, (202) 366–4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide FMCSA with authority to grant exemptions from its safety regulations. On December 8, 1998, the Federal Highway Administration's Office of Motor Carriers, the predecessor to FMCSA, published an interim final rule implementing section 4007 (63 FR 67600). On August 20, 2004, FMCSA published a Final Rule (69 FR 51589) on this subject. By this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR part 381). The agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The agency must also provide an opportunity for public comment on the request.

The agency must then examine the safety analyses and the public comments, and determine whether the exemption would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)). If the agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption, and the regulatory provision or provisions from which an exemption is being granted. The notice must also specify the effective period of the exemption (up to two years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

APA's Application for an Exemption

APA has requested an exemption from FMCSA's prohibition against drivers of property-carrying CMVs operating such vehicles after the 14th hour of coming on duty [49 CFR 395.3(a)(2)]. Fireworks personnel covered by the exemption would be allowed to exclude off-duty and sleeper berth time of any length in the calculation of the 14-hour rule. Drivers would not be allowed to drive after the accumulation of 14 hours of on-duty time, following 10 consecutive hours off duty. The exemption would be applicable to approximately 3,000 drivers responsible for operating about 3,000 commercial motor vehicles. A copy of the application for an exemption, which includes a list of all the motor carriers that would be covered by it, is included in the docket referenced at the beginning of this notice.

APA, a trade association representing the domestic fireworks industry argues that full compliance with the current hours-of-service regulations during the brief period surrounding Independence

Day would impose a substantial economic hardship on its members that operate fireworks for the public. This period is the busiest time of the year for these companies. APA members are engaged to stage multiple shows in celebration of Independence Day, during a compressed timeframe.

The drivers that would be covered by the exemption are trained pyrotechnicians, each holding a commercial drivers' license (CDL) with a hazardous materials endorsement. These drivers transport fireworks and equipment to remote locations to meet demanding schedules. APA indicated that under the hours-of-service requirements in effect prior to January 4, 2004, the pyrotechnicians could meet their schedules without exceeding the limits, and without experiencing any crashes or hazardous materials incidents. By contrast, under the new regulations, the pyrotechnicians would be unable to meet typical holiday schedules, and fireworks companies would be forced to hire a second driver for most trips. Or, fireworks companies would be forced to decrease significantly their engagements. APA argues both options are economically detrimental for its members, and would deny many Americans the primary component of their Independence Day celebration.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA is requesting public comment from all interested persons on the APA application for exemption from 49 CFR 395.3(a)(2). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the address section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, the FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.

Issued on: April 28, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–9148 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement for the Long Island Rail Road Main Line Corridor Improvements, Long Island, NY

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The FTA, in cooperation with the Metropolitan Transportation Authority (MTA) Long Island Rail Road (LIRR), will prepare an Environmental Impact Statement (EIS) on a proposal to make LIRR Main Line Corridor improvements between Queens Village and Hicksville in Queens and Nassau Counties New York.

The FTA is the lead federal agency under the National Environmental Policy Act of 1969 (NEPA). The project is being conducted by LIRR, the project sponsor. The EIS will be prepared in accordance with NEPA and the applicable regulations for implementing NEPA, as set forth in 23 CFR part 771 and 40 CFR parts 1500–1508, as well as applicable laws and regulations, including Section 4(f) of the Department of Transportation Act of 1966, the Clean Air Act, and Executive Order 12898 on Environmental Justice. As sponsor of the proposed project, the LIRR will ensure that the EIS and the environmental review process will also satisfy the requirements of the New York State Environmental Quality Review Act (SEQRA).

The Proposed Action would consist of the addition of a new third track to the existing two track configuration between the Queens Interlocking in Queens County and the Divide Interlocking in Nassau County, with crossover service to the Oyster Bay Branch east of the Mineola Station. The Proposed Action may include modification or additions of: Crossovers, interlockings, sidings, bridges (over/undergrade bridges, viaducts, and culverts), signal systems (signal brides, signal huts, signals, control towers), communications, substations, and retaining walls. Modifications to existing stations may be required such as changes to station buildings, parking, shelters/waiting rooms, platform placement and amenities such as the addition of elevators at stations. Up to five (5) roadway grade crossings will be considered for separation and/or closure. Property acquisitions may be necessary to accommodate the Proposed Action, as well as utility relocations (including but not limited to: Electric, signal, communications, gas, water, sewer, and storm systems).

The EIS will evaluate a No Action Alternative and various Build Alternatives, and any additional alternatives generated by the scoping process. Scoping will be accomplished through meetings and correspondence with interested persons, organizations, and Federal, State, regional, and local agencies.

DATES: The public is invited to participate in project scoping on June 14th, 16th, and 21st 2005 from 4 p.m. to 6 p.m. and from 7 p.m. to 9 p.m. at the locations identified under the **ADDRESSES** below to ensure that all significant issues are identified and considered. Presentation boards depicting the project concept will be available for review at the meeting locations. Formal presentations by the LIRR regarding the project will be made at 4:30 p.m. and 7:30 p.m., each followed by the opportunity for the public to make comments on the scope of the EIS. LIRR representatives will be available for informal questions and comments throughout the duration of each scoping meeting. Those wishing to speak are requested to register at the meeting location upon arrival. However, additional speakers will be invited until there are no other speakers requesting to be heard. Subsequent opportunities for public involvement will be announced on the Internet, by mail, and through other appropriate mechanisms, and will be conducted throughout the study area. Additional project information may be obtained from the MTA Web site: *http://www.mta.info* (click ''Inside the MTA'' then ''Planning Studies,'' and ''LIRR Main Line Corridor Improvements''). Written comments on the scope of the EIS should be sent to Mr. Peter Palamaro, the LIRR Public Affairs Representative by August 31, 2005 at the address given under **ADDRESSES** below.

ADDRESSES: The public scoping meetings will be held:

- Tuesday, June 14, 2005, at Jericho Terrace—249 Jericho Turnpike, Mineola, NY 11501;
- Thursday, June 16, 2005, at Floral Terrace—250 Jericho Turnpike, Floral Park, NY 11001; and
- Tuesday, June 21, 2005, at Antuns Hicksville—244 West Old Country Road, Hicksville, NY 11801.

The scoping meeting sites are accessible to mobility-impaired people and interpreter services will be provided for hearing-impaired people upon request. Written comments will be taken at the meeting or may be sent to

the following address at any time during the scoping period, which is thru August 31, 2005: Mr. Peter Palamaro, Long Island Rail Road Company, Jamaica Station, Jamaica, New York 11435. The scoping packet may also be requested by writing to this address or by calling (718) 558–7934. Requests to be placed on the project mailing list may also be made by calling this number or by writing to the project address above.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Danzig, Community Planner, Federal Transit Administration, (212) 668–2180.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and the LIRR invite interested individuals, organizations, and Federal, State, and local agencies to provide comments on the scope of the Main Line Corridor Improvements EIS. During the scoping process, comments should focus on specific social, economic, or environmental issues to be evaluated, and on suggesting alternative that may be less costly or have fewer environmental impacts while achieving similar transportation objectives. To assist interested parties in formulating their comments, a scoping information packet has been prepared and is available on the MTA Web site address noted above, or upon request from the LIRR representative identified above. The scoping information packet includes the project's purpose and need, a preliminary list of alternative, and environmental issues that will be addressed during the course of the study. An online of the on-going public participation program is also contained in the information packet and on the Internet site given above.

II. Description of the Project Area

The MTA Long Island Rail Road is the busiest commuter railroad in North America, carrying an average of 274,000 customers each weekday on 730 daily trains. The LIRR system includes 11 rail lines stretching from Montauk—on the eastern tip of Long Island—to the refurbished Penn Station in the heart of Manhattan, approximately 120 miles away. Along the way, the LIRR serves 124 rail stations in Nassau, Suffolk, Queens, Brooklyn and Manhattan, providing service for some 81 million customers each year.

The project area includes approximately 11.5 miles of the LIRR Main Line between Queens Village and Hicksville encompassing the following nine stations: Queens Village, Bellerose, Floral Park, New Hyde Park, Merillon Avenue, Mineola, Carle Place, Westbury, and Hicksville.

The project corridor is highly developed with primarily residential and commercial land use adjacent to the Main Line and surrounding areas. The section of the Main Line that represents the project corridor carries trains from five separate branches of the LIRR: Oyster Bay, Hempstead, Port Jefferson, Ronkonkoma, and Montauk.

A total of eight roadway grade crossings exist within the project corridor. The Main Line Corridor Improvement initiative will evaluate the potential for five of the eight roadway grade crossings to be separated and/or closed as part of the future design of Main Line improvements. The remaining three are being addressed through a partnership of: New York State Department of Transportation (NYSDOT), MTA/LIRR, Nassau County and the Federal Highway Administration (FHWA). The five roadway grade crossing being considered for separation and/or closure include:

- Covert Avenue in New Hyde Park;
- 12th Street in New Hyde Park;
- New Hyde Park Road in New Hyde Park;
- School Street in New Cassel; and
- Urban Avenue in New Cassel.

III. Problem Identification

The LIRR is expecting a significant increase in its service levels by the year 2030. This increase is a result of a number of factors including the forecast of ridership growth, desire to increase reverse peak and intra-island service opportunities, desire to further reduce non-revenue car miles, and planned future service growth to Manhattan terminals. Main Line Corridor improvements would allow express service between Jamaica and Hicksville during rush hours and provide the capacity necessary to accommodate reverse commuter service.

Roadway grade crossings throughout the project corridor cause substantial traffic delays that reduce roadway level of service and present safety concerns. Roadway grade crossings also require train horn soundings that increase ambient noise for adjacent noise-sensitive receptors.

IV. Purpose and Need for the Proposed Action

The purpose of the proposed Main Line Corridor Improvements, particularly the addition of a new third track, is to provide additional capacity for the railroad, provide operational flexibility, reduce severe congestion during peak travel periods, allow for sufficiently frequent reverse and intra-island commuting service to draw riders out of their automobiles, and accommodate anticipated service growth throughout the LIRR system. The addition of a third track will also improve on-time performance within the corridor, particularly during peak periods.

The need for the proposed improvements is detailed in the LIRR's Long Term Operations and Maintenance Strategy Report of 1999 and LIRR's Network Strategy Study of 1994. Specific needs associated with the limiting aspects of the existing Main Line configuration include:

- Limited peak-direction train movement because of the necessity to operate reverse-peak direction trains;
- Limited ability to expand reverse peak service to Mineola and Hicksville and to other Long Island centers of employment; and
- Constrained future growth of the LIRR system within the LIRR service territory.

V. Alternatives

The EIS will evaluate alternatives and options for the Proposed Action which will: (1) Provide feasible, cost effective and beneficial transit improvements that enhance connections to the existing transportation system and Long Island land uses; (2) meet the anticipated increase in transit use on the LIRR, (3) enhance Long Island and the region's economic vitality and quality of life. Alternatives to be evaluated will include:

- *No Action Alternative.* This alternative provides for minor improvements, repairs, and other maintenance actions to the existing LIRR system between Queens Village and Hicksville currently planned or programmed.
- *Build Alternatives.* Addition of a new third track to the existing two track configuration, roadway grade crossing improvements, and station area improvements will be grouped into a set of specific Build Alternatives. Each distinct Build Alternative will be evaluated against the No Action Alternative, and other Build Alternatives to determine the advantages and disadvantages of each. Build Alternatives may include elements of phasing. For example, a first phase might include construction of the portion of alignment from Queens Village to Mineola and a second phase might complete construction from Mineola to Hicksville.

Although compatible with and contributing to the functionality of the overall improvements, some elements of

the Build Alternatives such as station rehabilitation elements or roadway grade crossing elements are functionally independent of the other elements of the Proposed Action. Although the current plan is to evaluate all of the elements in the EIS, as the project elements are developed and as schedules and construction phasing plans develop, it is possible that some of the independent elements may be advanced via separate environmental evaluations under NEPA.

VI. Potential Effects

Upon completion, the proposed Main Line Corridor improvements are anticipated to eliminate existing deficiencies in LIRR service noted above and generate positive impacts for Long Island residents, businesses, workers, and visitors.

Impacts that may occur as a result of the improvements will be evaluated in the EIS. The LIRR has identified several areas of concern, including: Property acquisition, historic and archaeological resources, parks and Section 4(f) properties, traffic and grade-crossings, noise and vibration, water quality, wetlands, and threatened and endangered species. Potential construction-related impacts associated with the construction phase include noise, vibration, business disruption, impacts on pedestrian and vehicle traffic, and air quality.

The EIS will describe the methodology used to assess impacts; identify the affected environment; and identify opportunities and measures for mitigating adverse impacts. Principles of environmental construction management, resource protection and mitigation measures, and the LIRR Sustainable Design/Design for Environment—Generic Guidelines (March 2003), developed pursuant to New York State Executive Order No. 111 ''Green and Clean,'' will be considered for incorporation into the Build Alternatives.

VII. FTA Procedures

During the NEPA process, FTA will also comply with the requirements of Section 106, National Historic Preservation Act, Section 4(f) of the Department of Transportation Act (49 U.S.C. 303), the Clean Air Act, and other applicable Federal and State environmental statutes, rules, and regulations, in accordance with FTA procedures.

Through the NEPA scoping process and as project development advances, it will be determined whether certain elements of the Full Build Alternative should be advanced independently or in combination with other elements, or be deferred for evaluation at a future time, in order to meet the transportation needs of Long Island with minimal impact and in a timely manner.

A Draft EIS will be prepared and made available for public and agency review and comment. One or more public hearings will be held on the Draft EIS. On the basis of the Draft EIS and the public and agency comments thereon, a preferred alternative will be selected and will be fully described and further developed in the Final EIS.

Issued on: April 29, 2005.

Letitia Thompson,

Regional Administrator, Region II.

[FR Doc. 05–9034 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on June 16, 2004 at Vol. 69, No. 115, p. 33693–94.

DATES: Comments must be submitted on or before June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Larry Long at the National Highway Traffic Safety Administration, Recall Management Division, NVS–215, 400 Seventh Street, SW., Washington, DC 20590, phone (202) 366–6281.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Dealer Notification of Defects and Noncompliances.

OMB Number: 2127–0004.

Type of Request: Revision of a currently approved information collection adding new requirements.

Abstract: These are new amendments to regulations that require manufacturers of motor vehicles and items of vehicle equipment conducting recalls to (1) add information about the manufacturer's intended schedule for dealer notification to the manufacturer's notifications to NHTSA of defects and noncompliances that are already provided pursuant to 49 CFR 573, and (2) include certain specified language in the notifications that they send to their dealers and distributors pursuant to 49 CFR 577. In addition, vehicle manufacturers will now be required to maintain for a period of 5 years a list of its dealers and distributors that they have notified (69 FR 33693–33694).

Affected Public: All manufacturers of motor vehicles and items of motor vehicle equipment that conduct safety recalls.

Estimated Total Annual Burden: 19,974 hours for manufacturers of motor vehicles and items of motor vehicle equipment.

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.

Kathleen C. DeMeter,

Director, Office of Defects Investigation.

[FR Doc. 05–9122 Filed 5–5–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34676]

Penn Eastern Holdings, Inc.—Control Exemption—East Penn Railways, Inc. and Penn Eastern Rail Lines, Inc.

Penn Eastern Holdings, Inc. (PEH), a newly established noncarrier holding company, has filed a verified notice of exemption to acquire control through stock ownership of East Penn Railways, Inc. (East Penn) and Penn Eastern Rail Lines, Inc. (Penn Eastern), both Class III rail carriers. East Penn and Penn Eastern

are currently controlled by John C. Nolan, a noncarrier individual.[1] As a result of this transaction, John C. Nolan and Mark Rosner will control East Penn and Penn Eastern through PEH.[2]

PEH states that it proposes to consummate the transaction on or after April 20, 2005.

Concurrently, East Penn has filed verified notices of exemption: (1) In STB Finance Docket No. 34677, *East Penn Railways, Inc. Acquisition Exemption—Southeastern Pennsylvania Transportation Authority*, wherein East Penn seeks to acquire a segment of track, currently owned by the Southeastern Pennsylvania Transportation Authority and operated by East Penn pursuant to a modified rail certificate, known as the Octoraro Branch (or Line 142), extended approximately 27.51 miles between milepost 26.98 at Chadds Ford Junction, PA, and milepost 54.49 at the Pennsylvania/Maryland state line near Sylmar, MD; [3] (2) in STB Finance Docket No. 34678, *East Penn Railways, Inc.—Acquisition and Operation Exemption—ISG Railways, Inc.,* wherein East Penn seeks to acquire from ISG Railways, Inc. and operate a line of railroad known as Line 907, extending between approximately milepost 12.66 ± at the Delaware/Pennsylvania state line and milepost 29.72 at Modena, PA, a distance of 17.02 miles; and (3) in STB Finance Docket No. 34679, *East Penn Railways, Inc.—Acquisition and Operation Exemption—Reading Company*, wherein East Penn seeks to acquire from the Reading Company and operate a line of railroad known as Line 939, extending from the Pennsylvania/Delaware state line at approximately milepost 12.66 ± to milepost 1.89, near Elsmere Junction, DE, a distance of approximately 10.77 miles.[4] According to PEH and East Penn, these lines connect with each other but not with the lines of Penn Eastern.

PEH states that: (1) The railroads will not connect with each other or any railroad in their corporate family; (2) the control transaction is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval of requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c)), however, does not provide for labor protection for transactions under section 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice 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. 34676, 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 John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: April 26, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8955 Filed 5–5–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORATION

Surface Transportation Board

[STB Finance Docket No. 34673]

C&J Railroad Company, d/b/a Mississippi Delta Railroad—Acquisition and Operation Exemption—in Tallahatchie County, MS

C&J Railroad Company, d/b/a Mississippi Delta Railroad (MSD), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease [1] and operate 1,320 feet, or 0.25 miles, of track, including yard, lead and switching tracks (without assigned mileposts) that extends north beyond Canadian National Railway Company/Illinois Central Gulf Railroad Company's milepost 104.

MSD certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier and will not exceed $5 million annually.

The transaction was scheduled to be consummated on or after April 14, 2005, the effective date of the exemption (7 days after the exemption was filed).

If the verified notice 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. 34673, 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 Reggie Howell, C&J Railroad Company, 1710–L East Tenth Street, Jeffersonville, IN 47130.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 27, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8840 Filed 5–5–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34677]

East Penn Railways, Inc.—Acquisition Exemption—Southeastern Pennsylvania Transportation Authority

East Penn Railways, Inc. (East Penn), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire a segment of track that is currently owned by the Southeastern Pennsylvania Transportation Authority (SEPTA) and operated by East Penn pursuant to a modified rail certificate. The subject line, known as the Octoraro Branch (also referred to as Line 142), extends approximately 27.51 miles between milepost 26.98 at Chadds Ford Junction, PA, and milepost 54.49 at the

[1] *See John C. Nolan—Control Exemption-Penn Eastern Rail Lines, Inc.*, STB Finance Docket No. 34223 (STB served July 22, 2002).

[2] By facsimile filed on April 15, 2005, PEH informed the Board that John C. Nolan will own 80% of the stock of PEH and Mark Rosner will own the remaining 20% of PEH's stock.

[3] *See East Penn Railways, Inc.—Modified Rail Certificate,* STB Finance Docket No. 34618 (STB served Dec. 21, 2004).

[4] *See Certificate of Designated Operator, Delaware Valley Railway Co.*, D–OP 59 (USRA Line No. 907/939) (ICC served Oct. 14, 1994).

[1] MSD states that it has leased the rail line since July 1, 2001, but that it will not commence operations until the effective date of this exemption.

Pennsylvania/Maryland state line near Sylmar, MD.[1]

East Penn certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier, and that its annual revenues will not exceed $5 million.

East Penn states that it proposes to consummate the transaction on or after April 20, 2005.

Concurrently with this filing, East Penn has filed notices in two separate proceedings to acquire segments of track connecting to the subject line. *See East Penn Railways, Inc.—Acquisition and Operation Exemption—ISG Railways, Inc.,* STB Finance Docket No. 34678, and *East Penn Railways, Inc.—Acquisition and Operation Exemption—Reading Company,* STB Finance Docket No. 34679.

If the notice 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. 34677, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 26, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8956 Filed 5–5–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34679]

East Penn Railways, Inc.—Acquisition and Operation Exemption—Reading Company

East Penn Railways, Inc. (East Penn), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from the Wilmington & Northern Railroad Company (W&N) and its corporate parent, Reading Company (collectively, Reading) and operate a line of railroad known as the W&N right-of-way or Line 939. The line extends from the Pennsylvania/Delaware State line at approximately milepost 12.66± to milepost 1.89 near Elsmere Junction, DE, a distance of approximately 10.77 miles. The line is currently operated by ISG Railways, Inc. (ISG).[1]

East Penn certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier, and that its annual revenues will not exceed $5 million.

East Penn states that it proposes to consummate the transaction on or after April 20, 2005.

Concurrently with this filing, East Penn has filed notices in two separate proceedings to acquire segments of track connecting to the subject line. *See East Penn Railways, Inc.—Acquisition Exemption—Southeastern Pennsylvania Transportation Authority*, STB Finance Docket No. 34677, and *East Penn Railways, Inc.—Acquisition and Operation Exemption—ISG Railways, Inc.,* STB Finance Docket No. 34678.

If the notice 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. 34679, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 26, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8958 Filed 5–5–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34678]

East Penn Railways, Inc.—Acquisition and Operation Exemption—ISG Railways, Inc.

East Penn Railways, Inc. (East Penn), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from ISG Railways, Inc. (ISG) [1] and operate a line of railroad known as Line 907 extending between approximately milepost 12.66± at the Delaware/Pennsylvania state line and milepost 29.72 at Modena, PA, a distance of 17.02 miles.[2]

East Penn certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier, and that its annual revenues will not exceed $5 million.

East Penn states that it proposes to consummate the transaction on or after April 20, 2005.

Concurrently with this filing, East Penn has filed notices in two separate proceedings to acquire segments of track connecting to the subject line. *See East Penn Railways, Inc.—Acquisition Exemption—Southeastern Pennsylvania Transportation Authority*, STB Finance Docket No. 34677, and *East Penn Railways, Inc.—Acquisition and Operation Exemption—Reading Company*, STB Finance Docket No. 34679.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d)

[1] *See East Penn Railways, Inc.—Modified Rail Certificate,* STB Finance Docket No. 34618 (STB served Dec. 21, 2004).

[1] East Penn states that, pursuant to an agreement with ISG, it is also acquiring all of ISG's rights to operate the subject line. East Penn notes that ISG and its predecessors previously leased and operated the subject line per agreement with Reading. *See ISG Railways, Inc.—Acquisition of Control Exemption—Assets of Keystone Railroad LLC d/b/a Philadelphia, Bethlehem and New England Railroad Company, Conemaugh & Black Lick Railroad Company LLC, Steelton & Highspsire Railroad Company LLC, Lake Michigan & Indiana Railroad Company LLC, Brandywine Valley Railroad Company LLC, Upper Merion & Plymouth Railroad Company LLC, Patapsco & Back Rivers Railroad Company LLC, and Cambria and Indiana Railroad, Inc.,* STB Finance Docket No. 34344 (STB served May 22, 2003), and *Brandywine Valley Railroad Company LLC—Acquisition and Operation Exemption—Brandywine Valley Railroad Company*, STB Finance Docket 34154 (STB served Jan. 10, 2002) and cases cited therein.

[1] *See ISG Railways, Inc.—Acquisition of Control Exemption—Assets of Keystone Railroad LLC d/b/a Philadelphia, Bethlehem and New England Railroad Company, Conemaugh & Black Lick Railroad Company LLC, Steelton & Highspsire Railroad Company LLC, Lake Michigan & Indiana Railroad Company LLC, Brandywine Valley Railroad Company LLC, Upper Merion & Plymouth Railroad Company LLC, Patapsco & Back Rivers Railroad Company LLC, and Cambria and Indiana Railroad, Inc.*, STB Finance Docket No. 34344 (STB served May 22, 2003), and *Brandywine Valley Railroad Company LLC—Acquisition and Operation Exemption—Brandywine Valley Railroad Company*, STB Finance Docket 34154 (STB served Jan. 10, 2002) and cases cited therein.

[2] East Penn states that previous filings and decisions describing this line variously identify the milepost at the state line as being milepost 12.66 or milepost 12.7.

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. 34678, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: April 26, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8957 Filed 5–5–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–70 (Sub-No. 4X)]

Florida East Coast Railway, L.L.C.—Abandonment Exemption—in Miami-Dade County, FL

On April 19, 2005, Florida East Coast Railway, L.L.C. (FEC), a Class II rail carrier, filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a portion of its South Little River Branch Line, extending from milepost LR 13.0± to milepost LR 18.0±, a distance of approximately 5 miles in Miami-Dade County, FL (the line). No stations or terminals are located on the line. The line traverses United States Postal Service Zip Codes 33143, 33144, 33155, and 33156.

The line does not contain federally granted rights-of-way. Any documentation in FEC's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 5, 2005.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,200 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than May 31, 2005. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–70 (Sub-No. 4X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Terence M. Hynes, Sidley Austin Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. (Assistance for the hearing impaired is available though the Federal Information Relay Service (FIRS) at 1–800–877–8339.)

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA, will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 27, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–9070 Filed 5–5–05; 8:45 am]

BILLING CODE 4915–01–P

Federal Register

Friday,
May 6, 2005

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Part 412

Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Annual Payment Rate Updates, Policy Changes, and Clarification; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1483–F]

RIN 0938–AN28

Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Annual Payment Rate Updates, Policy Changes, and Clarification

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

ACTION: Final rule.

SUMMARY: This final rule updates the annual payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs). The payment amounts and factors used to determine the updated Federal rates that are described in this final rule have been determined based on the LTCH PPS rate year July 1, 2005 through June 30, 2006. The annual update of the long-term care diagnosis-related group (LTC–DRG) classifications and relative weights remains linked to the annual adjustments of the acute care hospital inpatient diagnosis-related group system, and will continue to be effective each October 1. The outlier threshold for July 1, 2005 through June 30, 2006 is also derived from the LTCH PPS rate year calculations. We are adopting new labor market area definitions for the purpose of geographic classification and the wage index. We are also making policy changes and clarifications.

DATES: This final rule is effective July 1, 2005.

FOR FURTHER INFORMATION CONTACT: Tzvi Hefter, (410) 786–4487 (General information). Judy Richter, (410) 786–2590 (General information, transition payments, payment adjustments for special cases, and onsite discharges and readmissions, interrupted stays, co-located providers, and short-stay outliers). Michele Hudson, (410) 786–5490 (Calculation of the payment rates, relative weights and case-mix index, market basket update, and payment adjustments). Mark Zezza, (410) 786–7937 (Calculation of the payment rates wage index, wage index, and payment adjustments). Ann Fagan, (410) 786–5662 (Patient classification system). Miechal Lefkowitz, (410) 786–5316 (High-cost outliers and budget neutrality). Linda McKenna, (410) 786–4537 (Payment adjustments, interrupted stay, and transition period).

Table of Contents

Acronyms

Because of the many terms to which we refer by acronym in this proposed rule, we are listing the acronyms used and their corresponding terms in alphabetical order below:

BBA Balanced Budget Act of 1997, (Pub. L. 105–33).
BBRA Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Balanced Budget Refinement Act of 1999, (Pub. L. 106–113).
BIPA Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Benefits Improvement and Protection Act of 2000, (Pub. L. 106–554).
CBSA Core-Based Statistical Area.
CMS Centers for Medicare & Medicaid Services.
COPS Medicare conditions of participation.
DRGs Diagnosis-related groups.
FY Federal fiscal year.
HCRIS Hospital Cost Report Information System.
HHA Home health agency.
HIPAA Health Insurance Portability and Accountability Act, Pub. L. 104–191.
IPF Inpatient Psychiatric Facility.
IPPS Acute Care Hospital Inpatient Prospective Payment System.
IRF Inpatient rehabilitation facility.
LTC–DRG Long-term care diagnosis-related group.
LTCH Long-term care hospital.
MedPAC Medicare Payment Advisory Commission.
MedPAR Medicare provider analysis and review file.
OSCAR Online Survey Certification and Reporting (System).
PPS Prospective Payment System.
QIO Quality Improvement Organization (formerly Peer Review Organization (PRO)).

RY Rate Year (July 1 through June 30).
SNF Skilled nursing facility.
TEFRA Tax Equity and Fiscal Responsibility Act of 1982, (Pub. L. 97–248).

I. Background

A. Legislative and Regulatory Authority

The Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554) provide for payment for both the operating and capital-related costs of hospital inpatient stays in long-term care hospitals (LTCHs) under Medicare Part A based on prospectively set rates. The Medicare prospective payment system (PPS) for LTCHs applies to hospitals described in section 1886(d)(1)(B)(iv) of the Social Security Act (the Act), effective for cost reporting periods beginning on or after October 1, 2002.

Section 1886(d)(1)(B)(iv)(I) of the Act defines a LTCH as ''a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days.'' Section 1886(d)(1)(B)(iv)(II) of the Act also provides an alternative definition of LTCHs: specifically, a hospital that first received payment under section 1886(d) of the Act in 1986 and has an average inpatient length of stay (as determined by the Secretary) of greater than 20 days and has 80 percent or more of its annual Medicare inpatient discharges with a principal diagnosis that reflects a finding of neoplastic disease in the 12-month cost reporting period ending in FY 1997.

Section 123 of the BBRA requires the PPS for LTCHs to be a per discharge system with a diagnosis-related group (DRG) based patient classification system that reflects the differences in patient resources and costs in LTCHs while maintaining budget neutrality.

Section 307(b)(1) of the BIPA, among other things, mandates that the Secretary shall examine, and may provide for, adjustments to payments under the LTCH PPS, including adjustments to DRG weights, area wage adjustments, geographic reclassification, outliers, updates, and a disproportionate share adjustment.

In a **Federal Register** document issued on August 30, 2002 (67 FR 55954), we implemented the LTCH PPS authorized under BBRA and BIPA. This system uses information from LTCH patient records to classify patients into distinct long-term care diagnosis-related groups (LTC–DRGs) based on clinical characteristics and expected resource needs. Payments are calculated for each LTC–DRG and provisions are made for appropriate payment adjustments. Payment rates under the LTCH PPS are updated annually and published in the **Federal Register**.

The LTCH PPS replaced the reasonable cost-based payment system under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Pub. L. 97–248) for payments for inpatient services provided by a LTCH with a cost reporting period beginning on or after October 1, 2002. (The regulations implementing the TEFRA reasonable cost-based payment provisions are located at 42 CFR part 413.) With the implementation of the prospective payment system for acute care hospitals authorized by the Social Security Amendments of 1983 (Pub. L. 98–21), which added section 1886(d) to the Act, certain hospitals, including LTCHs, were excluded from the PPS for acute care hospitals and were paid their reasonable costs for inpatient services subject to a per discharge limitation or target amount under the TEFRA system. For each cost reporting period, a hospital-specific ceiling on payments was determined by multiplying the hospital's updated target amount by the number of total current year Medicare discharges. The August 30, 2002 final rule further details payment policy under the TEFRA system (67 FR 55954).

In the August 30, 2002 final rule, we presented an in-depth discussion of the LTCH PPS, including the patient classification system, relative weights, payment rates, additional payments, and the budget neutrality requirements mandated by section 123 of the BBRA. The same final rule that established regulations for the LTCH PPS under 42 CFR part 412, subpart O, also contained LTCH provisions related to covered inpatient services, limitation on charges to beneficiaries, medical review requirements, furnishing of inpatient hospital services directly or under arrangement, and reporting and recordkeeping requirements.

We refer readers to the August 30, 2002 final (67 FR 55954) rule for a comprehensive discussion of the research and data that supported the establishment of the LTCH PPS.

On June 6, 2003, we published a final rule in the **Federal Register** (68 FR 34122) that set forth the 2004 annual update of the payment rates for the Medicare PPS for inpatient hospital services furnished by LTCHs. It also changed the annual period for which the payment rates are effective. The annual updated rates are now effective from July 1 through June 30 instead of from October 1 through September 30. We refer to the July through June time period as a ''long-term care hospital rate year'' (LTCH PPS rate year). In addition, we changed the publication schedule for the annual update to allow for an effective date of July 1. The payment amounts and factors used to determine the annual update of the LTCH PPS Federal rate is based on a LTCH PPS rate year. While the LTCH payment rate update is effective July 1, the annual update of the LTC–DRG classifications and relative weights are linked to the annual adjustments of the acute care hospital inpatient diagnosis-related groups and are effective each October 1.

On May 7, 2004 we published a final rule in the **Federal Register** (69 FR 25674) that set forth the 2005 LTCH PPS rate year annual update of the payment rates for the Medicare PPS for inpatient hospital services provided by LTCHs. We also discussed clarification of the procedures under which a satellite facility or remote location of a LTCH may be designated as a separately certified LTCH. In addition, the final rule included a provision to expand the existing interrupted stay policy at § 412.531, and a revision to the procedure for computing the day count in the average length of stay calculation for Medicare patients for hospitals qualifying as LTCHs at § 412.23(e)(3)(ii).

B. Criteria for Classification as a LTCH

1. Classification as a LTCH

Under the existing regulations at § 412.23(e)(1) and (e)(2)(i), which implement section 1886(d)(1)(B)(iv)(I) of the Act, to qualify to be paid under the LTCH PPS, a hospital must have a provider agreement with Medicare and must have an average Medicare inpatient length of stay of greater than 25 days. Alternatively, for cost reporting periods beginning on or after August 5, 1997, a hospital that was first excluded from the PPS in 1986, and can demonstrate that at least 80 percent of its annual Medicare inpatient discharges in the 12-month cost reporting period ending in FY 1997 have a principal diagnosis that reflects a finding of neoplastic disease must have an average inpatient length of stay for all patients, including both Medicare and non-Medicare inpatients, of greater than 20 days (§ 412.23(e)(2)(ii)).

Regulations at § 412.23(e)(3) provide that, subject to the provisions of paragraphs (e)(3)(ii) through (e)(3)(iv) of this section, the average Medicare inpatient length of stay, specified under § 412.23(e)(2)(i) is calculated by dividing the total number of covered

and noncovered days of stay of Medicare inpatients (less leave or pass days) by the number of total Medicare discharges for the hospital's most recent complete cost reporting period. Section 412.23 also provides that subject to the provisions of paragraphs (e)(3)(ii) through (e)(3)(iv) of this section, the average inpatient length of stay specified under § 412.23(e)(2)(ii) is calculated by dividing the total number of days for all patients, including both Medicare and non-Medicare inpatients (less leave or pass days) by the number of total discharges for the hospital's most recent complete cost reporting period.

In the LTCH PPS final rule published on May 7, 2004, we specified the procedure for calculating a hospital's inpatient average length of stay for purposes of classification as a LTCH. That is, if a patient's stay includes days of care furnished during two or more separate consecutive cost reporting periods, the total days of a patient's stay would be reported in the cost reporting period during which the patient is discharged. (69 FR 25705). Therefore, we have revised the regulations at § 412.23(e)(3)(ii) to specify that, effective for cost reporting periods beginning on or after July 1, 2004, in calculating a hospital's average length of stay, if the days of a stay of an inpatient involves days of care furnished during two or more separate consecutive cost reporting periods, the total number of days of the stay are considered to have occurred in the cost reporting period during which the inpatient was discharged.

Effective for cost reporting periods beginning on or after July 1, 2004, but before July 1, 2005, a one-year exception is provided in the event some providers failed to meet the 25-day ALOS criteria due to this change in policy. In these cases, the fiscal intermediary (FI) will do an additional calculation to determine if these providers meet the average length of stay methodology found in § 412.23(e)(3)(i).

FIs verify that LTCHs meet the average length of stay requirements. We note that the inpatient days of a patient who is admitted to a LTCH without any remaining Medicare days of coverage, regardless of the fact that the patient is a Medicare beneficiary, will not be included in the above calculation. Because Medicare would not be paying for any of the patient's treatment, data on the patient's stay would not be included in the Medicare claims processing systems. In order for both covered and noncovered days of a LTCH hospitalization to be included, a patient admitted to the LTCH must have at least one remaining benefit day as described in § 409.61 (68 FR 34123).

The FI's determination of whether or not a hospital qualified as an LTCH is based on the hospital's discharge data from the hospital's most recent complete cost reporting period (§ 412.23(e)(3)) and is effective at the start of the hospital's next cost reporting period (§ 412.22(d)). However, if the hospital does not meet the average length of stay requirement as specified in § 412.23(e)(2)(i) and (ii), the hospital may provide the intermediary with data indicating a change in the average length of stay by the same method for the period of at least 5 months of the immediately preceding 6-month period (69 FR 25676). Our interpretation of the current regulations at § 412.23(e)(3) was to allow hospitals to submit data using a period of at least 5 months of the most recent data from the immediately preceding 6-month period.

As we stated in the IPPS final rule, published August 1, 2003, prior to the implementation of the LTCH PPS, we did rely on data from the most recently submitted cost report for purposes of calculating the average length of stay. The calculation to determine whether an acute care hospital qualifies for LTCH status was based on total days and discharges for LTCH inpatients. However, with the implementation of the LTCH PPS, with respect to the average length of stay specified under § 412.23(e)(2)(i), we revised § 412.23(e)(3)(i) to only count total days and discharges for Medicare inpatients (68 FR 45464). In addition, the average length of stay specified under § 412.23(e)(2)(ii) is calculated by dividing the total number of days for all patients, including both Medicare and non-Medicare inpatients (less leave or pass days) by the number of total discharges for the hospital's most recent complete cost reporting period. As we pointed out in the IPPS final rule, we are unable to capture the necessary data from our present cost reporting forms. We have, therefore, notified fiscal intermediaries and LTCHs that until the cost reporting forms are revised, for purposes of calculating the average length of stay, we will be relying upon census data extracted from MedPAR files that reflect each LTCH's cost reporting period (68 FR 45464). Requirements for hospitals seeking classification as LTCHs that have undergone a change in ownership, as described in § 489.18, are set forth in § 412.23(e)(3)(iv).

In the May 7, 2004 final rule (69 FR 25709), we revised the regulations at § 412.23(e) to clarify our longstanding policy by stating that a satellite facility or remote location that voluntarily separates from its parent LTCH in order to become an independent LTCH must first be considered a State-licensed and Medicare-certified hospital before seeking classification as a LTCH. In this regard, a satellite facility or remote location that voluntarily wishes to become an independent LTCH is required to demonstrate that it meets the average length of stay requirements, as specified under § 412.23(e)(2)(i) and (ii), based on discharges that occur on or after the effective date of its participation under Medicare as a separate hospital. Once the satellite facility or remote location is Medicare certified, then the hospital may consider using the length of stay data accumulated as a hospital to satisfy the classification requirements for becoming a ''specialty'' hospital (in this case, a LTCH). That is, the hospital must demonstrate that it has a Medicare inpatient length of stay of greater than 25 days. The data used to calculate the Medicare average length of stay is based on discharges that occur after the satellite facility or remote location has established itself as a separate participating hospital. However, there is an exception to this policy for satellite facilities and remote locations of LTCHs that are affected by § 413.65(e)(3) and that were in existence prior to the effective date of the provider-based location requirements; that is, cost reporting periods beginning on or after July 1, 2003. We will assign new Medicare provider numbers to former satellite facilities or remote locations that have become certified as Medicare participating hospitals. However, if these newly certified hospitals should fail the provider-based locations requirements under § 413.65(e)(3), they may be classified as LTCHs if they meet specific conditions. Under this exception, calculation of the ALOS for purposes of qualifying as a LTCH are based on discharge data during the 5 months of the immediate 6 months preceding the facility's separation from the main hospital. This provision only applies to those facilities or locations that became subject to the revised provider-based location rules on July 1, 2003, and that seek classification as LTCHs for Medicare payment purposes.

2. Hospitals Excluded From the LTCH PPS

The following hospitals are paid under special payment provisions, as described in § 412.22(c) and, therefore, are not subject to the LTCH PPS rules:

- Veterans Administration hospitals.

• Hospitals that are reimbursed under State cost control systems approved under 42 CFR part 403.

• Hospitals that are reimbursed in accordance with demonstration projects authorized under section 402(a) of Public Law 90–248 (42 U.S.C. 1395b–1) or section 222(a) of Public Law 92–603 (42 U.S.C. 1395b–1 (note)) (statewide all-payer systems, subject to the rate-of-increase test at section 1814(b) of the Act).

• Nonparticipating hospitals furnishing emergency services to Medicare beneficiaries.

C. Transition Period for Implementation of the LTCH PPS

In the August 30, 2002 final rule, we provided for a 5-year transition period from reasonable cost-based reimbursement to fully Federal prospective payment for LTCHs (67 FR 56038). However, LTCHs have the option to elect to be paid based on 100 percent of the Federal prospective payment. During the 5-year period, two payment percentages are to be used to determine a LTCH's total payment under the PPS. The blend percentages are as follows:

Cost reporting periods beginning on or after	Prospective payment Federal rate percentage	Reasonable cost-based reimbursement rate percentage
October 1, 2002	20	80
October 1, 2003	40	60
October 1, 2004	60	40
October 1, 2005	80	20
October 1, 2006	100	0

D. Administrative Simplification Compliance Act and Health Insurance Portability and Accountability Act Compliance

Claims submitted to Medicare must comply with both the Administrative Simplification Compliance Act (ASCA), Pub. L. 107–105, and Health Insurance Portability and Accountability Act (HIPAA). Section 3 of ASCA requires the Medicare Program, subject to subsection (h), to deny payment under Part A or Part B for any expenses for items or services ''for which a claim is submitted other than in an electronic form specified by the Secretary.'' Subsection (h) provides that the Secretary shall waive such denial in two types of cases and may also waive such denial ''in such unusual cases as the Secretary finds appropriate.'' (Also, see 68 FR 48805 (August 15, 2003).) Section 3 of ASCA operates in the context of the Administrative Simplification provisions of HIPAA, which include, among other provisions, the transactions and code sets standards requirements codified as 45 CFR parts 160 and 162, subparts A and I through R (generally known as the Transactions Rule). The Transactions Rule requires covered entities, including covered providers, to conduct covered electronic transactions according to the applicable transactions and code sets standards.

II. Publication of Proposed Rulemaking

On February 3, 2005, we published a proposed rule in the **Federal Register** (70 FR 5724–5805) that set forth the proposed annual update to the payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs) for the 2006 LTCH PPS rate year. (The annual update of the LTC–DRG classifications and relative weights for FY 2006 remains linked to the annual adjustments of the acute care hospital inpatient DRG system, which will be published by August 1, and will be effective October 1, 2004.)

In the February 3, 2005 LTCH PPS proposed rule, we discussed the annual update of LTC–DRG classifications and relative weights and specified that they remain linked to the annual adjustments of the acute care hospital inpatient DRG system, which are based on the annual revisions to the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) codes, effective each October 1. (See section V. of this preamble.)

In that same proposed rule, we proposed to adopt new labor market area definitions for LTCHs which are based on the new Core-Based Statistical Areas (CBSAs), announced by the OMB late in 2000, which are effective for acute care inpatient hospitals October 1, 2004 in the FY 2005 IPPS final rule. The CBSAs were adopted for acute care hospitals under the IPPS (See section V.C.1. of this preamble.)

We also proposed revisions to the wage index, the proposed excluded hospital with capital market basket that would be applied to the current standard Federal rate to determine the prospective payment rates, the applicable adjustments to payment rates, the proposed outlier threshold, the transition period, and the proposed budget neutrality factor. (See sections VII. through X. of this preamble.)

We proposed to clarify our notification policy in § 412.22(e)(3) and (h) to require that when a LTCH or satellite of a LTCH informs its FI of its co-located status, it also is required to include the name, address and provider numbers of the other co-located hospitals (that is, acute care hospitals, IRFs, and IPFs). Additionally, we proposed to clarify and modify the notification requirement under § 412.532. (Special payment provisions for patients who are transferred to onsite providers and readmitted to a long-term care hospital.)

We also proposed to extend the surgical DRG exception to the ''under arrangements'' requirement of the 3-day or less interruption of stay policy at § 412.531(b)(1)(ii)(A)(1) through the 2006 rate year, from July 1, 2005 through June 30, 2006. We also propose to extend the surgical DRG exception to the ''under arrangements'' requirement for the 3-day or less interruption of stay policy at § 412.531(b)(1)(i)(C) from July 1, 2005 through June 30, 2006.

We discussed the recommendations made in the June 2004 Medicare Payment Advisory Commission (MedPAC) Report concerning the definition of LTCHs and our continuing monitoring efforts to evaluate the LTCH PPS, including a review of the QIO's role. (See section X. of this preamble.)

Lastly, we analyzed the impact of the proposed changes in the proposed rule on Medicare expenditures and on Medicare-participating LTCHs and Medicare beneficiaries. (See section XII. of this preamble.)

We received a total of 13 timely items of correspondence containing multiple comments on the proposed rule. The major issues addressed by the commenters included: the reduction of the fixed loss amount pertaining to high-cost outliers, notification in writing to fiscal intermediaries regarding co-located status, adoption of

the CBSA designations, extension of the surgical DRGs and MedPAC/monitoring issues.

Summaries of the public comments received and our responses to those comments are described below under the appropriate heading.

III. Summary of the Major Contents of This Final Rule

In this final rule, we set forth the annual update to the payment rates for the Medicare 2006 LTCH PPS rate year and make other policy changes. The following is a summary of the major areas that we are addressing in this final rule:

A. Update Changes

• In section IV. of this preamble, we discuss the annual update of the LTC–DRG classifications and relative weights and specify that they remain linked to the annual adjustments of the acute care hospital inpatient DRG system, which are based on the annual revisions to the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) codes effective each October 1.

• In sections V. through X. of this preamble, we specify the factors and adjustments used to determine the LTCH PPS rates that are applicable to the 2006 LTCH PPS rate year, including revisions to the wage index, the excluded hospital with capital market basket that will be applied to the current standard Federal rate to determine the prospective payment rates, the applicable adjustments to payments, the outlier threshold, the short-stay outlier policy for certain LTCHs, the budget neutrality factor, Core-Based Statistical Areas (CBSAs), and MedPAC recommendations/monitoring.

B. Policy Changes

In section IV.8. of this preamble, we are extending the surgical DRG exception in the 3-day or less interruption of stay policy at § 412.531(b)(1)(ii)(A)(1) and § 412.531(b)((1)(i)(C) through the 2006 rate year.

In section V.C.5. of this preamble, we clarify our notification policy for co-located LTCHs and satellites of LTCHs in § 412.22(e)(3) and (h)(5). We require LTCH HwHs and LTCH satellites to inform their FI of their co-located status and also provide relevant identifying information concerning other co-located hospitals.

In section V.C.9. of this preamble, we clarify and modify existing notification requirements for the purpose of implementing § 412.532.

C. MedPAC Report

In section X. of this preamble, we discuss the recommendations made in the June 2004 MedPAC Report concerning the definition of LTCHs and our continuing monitoring efforts to evaluate the LTCH PPS, including a review of the QIO's role.

D. Impact

In section XII. of this preamble, we analyze the impact of the changes in this final rule on Medicare expenditures and on Medicare-participating LTCHs and Medicare beneficiaries.

IV. Long-Term Care Diagnosis-Related Group (LTC–DRG) Classifications and Relative Weights

A. Background

Section 123 of BBRA specifically requires that the PPS for LTCHs be a per discharge system with a DRG-based patient classification system reflecting the differences in patient resources and costs in LTCHs while maintaining budget neutrality. Section 307(b)(1) of the BIPA modified the requirements of section 123 of the BBRA by specifically requiring that the Secretary examine ''the feasibility and the impact of basing payment under such a system [the LTCH PPS] on the use of existing (or refined) hospital DRGs that have been modified to account for different resource use of LTCH patients as well as the use of the most recently available hospital discharge data.''

In accordance with section 307(b)(1) of BIPA and § 412.515 of our existing regulations, the LTCH PPS uses information from LTCH patient records to classify patient cases into distinct LTC–DRGs based on clinical characteristics and expected resource needs. The LTC–DRGs used as the patient classification component of the LTCH PPS correspond to the hospital inpatient DRGs in the IPPS. We apply weights to the existing hospital inpatient DRGs to account for the difference in resource use by patients exhibiting the case complexity and multiple medical problems characteristic of LTCHs.

In a departure from the IPPS, we use low volume LTC–DRGs (less than 25 LTCH cases) in determining the LTC–DRG weights, since LTCHs do not typically treat the full range of diagnoses as do acute care hospitals. In order to deal with the large number of low volume DRGs (all DRGs with fewer than 25 cases), we group low volume DRGs into 5 quintiles based on average charge per discharge. (A listing of the current composition of low volume quintiles used in determining the FY 2005 LTC–DRG relative weights appears in the FY 2005 IPPS final rule (August 11, 2004; 69 FR 48986–48989).) We also take into account adjustments to payments for cases in which the stay at the LTCH is five-sixths of the geometric average length of stay and classify these cases as short-stay outlier cases. (A detailed discussion of the application of the Lewin Group model that was used to develop the LTC–DRGs appears in the August 30, 2002 LTCH PPS final rule at 67 FR 55978.)

B. Patient Classifications Into DRGs

Generally, under the LTCH PPS, Medicare payment is made at a predetermined specific rate for each discharge; that payment varies by the LTC–DRG to which a beneficiary's stay is assigned. Cases are classified into LTC–DRGs for payment based on the following six data elements:

(1) Principal diagnosis.
(2) Up to eight additional diagnoses.
(3) Up to six procedures performed.
(4) Age.
(5) Sex.
(6) Discharge status of the patient.

As indicated in the August 30, 2002 LTCH PPS final rule, upon the discharge of the patient from a LTCH, the LTCH must assign appropriate diagnosis and procedure codes from the most current version of the International Classification of Diseases, Ninth Edition, Clinical Modification (ICD–9–CM). HIPAA, Pub. L. 104–191, transactions and code sets standards regulations (45 CFR parts 160 and 162) require that no later than October 16, 2003, all covered entities must comply with the applicable requirements of subparts A and I through R of part 162. Among other requirements, those provisions direct covered entities that electronically transmit institutional health care claim or equivalent encounter information, for instance, to use the ASC X12N 837 Health Care Claims: Institutional, Volumes 1 and 2, version 4010, and the applicable standard medical data code sets. (See 45 CFR 162.1002 and 45 CFR 162.1102.)

Medicare fiscal intermediaries enter the clinical and demographic information into their claims processing systems and subject this information to a series of automated screening processes called the Medicare Code Editor (MCE). These screens are designed to identify cases that require further review before assignment into a DRG can be made. During this process, the following types of cases are selected for further development:

• Cases that are improperly coded. (For example, diagnoses are shown that are inappropriate, given the sex of the

patient. Code 68.6, Radical abdominal hysterectomy, would be an inappropriate code for a male.)

• Cases including surgical procedures not covered under Medicare. (For example, organ transplant in a non-approved transplant center.)

• Cases requiring more information. (For example, ICD–9–CM codes are required to be entered at their highest level of specificity. There are valid 3-digit, 4-digit, and 5-digit codes. That is, code 136.3, Pneumocystosis, contains all appropriate digits, but if it is reported with either fewer or more than 4 digits, the claim will be rejected by the MCE as invalid.)

• Cases with principal diagnoses that do not usually justify admission to the hospital. (For example, code 437.9, unspecified cerebrovascular disease. While this code is valid according to the ICD–9–CM coding scheme, a more precise code should be used for the principal diagnosis.)

After screening through the MCE, each claim will be classified into the appropriate LTC–DRG by the Medicare LTCH GROUPER. As indicated in August 30, 2002 LTCH PPS final rule, the Medicare GROUPER, which is used under the LTCH PPS, is specialized computer software, and is the same GROUPER software program used under the IPPS. The GROUPER software was developed as a means of classifying each case into a DRG on the basis of diagnosis and procedure codes and other demographic information (age, sex, and discharge status). Following the LTC–DRG assignment, the Medicare fiscal intermediary determines the prospective payment by using the Medicare PRICER program, which accounts for hospital-specific adjustments. As provided for under the IPPS, we provide an opportunity for the LTCH to review the LTC–DRG assignments made by the fiscal intermediary and to submit additional information within a specified timeframe (§ 412.513(c)).

The GROUPER is used both to classify past cases in order to measure relative hospital resource consumption to establish the DRG weights and to classify current cases for purposes of determining payment. The records for all Medicare hospital inpatient discharges are maintained in the MedPAR file. The data in this file are used to evaluate possible DRG classification changes and to recalibrate the DRG weights during our annual update under both the IPPS (§ 412.60(e)) and the LTCH PPS (§ 412.517). As discussed in greater detail below in sections III.D. and E. of this preamble, with the implementation of section 503(a) of the MMA, there is the possibility that one feature of the GROUPER software program may be updated twice during a Federal fiscal year (October 1 and April 1) as required by the statute for the IPPS (69 FR 48954–48957), August 11, 2004). Specifically, ICD–9 diagnosis and procedure codes for new medical technology may be created and added to existing DRGs in the middle of the Federal fiscal year on April 1. This policy change will have no effect, however, on the LTC–DRG relative weights which will continue to be updated only once a year (October 1), nor will there be any impact on Medicare payments under the LTCH PPS.

C. Organization of DRGs

The DRGs are organized into 25 Major Diagnostic Categories (MDCs), most of which are based on a particular organ system of the body; the remainder involve multiple organ systems (such as MDC 22, Burns). Accordingly, the principal diagnosis determines MDC assignment. Within most MDCs, cases are then divided into surgical DRGs and medical DRGs. Surgical DRGs are assigned based on a surgical hierarchy that orders operating room (O.R.) procedures or groups of O.R. procedures by resource intensity. The GROUPER does not recognize all ICD–9–CM procedure codes as procedures that affect DRG assignment, that is, procedures which are not surgical (for example, EKG), or minor surgical procedures (for example, 86.11, Biopsy of skin and subcutaneous tissue).

The medical DRGs are generally differentiated on the basis of diagnosis. Both medical and surgical DRGs may be further differentiated based on age, sex, discharge status, and presence or absence of complications or comorbidities (CC). We note that CCs are defined by certain secondary diagnoses not related to, or not inherently a part of, the disease process identified by the principal diagnosis. (For example, the GROUPER would not recognize a code from the 800.0x series, Skull fracture, as a CC when combined with principal diagnosis 850.4, Concussion with prolonged loss of consciousness, without return to preexisting conscious level.) In addition, we note that the presence of additional diagnoses does not automatically generate a CC, as not all DRGs recognize a comorbid or complicating condition in their definition. (For example, DRG 466, Aftercare without History of Malignancy as Secondary Diagnosis, is based solely on the principal diagnosis, without consideration of additional diagnoses for DRG determination.)

In its June 2000 Report to Congress, MedPAC recommended that the Secretary ''* * * improve the hospital inpatient prospective payment system by adopting, as soon as practicable, diagnosis-related group refinements that more fully capture differences in severity of illness among patients,'' (Recommendation 3A, p. 63). We have determined it is not practical at this time to develop a refinement to inpatient hospital DRGs based on severity due to time and resource requirements. However, this does not preclude us from development of a severity-adjusted DRG refinement in the future. That is, a refinement to the list of comorbidities and complications could be incorporated into the existing DRG structure. It is also possible that a more comprehensive severity adjusted structure may be created if a new code set is adopted. That is, if ICD–9–CM is replaced by ICD–10–CM (for diagnostic coding) and ICD–10–PCS (for procedure coding) or by other code sets, a severity concept may be built into the resulting DRG assignments. Of course any change to the code set would be adopted through the process established in the HIPAA Administrative Simplification Standards provisions.

D. Update of LTC–DRGs

For FY 2005, the LTC–DRG patient classification system is based on LTCH data from the FY 2003 MedPAR file, which contained hospital bills data from the March 2004 update. The patient classification system consists of 520 DRGs that formed the basis of the FY 2005 LTCH PPS GROUPER. The 520 LTC–DRGs included two ''error DRGs.'' As in the IPPS, we include two error DRGs in which cases that cannot be assigned to valid DRGs will be grouped. These two error DRGs are DRG 469 (Principal Diagnosis Invalid as a Discharge Diagnosis) and DRG 470 (Ungroupable). (See the FY 2005 IPPS FY 2005 final rule (69 FR 48982–49000).) The other 518 LTC–DRGs are the same DRGs used in the IPPS GROUPER for FY 2005 (Version 22.0).

In the past, in the health care industry, annual changes to the ICD–9–CM codes were effective for discharges occurring on or after October 1 each year. Thus, the manual and electronic versions of the GROUPER software, which are based on the ICD–9–CM codes, were also revised annually and effective for discharges occurring on or after October 1 each year. As discussed earlier, the patient classification system for the LTCH PPS (LTC–DRGs) is based on the IPPS patient classification system

(CMS–DRGs), which had historically been updated annually and was effective for discharges occurring on or after October 1 through September 30 each year.

Recently, the ICD–9–CM coding update process has been revised as discussed in greater detail in the FY 2005 IPPS final rule (69 FR 48954). Specifically, section 503(a) of the MMA includes a requirement for updating ICD–9–CM codes twice a year instead of the current process of annual updates on October 1 of each year. This requirement is included as part of the amendments to the Act relating to recognition of new medical technology under the IPPS. Section 503(a) of the MMA amended section 1886(d)(5)(K) of the Act by adding a new clause (vii) which states that ''the Secretary shall provide for the addition of new diagnosis and procedure codes by April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) * * * until the fiscal year that begins after such date.'' This requirement will improve the recognition of new technologies under the IPPS by accounting for the GROUPER software at an earlier date. Despite the fact that aspects of the GROUPER software may be updated to recognize any new technology codes, there will be no impact on either LTC–DRG assignments or payments under the LTCH PPS. That is, no new LTC–DRGs will be created or deleted and the relative weights will remain the same.

When we implemented the LTCH PPS, we established that the DRG-based patient classification system for the LTCH PPS would use the same GROUPER software as the IPPS (August 30, 2002, 67 FR 55954). IPPS updates occur each October 1, as set forth in § 412.8(b). In the June 6, 2003 LTCH PPS final rule (68 FR 34125), when we revised the annual rate update for the LTCH PPS to a July 1 through June 30 schedule, we specified that updates of the LTC–DRGs and re-weighting of LTC–DRG weights would remain linked to the IPPS GROUPER update which functions on an October 1 through September 30 schedule. Therefore, under this existing policy, during a LTCH PPS rate year, two versions of the GROUPER software are utilized for purposes of LTC–DRG creation or deletion and relative weight assignment during the LTCH PPS rate year that is established each July 1. The updated LTC–DRG classifications and relative weights in the GROUPER that were finalized on October 1, preceding the beginning of a LTCH rate year on July 1, are in effect with the new Federal rate from July 1 through September 30. On October 1, the updated version of the GROUPER with respect to the LTC–DRG classifications and relative weights will be used from that October 1 through June 30.

The updated DRGs and GROUPER software, used by both the IPPS and the LTCH PPS, are based on the ICD–9–CM codes updated. (The use of the ICD–9–CM codes in this manner is consistent with current usage and the HIPAA regulations.) As noted above, historically, these codes have been published annually in the IPPS proposed rule and final rule. Consistent with historical approaches taken in the IPPS and LTCH PPS, October 1 will continue to be the effective date of revisions to the CMS DRGs and the LTC–DRGs. However, because of the statutory changes under Section 503(a) of the MMA, new ICD–9–CM codes may become effective on both October 1 and April 1. In the past, the new or revised ICD–9–CM codes were not used by the industry for either the IPPS or the LTCH PPS until the beginning of the Federal fiscal year (effective for discharges occurring on or after October 1). Beginning with FY 2005, as we explained above, under the authority of Section 503(a) of the MMA which amends section 1886(d)(5)(K) of the Act, there is the potential for new ICD–9–CM codes to become effective both at the beginning of the Federal fiscal year, October 1, and also on April 1. As we have already noted, a full discussion along with a description of the implementation of this provision, was published in the **Federal Register** in the FY 2005 IPPS final rule (69 FR 48954). We want to emphasize, however, that although it was established that the IPPS GROUPER, which is also used by the LTCH PPS, could be calibrated with respect to ICD–9–CM codes two times each year (October and April), as necessary, to allow the inclusion of new codes reflecting new medical technologies and procedures for patients in acute care hospitals. The inclusion of these new codes in April would not result in the creation or deletion of LTC–DRGs or changes in the relative weights and, therefore, would not affect the DRG assigned by the GROUPER for LTC–DRGs, nor payments under the LTCH PPS.

As noted above, updates to the GROUPER for both the IPPS and the LTCH PPS (with respect to relative weights and the creation or deletion of DRGs) are made in the annual IPPS proposed and final rules and are effective each October 1. We explained in the FY 2005 IPPS final rule (69 FR 48956), that since we do not publish a mid-year IPPS rule, April 1 code updates discussed above will not be published in a mid-year IPPS rule. Rather, we will assign any new diagnostic or procedure codes to the same DRG in which its predecessor code was assigned, so that there will be no impact on the DRG assignment. Any proposed coding updates will be available through the websites indicated in the FY 2005 IPPS final rule (69 FR 48956) and provided below in section III.E.2. of this preamble and through the Coding Clinic for ICD–9–CM. Publishers and software vendors currently obtain code changes through these sources in order to update their code books and software systems. If new codes are implemented on April 1, revised code books and software systems, including the GROUPER software program, will be necessary because we must use current ICD–9–CM codes. Therefore, for purposes of the LTCH PPS, since each ICD–9–CM code must be included in the GROUPER algorithm to classify each case into a LTC–DRG, the GROUPER software program used under the LTCH PPS would need be revised to accommodate any new codes.

As mentioned above, however, an April 1 update of the ICD–9–CM codes would only result in a change to the CMS DRG GROUPER software program effective April 1, so that it will recognize the new technology code and assign it to the appropriate DRG, but will not result in a change to the relative weights used under either the IPPS or the LTCH PPS, respectively. Consistent with our current practice, any changes to the DRGs or relative weights will be made at the beginning of the next Federal fiscal year (October 1).

As specified in the May 7, 2004 LTCH PPS final rule (69 FR 25674) and the FY 2005 IPPS final rule (69 FR 48982), and discussed above, we annually update to the LTCH PPS payment rates effective from July 1 through June 30 each year. As a result, the LTCH PPS currently uses two GROUPER software programs during a LTCH PPS rate year (July 1 through June 30): one GROUPER for 3 months (from July 1 through September 30); and an updated GROUPER for 9 months (from October 1 through June 30). The need to use two GROUPERs was based upon the October 1 effective date of the updated ICD–9–CM coding system. As previously discussed, new ICD–9–CM codes may result in changes to the structure of the DRGs caused by mapping the new codes to existing DRGs. In order for the industry to be on the same schedule (for both the IPPS and the LTCH PPS) for the use of the most current ICD–9–CM codes, it had been necessary for us to apply two

GROUPER programs under the LTCH PPS.

With the potential addition of new codes effective on April 1, the LTCH PPS may now use three GROUPER programs during the LTCH PPS rate year (July 1 through June 30), if new diagnosis and procedure codes are added on April 1. Specifically, one GROUPER (GROUPER 1) would be used for the first 3 months (from July 1 through September 30); a second GROUPER (GROUPER 2) would be used for the next 6 months (from October 1 through March 31); and the third GROUPER (GROUPER 3) would be used for the last 3 months (from April 1 through June 30). The need to use three GROUPER software programs during a single LTCH PPS rate year in the event of an April 1 ICD–9–CM code update is because it is necessary to use the updated ICD–9–CM codes (as explained above) in order to classify each case into a LTC–DRG for payment purposes. The change from GROUPER 1 to GROUPER 2 (on October 1) would coincide with the annual update to the LTC–DRGs and relative weights under § 412.517, which would be effective for that entire Federal fiscal year, just as it has been since we implemented the LTCH PPS. The change from GROUPER 2 to GROUPER 3 (on April 1) would only update the CMS DRG structure by mapping the new code to an existing DRG, and would not result in the addition or deletion of any DRGs nor would it result in a change to the LTC–DRG relative weights. If no new diagnoses or procedure codes are added on April 1, however, there would be no need to update the GROUPER and we would continue to use 2 GROUPERS during the course of a LTCH PPS rate year as is currently done. But even with an April 1 update to the ICD–9–CM codes (and consequently the GROUPER software), only two sets of LTC–DRG relative weights will be used during a LTCH PPS rate year (July 1 through June 30), one set from July 1 though September 30 and a second set from October 1 through June 30, just as we have done since we moved the annual LTCH PPS update to July 1 (effective beginning July 1, 2003).

As we discussed in the FY 2005 IPPS final rule (69 FR 48956), in implementing section 503(a) of the MMA, there will only be an April 1 update if new technology codes are requested and approved. In that same IPPS final rule, we specified that there are no new codes for April 1, 2005 implementation. However, if new codes had been approved for April 1, 2005 implementation, the subsequent changes to the DRG structure (that is, the mapping of the new codes to existing DRGs), but not to FY 2005 LTC–DRG relative weights and, consequently, LTCH PPS payment rates, would have resulted in the use of a third GROUPER during the 2005 LTCH PPS rate year. However, as noted above, since there are no new codes for April 1, 2005 implementation, and the next update to the ICD–9–CM coding system will not occur until October 1, 2005, only two GROUPER software programs will be used during the 2005 LTCH PPS rate year (July 1, 2004 through June 30, 2005): one GROUPER from July 1, 2004 through September 30, 2004, and a second GROUPER from October 1, 2004 through June 30, 2005.

Discharges beginning on or after October 1, 2004 and before October 1, 2005 (Federal FY 2005) are using Version 22.0 of the GROUPER software for both the IPPS and the LTCH PPS. Consistent with our current practice, any changes to the DRGs or relative weights will be made at the beginning of the Federal fiscal year (October 1). We will notify LTCHs of any revised LTC–DRG relative weights based on the final DRGs and the applicable GROUPER version for the IPPS that will be effective October 1, 2005. The proposed changes to the LTC–DRGs and relative weights based on the proposed Version 23.0 GROUPER, which would be effective beginning with discharges occurring on or after October 1, 2005, are discussed in the May 4, 2005 IPPS proposed rule. Furthermore, as discussed above, we would notify LTCHs of any revisions to the CMS GROUPER that would be implemented April 1, 2006.

E. ICD–9–CM Coding System

1. Uniform Hospital Discharge Data Set (UHDDS) Definitions

Because the assignment of a case to a particular LTC–DRG will help determine the amount that will be paid for the case, it is important that the coding is accurate. Classifications and terminology used in the LTCH PPS are consistent with the ICD–9–CM and the UHDDS, as recommended to the Secretary by the National Committee on Vital and Health Statistics (''Uniform Hospital Discharge Data: Minimum Data Set, National Center for Health Statistics, April 1980'') and as revised in 1984 by the Health Information Policy Council (HIPC) of the U.S. Department of Health and Human Services.

We point out that the ICD–9–CM coding terminology and the definitions of principal and other diagnoses of the UHDDS are consistent with the requirements of the HIPAA Administrative Simplification Act of 1996 (45 CFR part 162). Furthermore, the UHDDS has been used as a standard for the development of policies and programs related to hospital discharge statistics by both governmental and nongovernmental sectors for over 30 years. In addition, the following definitions (as described in the 1984 Revision of the UHDDS, approved by the Secretary of Health and Human Services for use starting January 1986) are requirements of the ICD–9–CM coding system, and have been used as a standard for the development of the CMS–DRGs:

- Diagnoses are defined to include all diagnoses that affect the current hospital stay.
- Principal diagnosis is defined as the condition established after study to be chiefly responsible for occasioning the admission of the patient to the hospital for care.
- Other diagnoses (also called secondary diagnoses or additional diagnoses) are defined as all conditions that coexist at the time of admission, that develop subsequently, or that affect the treatment received or the length of stay or both. Diagnoses that relate to an earlier episode of care that have no bearing on the current hospital stay are excluded.
- All procedures performed will be reported. This includes those that are surgical in nature, carry a procedural risk, carry an anesthetic risk, or require specialized training.

We provide LTCHs with a 60-day window after the date of the notice of the initial LTC–DRG assignment to request review of that assignment. Additional information may be provided by the LTCH to the fiscal intermediary as part of that review.

2. Maintenance of the ICD–9–CM Coding System

The ICD–9–CM Coordination and Maintenance (C&M) Committee is a Federal interdepartmental committee, co-chaired by the National Center for Health Statistics (NCHS) and CMS, that is, charged with maintaining and updating the ICD–9–CM system. The C&M Committee is jointly responsible for approving coding changes, and developing errata, addenda, and other modifications to the ICD–9–CM to reflect newly developed procedures and technologies and newly identified diseases. The C&M Committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and

upgrading the quality of the classification system.

The NCHS has lead responsibility for the ICD–9–CM diagnosis codes included in the Tabular List and Alphabetic Index for Diseases, while CMS has lead responsibility for the ICD–9–CM procedure codes included in the Tabular List and Alphabetic Index for Procedures.

The C&M Committee encourages participation by health-related organizations in the above process and holds public meetings for discussion of educational issues and proposed coding changes twice a year at the CMS Central Office located in Baltimore, Maryland. The agenda and dates of the meetings can be accessed on our Web site at: *http://www.cms.gov/paymentsystems/icd9.*

As discussed above, section 503(a) of the MMA includes a requirement for updating ICD–9–CM codes twice a year instead of the current process of annual updates on October 1 of each year. This requirement will improve the recognition of new technologies under the IPPS by accounting for them in the GROUPER software at an earlier date. Because this new statutory requirement could have a significant impact on health care providers, coding staff, publishers, system maintainers, and software systems, among others, we solicited comments on our proposed provisions to implement this requirement as part of the FY 2005 IPPS proposed rule (69 FR 28220). We responded to comments and published our new policy regarding the updating of ICD–9–CM codes in the FY 2005 IPPS final rule (69 FR 48954–48957).

While this new requirement states that the Secretary shall not adjust the payment of the DRG classification for any codes created for use on April 1, DRG software and other systems will have to be updated in order to recognize and accept the new codes. Because, as discussed above, the LTC–DRGs are the same DRGs used under the IPPS, this means that the Medicare GROUPER software program used under both the IPPS and the LTCH PPS would need to be revised to reflect ICD–9–CM codes, if any coding changes were implemented on April 1. Furthermore, although the CMS GROUPER software used under both the IPPS and the LTCH PPS would need to be revised to accommodate the new codes effective April 1, there would be no additions or deletions of DRGs nor would the relative weights used under the IPPS and the LTCH PPS, respectively, be changed until the annual update October 1 (to the extent that those changes are warranted), just as they have been historically updated. As the LTCH PPS is based on the IPPS, we will adopt the same approach used under the IPPS for potential April 1 ICD–9–CM coding changes. That is, we will assign any new diagnosis codes or procedure codes to the same DRG in which its predecessor code was assigned, so there will be no DRG impact in terms of potential DRG assignment until the following October 1. We will maintain the current method of publicizing any new code changes, as noted below. Current addendum and code title information is published on the CMS Web page at: *http://www.cms.hhs.gov/paymentsystem/icd9.* Summary tables showing new, revised, and deleted code titles are also posted on the following CMS Web page: *http://www.cms.hhs.gov/medlearn/icd9code.asp.* Information on ICD–9–CM diagnosis codes can be found at *http://www.cdc.gov/nchs/icd9.htm.* Information on new, revised, and deleted ICD–9–CM codes is also available in the AHA publication Coding Clinic for ICD–9–CM. AHA also distributes information to publishers and software vendors. We also send copies of all ICD–9–CM coding changes to our contractors for use in updating their systems and providing education to providers.

If the April 1 changes are made to ICD–9–CM diagnosis or procedure codes, LTCHs will be required to obtain the new codes, coding books, or encoder updates, and make other system changes in order to capture and report the new codes. We indicated in the IPPS final rule that we were aware of the additional burden this will have on health care providers.

It should be noted that any new codes created for April 1 implementation will be limited to those diagnosis and procedure code revisions primarily needed to describe new technologies and medical services. However, we reiterate that the process for discussing updates to the ICD–9–CM has been an open process through the ICD–9–CM C&M Committee since 1995. Any requestor who makes a clear and convincing case for the need to update ICD–9–CM codes for purposes of the IPPS new technology add-on payment process through an April 1 update will be given the opportunity to present the merits of their proposed new code.

To reiterate, at the October 2004 C&M Committee meeting, no new codes were proposed for update on April 1, 2005. While no DRG additions or deletions or changes to relative weights will occur prior to the usual October 1 update, in the event any new codes had been created to describe new technologies and medical services through an April 1, 2005 update, under our policy, LTCH systems would have been expected to recognize and report those new codes through the channels as described above in this section.

As discussed above, the ICD–9–CM coding changes that have been adopted by the C&M Committee could become effective either at the beginning of each Federal fiscal year, October 1, or, in the case of codes created to capture new technology, April 1 of each year. Coders will be expected to use the most current updated ICD–9–CM codes, as updated. Because we do not publish a mid-year IPPS rule, the currently accepted avenues of information dissemination will be used to inform all ICD–9–CM code users of any changes to the coding system. These avenues were described above in section IV.D. of this preamble and have been discussed at length in the FY 2005 IPPS final rule (69 FR 48956). Coders in LTCHs using the updated ICD–9–CM coding system will be on the same schedule as the rest of the health care industry. In the past, the updated ICD–9–CM was not available for use until October 1 of each year.

Therefore, because the LTCH PPS and the IPPS uses the identical GROUPER software, the LTCH PPS will be directly affected by the statutory mandates directed at the IPPS, published in section 503(a) of the MMA. (We note that there is no statutory requirement in the LTCH PPS to make additional payments for new technology.) The practical effect of this provision is that the GROUPER software must accept new ICD–9 codes reflecting the incorporation of new technologies into inpatient treatment at an acute care hospital prior to the scheduled annual update of the GROUPER software. While DRG assignments would not change from October 1 through September 30, it is possible that there could be additional new ICD–9–CM diagnosis and procedure codes during that time, which would be assigned to predecessor DRGs (as described above). For both the IPPS and LTCH coders, it is possible that there will be ICD–9–CM codes in effect from October 1 through March 31, with additional ICD–9–CM codes in effect from April 1 through September 30. Presently, as there were no coding changes suggested for an April 1, 2005 update, the ICD–9–CM coding set implemented on October 1, 2004 will continue through September 30, 2005 (FY 2005).

Of particular note to LTCHs are the invalid diagnosis codes (Table 6C) and the invalid procedure codes (Table 6D) located in the annual proposed and final rules for the IPPS. Claims with invalid

codes are not processed by the Medicare claims processing system.

3. Coding Rules and Use of ICD–9–CM Codes in LTCHs

We emphasize the need for proper coding by LTCHs. Inappropriate coding of cases can adversely affect the uniformity of cases in each LTC–DRG and produce inappropriate weighting factors at recalibration. We continue to urge LTCHs to focus on improved coding practices. Because of concerns raised by LTCHs concerning correct coding, we have asked the American Hospital Association (AHA) to provide additional clarification or instruction on proper coding in the LTCH setting. The AHA will provide this instruction via their established process of addressing questions through their publication ''Coding Clinic for ICD–9–CM.'' Written questions or requests for clarification may be addressed to the Central Office on ICD–9–CM, American Hospital Association, One North Franklin, Chicago, IL 60606. A form for the question(s) is available to be downloaded and mailed on AHA's Web site at: *http://www.ahacentraloffice.org.* In addition, current coding guidelines are available at the National Center for Health Statistics (NCHS) Web site: *http://www.cdc.gov/nchs.icd9.htm.*

In conjunction with the cooperating parties (AHA, the American Health Information Management Association (AHIMA), and NCHS), we reviewed actual medical records and are concerned about the quality of the documentation under the LTCH PPS, as was the case at the beginning of the IPPS. We fully believe that, with experience, the quality of the documentation and coding will improve, just as it did for the IPPS. As noted above, the cooperating parties have plans to assist their members with improvement in documentation and coding issues for the LTCHs through specific questions and coding guidelines. The importance of good documentation is emphasized in the revised ICD–9–CM Official Guidelines for Coding and Reporting: ''A joint effort between the attending physician and coder is essential to achieve complete and accurate documentation, code assignment, and reporting of diagnoses and procedures. The importance of consistent, complete documentation in the medical record cannot be overemphasized. Without such documentation, the application of all coding guidelines is a difficult, if not impossible, task.'' (Coding Clinic for ICD–9–CM, Fourth Quarter 2002, page 115.)

To improve medical record documentation, LTCHs should be aware that if the patient is being admitted for continuation of treatment of an acute or chronic condition, guidelines at Section I.B.10 of the Coding Clinic for ICD–9–CM, Fourth Quarter 2002 (page 129) are applicable concerning selection of principal diagnosis. To clarify coding advice issued in the August 30, 2002 final rule (67 FR 55979), we would like to point out that at Guideline I.B.12, Late Effects, a late effect is considered to be the residual effect (condition produced) after the acute phase of an illness or injury has terminated (Coding Clinic for ICD–9–CM, Fourth Quarter 2002, page 129). Regarding whether a LTCH should report the ICD–9–CM code(s) for an unresolved acute condition instead of the code(s) for late effect of rehabilitation, we emphasize that each case must be evaluated on its unique circumstances and coded appropriately. Depending on the documentation in the medical record, either a code reflecting the acute condition or rehabilitation could be appropriate in a LTCH.

Since implementation of the LTCH PPS, our Medicare fiscal intermediaries have been conducting training and providing assistance to LTCHs in correct coding. We have also issued manuals containing procedures as well as coding instructions to LTCHs and fiscal intermediaries. We will continue to conduct such training and provide guidance on an as-needed basis. We also refer readers to the detailed discussion on correct coding practices in the August 30, 2002 LTCH PPS final rule (67 FR 55979). Additional coding instructions and examples will be published in Coding Clinic for ICD–9–CM.

F. Method for Updating the LTC–DRG Relative Weights

As discussed in the May 7, 2004 LTCH PPS final rule (68 FR 25681), under the LTCH PPS, each LTCH will receive a payment that represents an appropriate amount for the efficient delivery of care to Medicare patients. The system must be able to account adequately for each LTCH's case-mix in order to ensure both fair distribution of Medicare payments and access to adequate care for those Medicare patients whose care is more costly. Therefore, in accordance with § 412.523(c), we adjust the standard Federal PPS rate by the LTC–DRG relative weights in determining payment to LTCHs for each case.

Under this payment system, relative weights for each LTC–DRG are a primary element used to account for the variations in cost per discharge and resource utilization among the payment groups (§ 412.515). To ensure that Medicare patients who are classified to each LTC–DRG have access to an appropriate level of services and to encourage efficiency, we calculate a relative weight for each LTC-DRG that represents the resources needed by an average inpatient LTCH case in that LTC–DRG. For example, cases in a LTC–DRG with a relative weight of 2 will, on average, cost twice as much as cases in a LTC–DRG with a weight of 1.

As we discussed in the FY 2005 IPPS final rule (69 FR 48982), the LTC–DRG relative weights effective under the LTCH PPS for Federal FY 2005 were calculated using the March 2004 update of FY 2003 MedPAR data and Version 22.0 of the CMS GROUPER software. We use total days and total charges in the calculation of the LTC–DRG relative weights.

By nature, LTCHs often specialize in certain areas, such as ventilator-dependent patients and rehabilitation and wound care. Some case types (DRGs) may be treated, to a large extent, in hospitals that have, from a perspective of charges, relatively high (or low) charges. Distribution of cases with relatively high (or low) charges in specific LTC–DRGs has the potential to inappropriately distort the measure of average charges. To account for the fact that cases may not be randomly distributed across LTCHs, we use a hospital-specific relative value method to calculate relative weights. We believe this method removes this hospital-specific source of bias in measuring average charges. Specifically, we reduce the impact of the variation in charges across providers on any particular LTC–DRG relative weight by converting each LTCH's charge for a case to a relative value based on that LTCH's average charge. (See the FY 2005 IPPS final rule (69 FR 48984) for further information on the hospital-specific relative value methodology.)

In order to account for LTC–DRGs with low volume (that is, with fewer than 25 LTCH cases), we grouped those low volume LTC–DRGs into one of five categories (quintiles) based on average charges, for the purposes of determining relative weights. For FY 2005 based on the FY 2003 MedPAR data, we identified 172 LTC–DRGs that contained between 1 and 24 cases. This list of low volume LTC–DRGs was then divided into one of the five low volume quintiles, each containing a minimum of 34 LTC–DRGs (172/5 = 34 with 2 LTC–DRG as a remainder). Each of the low volume LTC–DRGs grouped to a specific quintile received the same relative

weight and average length of stay using the formula applied to the regular LTC–DRGs (25 or more cases), as described below. (See the FY 2005 IPPS final rule (69 FR 48988–48989) for further explanation of the development and composition of each of the five low volume quintiles for FY 2005.)

After grouping the cases in the appropriate LTC–DRG, we calculated the relative weights by first removing statistical outliers and cases with a length of stay of 7 days or less. Next, we adjusted the number of cases in each LTC–DRG for the effect of short-stay outlier cases under § 412.529. The short-stay adjusted discharges and corresponding charges were used to calculate ''relative adjusted weights'' in each LTC–DRG using the hospital-specific relative value method described above. (See the FY 2005 IPPS final rule (69 FR 48989) for further details on the steps for calculating the LTC–DRG relative weights.)

We also adjusted the LTC–DRG relative weights to account for nonmonotonically increasing relative weights. That is, we made an adjustment if cases classified to the LTC–DRG ''with comorbidities (CCs)'' of a ''with CC''/''without CC'' pair had a lower average charge than the corresponding LTC–DRG ''without CCs'' by assigning the same weight to both LTC–DRGs in the ''with CC''/''without CC'' pair. (See FY 2005 IPPS final rule, 69 FR 48991–48992.) In addition, of the 520 LTC–DRGs in the LTCH PPS for FY 2005, based on the FY 2003 MedPAR data, we identified 171 LTC–DRGs for which there were no LTCH cases in the database. That is, no patients who would have been classified to those DRGs were treated in LTCHs during FY 2003 and, therefore, no charge data were reported for those DRGs. Thus, in the process of determining the relative weights of LTC–DRGs, we were unable to determine weights for these 171 LTC–DRGs using the method described above. However, since patients with a number of the diagnoses under these LTC–DRGs may be treated at LTCHs beginning in FY 2005, we assigned relative weights to each of the 171 ''no volume'' LTC–DRGs based on clinical similarity and relative costliness to one of the remaining 349 (520 − 171 = 349) LTC–DRGs for which we were able to determine relative weights, based on the FY 2003 claims data. (A list of the current no-volume LTC–DRGs and further explanation of their FY 2005 relative weight assignment can be found in the FY 2005 IPPS final rule (69 FR 48992–48999).)

Furthermore, for FY 2005, we established LTC–DRG relative weights of 0.0000 for heart, kidney, liver, lung, and simultaneous pancreas/kidney transplants (LTC–DRGs 103, 302, 480, 495, 512 and 513, respectively) because Medicare will only cover these procedures if they are performed at a hospital that has been certified for the specific procedures by Medicare and presently no LTCH has been so certified. If in the future, however, a LTCH applies for certification as a Medicare-approved transplant center, we believe that the application and approval procedure would allow sufficient time for us to propose appropriate weights for the LTC–DRGs affected. At the present time, though, we included these six transplant LTC–DRGs in the GROUPER program for administrative purposes. As the LTCH PPS uses the same GROUPER program for LTCHs as is used under the IPPS, removing these DRGs would be administratively burdensome.

As we stated in the FY 2005 IPPS final rule, we will continue to use the same LTC–DRGs and relative weights for FY 2005 until October 1, 2005. Accordingly, Table 3 in the Addendum to this final rule lists the LTC–DRGs and their respective relative weights and arithmetic mean length of stay that we will continue to use for the period of July 1, 2005 through September 30, 2005. (This table is the same as Table 11 of the Addendum to the FY 2005 IPPS final rule (69 FR 49738–49754), including the revisions to Table 11 published in the October 7, 2004 correction notice (69 FR 60267–60271)). As we noted above, the next proposed update to the ICD–9–CM coding system is presented in the May 4, 2005 FY 2006 IPPS proposed rule (since there were no April 1 updates to the ICD–9–CM coding system). The final update to the ICD–9–CM coding system that will be effective beginning October 1, 2005, and the final DRGs and GROUPER for FY 2006 that will be used for the IPPS and the LTCH PPS, effective October 1, 2005, will be presented in the IPPS FY 2006 proposed and final rule in the **Federal Register**. The final LTC–DRG relative weights that will be established in the FY 2006 IPPS final rule will be used in determining payments for discharges occurring between October 1, 2005 and September 30, 2006 (We note that if there is an April 1, 2006 update to the ICD–9–CM coding system, there will be a change in the GROUPER software effective April 1, 2006; however, there would be no change to the LTC–DRG relative weights, as discussed above).

V. Changes to the LTCH PPS Rates and Changes in Policy for the 2006 LTCH PPS Rate Year

A. Overview of the Development of the Payment Rates

The LTCH PPS was effective for a LTCH's first cost reporting period beginning on or after October 1, 2002. Effective with that cost reporting period, LTCHs are paid, during a 5-year transition period, on the basis of an increasing proportion of the LTCH PPS Federal rate and a decreasing proportion of a hospital's payment under reasonable cost-based payment system, unless the hospital makes a one-time election to receive payment based on 100 percent of the Federal rate (see § 412.533). New LTCHs (as defined at § 412.23(e)(4)) are paid based on 100 percent of the Federal rate, with no phase-in transition payments.

The basic methodology for determining LTCH PPS Federal prospective payment rates is set forth in the regulations at § 412.515 through § 412.532. Below we discuss the factors that will be used to update the LTCH PPS standard Federal rate for the 2006 LTCH PPS rate year that will be effective for LTCHs discharges occurring on or after July 1, 2005 through June 30, 2006. When we implemented the LTCH PPS in the August 30, 2002 LTCH PPS final rule (67 FR 56029), we computed the LTCH PPS standard Federal payment rate for FY 2003 by updating the best available (FY 1998 or FY 1999) Medicare inpatient operating and capital costs per case data, using the excluded hospital market basket.

Section 123(a)(1) of the BBRA requires that the PPS developed for LTCHs be budget neutral. Therefore, in calculating the standard Federal rate under § 412.523(d)(2), we set total estimated LTCH PPS payments equal to estimated payments that would have been made under the reasonable cost-based payment methodology had the PPS for LTCHs not been implemented. Section 307(a) of the BIPA specified that the increases to the hospital-specific target amounts and cap on the target amounts for LTCHs for FY 2002 provided for by section 307(a)(1) of BIPA shall not be taken into account in the development and implementation of the LTCH PPS.

Furthermore, as specified at § 412.523(d)(1), the standard Federal rate is reduced by an adjustment factor to account for the estimated proportion of outlier payments under the LTCH PPS to total estimated LTCH PPS payments (8 percent). For further details on the development of the FY 2003 standard Federal rate, see the August 30,

2002 LTCH PPS final rule (67 FR 56027), for the 2004 LTCH PPS rate year rate, see the June 6, 2003 final rule (68 FR 34122–34190), and for the 2005 LTCH PPS rate year rate, see the May 7, 2004 LTCH PPS final rule (69 FR 25674–25748). Under the existing regulations at § 412.523(c)(3)(ii), we update the standard Federal rate annually to adjust for the most recent estimate of the projected increases in prices for LTCH inpatient hospital services.

B. Update to the Standard Federal Rate for the 2006 LTCH PPS Rate Year

As established in the May 7, 2004 LTCH PPS final rule (69 FR 25683), based on the most recent estimate of the excluded hospital with capital market basket, adjusted to account for the change in the LTCH PPS rate year update cycle, the current LTCH PPS standard Federal rate which is effective from July 1, 2004 through June 30, 2005 (the 2005 LTCH PPS rate year), is $36,833.69.

In the discussion that follows, we explain how we developed the standard Federal rate for the 2006 LTCH PPS rate year. The standard Federal rate for the 2006 LTCH PPS rate year will be calculated based on the update factor of 1.034. Thus, the standard Federal rate for the 2006 LTCH PPS rate year will increase 3.4 percent compared to the 2005 LTCH PPS rate year standard Federal rate due to the final update to the LTCH PPS Federal rate established in this final rule.

1. Standard Federal Rate Update

Under § 412.523, the annual update to the LTCH PPS standard Federal rate must be equal to the percentage change in the excluded hospital with capital market basket. As we discussed in the August 30, 2002 LTCH PPS final rule (67 FR 56087), in the future we may propose to develop a framework to update payments to LTCHs that would account for other appropriate factors that affect the efficient delivery of services and care provided to Medicare patients. As we discussed in the February 3, 2005 proposed rule (70 FR 5735), we have not yet collected sufficient data to allow for the analysis and development of an update framework under the LTCH PPS because the LTCH PPS has only been implemented for slightly more than 2 years (that is, for cost reporting periods beginning on or after October 1, 2002). Therefore, we did not address an update framework for the 2006 LTCH PPS rate year in that same proposed rule or in this final rule. However, we note that a conceptual basis for the proposal of developing an update framework in the future can be found in Appendix B of the August 30, 2002 LTCH PPS final rule (67 FR 56086).

a. Description of the Market Basket for LTCHs for the 2006 LTCH PPS Rate Year

A market basket has historically been used in the Medicare program to account for price increases of the services furnished by providers. The market basket used for the LTCH PPS includes both operating and capital-related costs of LTCHs because the LTCH PPS uses a single payment rate for both operating and capital-related costs. The development of the LTCH PPS standard Federal rate is discussed in further detail in the August 30, 2002 LTCH PPS final rule (67 FR 56027).

Under the reasonable cost-based payment system, the excluded hospital market basket was used to update the hospital-specific limits on payment for operating costs of LTCHs. Currently, the excluded hospital market basket is based on operating costs from cost report data from FY 1997 and includes data from Medicare-participating long-term care, rehabilitation, psychiatric, cancer, and children's hospitals. Since the costs of LTCH are included in the excluded hospital market basket, this market basket index, in part, also reflects the costs of LTCHs. However, in order to capture the total costs (operating and capital-related) of LTCHs, we added a capital component to the excluded hospital market basket for use under the LTCH PPS. We refer to this index as the excluded hospital with capital market basket.

As we discussed in the August 30, 2002 LTCH PPS final rule (67 FR 56016 and 56086), beginning with the implementation of the LTCH PPS in FY 2003, the excluded hospital with capital market basket, based on FY 1992 Medicare cost report data, has been used for updating payments to LTCHs. In the May 7, 2004 LTCH PPS final rule (69 FR 25683), we revised and rebased the excluded hospital with capital market basket, using more recent data, that is, using FY 1997 base year data beginning with the 2004 LTCH PPS rate year. (For further details on the development of the FY 1997-based LTCH PPS market basket, see the May 7, 2004 LTCH PPS final rule (69 FR 25683)).

In the August 30, 2002 LTCH PPS final rule (67 FR 56016 and 56085–56086), we discussed why we believe the excluded hospital with capital market basket provides a reasonable measure of the price changes facing LTCHs. In the May 7, 2004 LTCH PPS final rule (69 FR 25682–25683), we discussed our research into the feasibility of developing a market basket specific to LTCH services. However, based on this research, we did not develop a market basket specific to LTCH services. In that same final rule, we explained why we continue to believe that the excluded hospital with capital market basket is the appropriate market basket for the LTCH PPS.

As we explained in the February 3, 2005 proposed rule (70 FR 5737), for the reasons discussed in those final rules (August 30, 2002 and May 7, 2004), we continue to believe that an excluded hospital with capital market basket adequately reflects the price changes facing LTCHs. We considered whether we would propose the use of a new ''Rehabilitation, Psychiatric and Long-Term Care (RPL) market basket'' instead of the existing excluded hospital with capital market basket for IRFs, IPFs, and LTCHs. The RPL market basket would have been based on the operating and capital costs of IRFs, IPFs, and LTCHs, which are almost all paid under a prospective payment systems. (We note that not all IPFs have begun to be paid under the IPF PPS yet because it was implemented for cost reporting periods beginning on or after January 1, 2005.) Because the development of the RPL market basket was not completed in time for us to consider proposing its use for the proposed 2006 LTCH PPS rate year update, we were unable to discuss it in the February 3, 2005 LTCH PPS proposed rule, and, therefore, we proposed to continue to use the excluded hospital with capital market basket. Thus, in that same proposed rule (70 FR 5737), we did not propose to revise the market basket used under the LTCH PPS because, as we explain above, we believe that the excluded hospital with capital market basket was the most appropriate market basket available at that time to use in determining the proposed update to the Federal rate for the 2006 LTCH PPS rate year.

Therefore, although we are considering the development of the RPL market basket because we did not propose to use the RPL market basket under the LTCH PPS for the 2006 LTCH PPS rate year, we are not discussing its use under the LTCH PPS for the 2006 rate year in this final rule. We will consider proposing the use of the RPL market basket under the LTCH PPS in the future and will analyze its applicability for the LTCH PPS. We intend to present our analyses in the 2007 LTCH PPS rate year proposed rule. Any future revisions to the LTCH PPS market basket will be proposed and subject to public comment.

We received no comments on our continued use of the FY 1997-based excluded hospital with capital market basket under the LTCH PPS. Accordingly, in this final rule, we will continue to use the FY 1997-based excluded hospital with capital market basket as the LTCH PPS market basket for determining the update to the LTCH PPS standard Federal rate for the 2006 LTCH PPS rate year. Even though we did not receive any comments on our continued use of the FY 1997-based excluded hospital with capital market basket under the LTCH PPS, in future proposed rules, we will continue to solicit comments about issues particular to LTCHs that should be considered in relation to the appropriate market basket to use under the LTCH PPS and to encourage suggestions for additional data sources that may be available.

b. LTCH Market Basket Increase for the 2006 LTCH Rate Year

As we discussed in the May 7, 2004 LTCH PPS final rule (69 FR 25683), for the update to the 2005 LTCH PPS rate year, we calculated the estimated increase between the 2004 LTCH PPS rate year (July 1, 2003 through June 30, 2004) and the 2005 LTCH PPS rate year (July 1, 2004 through June 30, 2005) based on Global Insight's forecast of the revised and rebased FY 1997-based excluded hospital with capital market basket using data available through the fourth quarter of 2003. The market basket for the 2005 LTCH PPS rate year was 3.1 percent (69 FR 25683).

Consistent with our historical practice of estimating market basket increases based on Global Insight's forecast of the FY 1997-based excluded hospital with capital market basket, in the February 3, 2005 proposed rule (70 FR 5735), we proposed a 3.1 percent update to the Federal rate based on the most recent available data at that time (that is, data through the third quarter of 2004). Global Insights, Inc. is a nationally recognized economic and financial forecasting firm that contracts with CMS to forecast components of the market basket. In this final rule, consistent with our historical practice of estimating market basket increases based on Global Insight's forecast of the FY 1997-based excluded hospital with capital market basket, using more recent data through the first quarter of 2005, we are using a 3.4 percent update to the Federal rate for the 2006 LTCH PPS rate year. In accordance with § 412.523, this update will represent the most recent estimate of the increase in the excluded hospital with capital market basket for the 2006 LTCH PPS rate year.

2. Standard Federal Rate for the 2006 LTCH PPS Rate Year

In the May 7, 2004 LTCH PPS final rule (69 FR 25683), we established a standard Federal rate of $36,833.69 for the 2005 LTCH PPS rate year that was based on the best available data and policies established in that final rule. In the February 3, 2005 proposed rule (70 FR 5736), we proposed a standard Federal rate of $37,975.53 for the 2006 LTCH PPS rate year based on a proposed market basket update of 3.1 percent. Since the proposed standard Federal rate for the 2006 LTCH PPS rate year had already been adjusted for differences in case-mix, wages, cost-of-living, and high-cost outlier payments, we did not propose to make any additional adjustments in the standard Federal rate for those factors.

In this final rule, in accordance with § 412.523, we are establishing a standard Federal rate of $38,086.04 based on the most recent estimate of the LTCH PPS market basket of 3.4 percent. Since the standard Federal rate for the 2006 LTCH PPS rate year has already been adjusted for differences in case-mix, wages, cost-of-living, and high-cost outlier payments, we did not make any additional adjustments in the standard Federal rate for these factors.

C. Calculation of LTCH Prospective Payments for the 2006 LTCH PPS Rate Year

The basic methodology for determining prospective payment rates for LTCH inpatient operating and capital-related costs is set forth in § 412.515 through § 412.532. In accordance with § 412.515, we assign appropriate weighting factors to each LTC–DRG to reflect the estimated relative cost of hospital resources used for discharges within that group as compared to discharges classified within other groups. The amount of the prospective payment is based on the standard Federal rate, established under § 412.523, and adjusted for the LTC–DRG relative weights, differences in area wage levels, cost-of-living in Alaska and Hawaii, high-cost outliers, and other special payment provisions (short-stay outliers under § 412.529 and interrupted stays under § 412.531).

In accordance with § 412.533, during the 5-year transition period, payment is based on the applicable transition blend percentage of the adjusted Federal rate and the reasonable cost-based payment rate unless the LTCH makes a one-time election to receive payment based on 100 percent of the Federal rate. A LTCH defined as ''new'' under § 412.23(e)(4) is paid based on 100 percent of the Federal rate with no blended transition payments (§ 412.533(d)). As discussed in the August 30, 2002 final rule (67 FR 56038), and in accordance with § 412.533(a), the applicable transition blends are as follows:

Cost reporting periods beginning on or after	Federal rate percentage	Reasonable cost-based payment rate percentage
October 1, 2002	20	80
October 1, 2003	40	60
October 1, 2004	60	40
October 1, 2005	80	20
October 1, 2006	100	0

Accordingly, for cost reporting periods beginning during FY 2005 (that is, on or after October 1, 2004, and before September 30, 2005), blended payments under the transition methodology are based on 40 percent of the LTCH's reasonable cost-based payment rate and 60 percent of the adjusted LTCH PPS Federal rate. For cost reporting periods that begin during FY 2006 (that is, on or after October 1, 2005 and before September 30, 2006), blended payments under the transition methodology will be based on 20 percent of the LTCH's reasonable cost-based payment rate and 80 percent of the adjusted LTCH PPS Federal rate.

1. Adjustment for Area Wage Levels

a. Background

Under the authority of section 307(b) of the BBA, we established an adjustment to the LTCH PPS Federal rate to account for differences in LTCH area wage levels at § 412.525(c). The labor-related share of the LTCH PPS Federal rate, estimated by the excluded

hospital with capital market basket, is adjusted to account for geographic differences in area wage levels by applying the applicable LTCH PPS wage index. The applicable LTCH PPS wage index is computed using wage data from inpatient acute care hospitals without regard to reclassification under section 1886(d)(8) or section 1886(d)(10) of the Act. Furthermore, as we discussed in the August 30, 2002 LTCH PPS final rule (67 FR 56015), we established a 5-year transition to the full wage adjustment. The applicable wage index phase-in percentages are based on the start of a LTCH's cost reporting period as shown in the following table:

Cost reporting periods beginning on or after	Phase-in percentage of the full wage index
October 1, 2002	1/5th (20)
October 1, 2003	2/5ths (40)
October 1, 2004	3/5ths (60)
October 1, 2005	4/5ths (80)
October 1, 2006	5/5ths (100)

For example, for cost reporting periods beginning on or after October 1, 2004 and on or before September 30, 2005 (FY 2005), the applicable LTCH wage index value is three-fifths of the applicable full LTCH PPS wage index value. Similarly, for cost reporting periods beginning on or after October 1, 2005 and on or before September 30, 2006 (FY 2006), the applicable LTCH wage index value will be four-fifths of the applicable full LTCH PPS wage index value. As we established in the August 30, 2002 LTCH PPS final rule (67 FR 56018), the applicable full LTCH PPS wage index value is calculated from acute-care hospital inpatient wage index data without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act.

In that same final rule (67 FR 56018), we stated that we would continue to reevaluate LTCH data as they become available and would propose to adjust the phase-in if subsequent data support a change. As we discussed in the February 3, 2005 proposed rule (70 FR 5736), because the LTCH PPS has only been recently implemented (slightly over 2 years) and because of the lag time in availability of cost report data, sufficient new data have not been generated that would enable us to conduct a comprehensive reevaluation of the appropriateness of adjusting the phase-in. However, as we discussed in that same proposed rule, we have reviewed the most recent cost report and claims data (FY 2001–FY 2003) available and did not find any evidence to support a change in the 5-year phase-in of the wage index. Specifically, our statistical analysis still does not show a significant relationship between LTCHs' costs and their geographic location. Accordingly, in the February 3, 2005 proposed rule, we did not propose a change in the phase-in of the adjustment for area wage levels under § 412.525(c).

Comment: One commenter urges us to immediately implement 100 percent area wage index adjustment instead of the existing five-year phase-in of the wage index adjustment.

Response: As noted above, we have reevaluated our wage-index phase-in policy and for the 2006 LTCH PPS rate year, we will not be implementing a full wage index adjustment for LTCHs. In the August 30, 2002 LTCH PPS final rule in which we described our determinations regarding the inclusion of various payment adjustments in the new LTCH PPS, we included a highly detailed description of the full range of data analyses and reasoning upon which we based our decision to include a 5-year phase-in to a full wage-index adjustment for the LTCH PPS (67 FR 55954 and 56015–56019). As we discussed in greater detail in that same final rule (67 FR 56018), ''the limitations in the current data from LTCHs and we noted that although ''* * * the statistical analysis did not show a significant relationship between LTCHs' costs and their geographic location, we believe that it is appropriate to include some adjustment for area wages.'' We also explained that the conceptual reasons for having a wage index adjustment support transitioning to a wage adjustment despite the data problems and issues with the regression analyis. Accordingly, we adopted the suggestion of one of our commenters and established a 5-year phase-in for the area-wage adjustment with an assurance to revisit relevant data as it became available and that we would propose to adjust the phase-in if subsequent data support a change. As we discussed in the May 7, 2004 LTCH PPS final rule (69 FR 25684), because the LTCH PPS has only been recently implemented (slightly over 2 years) and because of the lag time in availability of cost report data, sufficient new data have not been generated that would enable us to conduct a comprehensive reevaluation of the appropriateness of adjusting the phase-in. In the August 30, 2002 LTCH PPS final rule (67 FR 56018), we stated that we would continue to reevaluate LTCH data as they become available and would propose to adjust the phase-in if subsequent data support a change. As we noted above and as we discussed in the February 3, proposed rule, upon review of the most recent data (FY 2001–FY 2003), we did not find any evidence to support a change in the 5-year phase-in of the wage index. Specifically, our statistical analysis still does not show a significant relationship between LTCHs' costs and their geographic location that would justify a full 100 percent implementation of an area wage index adjustment for LTCHs. Therefore, at this time, we are not adjusting the phase-in of the wage index adjustment in this final rule. The 5-year phase-in of the wage index adjustment will continue as shown in the table above (as we established in the August 30, 2002 final rule (67 FR 56015)).

Finally, we note that section 505 of the MMA established new section 1886(d)(13) of the Act, which requires that the Secretary establish a process to make adjustments to the hospital wage index based on commuting patterns of hospital employees. We believe that this requirement for an ''out-commuting'' or ''out-migration'' adjustment applies specifically to the acute care hospitals paid under the IPPS. Therefore, we did not propose such an adjustment under the LTCH PPS in the February 3, 2005 proposed rule, nor are we establishing such an adjustment under the LTCH PPS in this final rule.

b. Labor-Related Share

In the August 30, 2002 LTCH PPS final rule (67 FR 56016), we established a labor-related share of 72.885 percent based on the relative importance of the labor-related share of operating costs (wages and salaries, employee benefits, professional fees, postal services, and all other labor-intensive services) and capital costs of the excluded hospital with capital market basket based on FY 1992 data. In the March 7, 2003 proposed rule (68 FR 11249), in conjunction with our revision and rebasing of the excluded hospital with capital market basket from a FY 1992 to a FY 1997 base year, we discussed revising the labor-related share based on the relative importance of the labor-related share of operating and capital costs of the excluded hospital with capital market basket based on FY 1997 data. However, in the June 6, 2003 final rule (68 FR 34142), while we adopted the revised and rebased FY 1997-based LTCH PPS market basket as the LTCH PPS update factor for the 2004 LTCH PPS rate year, we decided not to update the labor-related share under the LTCH PPS pending further analysis of the current labor share methodology.

In the August 1, 2002 IPPS final rule, we did not update the IPPS or excluded hospital labor-related shares for FY 2003 (67 FR 50041), and we discussed our research into the appropriateness of this

policy. Specifically, we discussed the methods that we were reviewing for establishing the labor-related share and our intention to continue to explore all options for alternative data and a methodology for determining the labor-related share. We also stated that we would propose to update the IPPS and excluded hospital labor-related shares, if necessary, once our research is complete.

As we discussed in greater detail in the May 7, 2004 LTCH PPS final rule (69 FR 25685), the LTCH PPS was modeled after the IPPS for short-term, acute care hospitals. Specifically, the LTCH PPS uses the same patient classification system (that is, the DRGs) as the IPPS, and many of the case-level and facility-level adjustments explored or adopted for the LTCH PPS are payment adjustments under the IPPS (69 FR 25686). In fact, LTCHs are certified as acute care hospitals to participate as a hospital in the Medicare program, and in general, qualify for payment under the LTCH PPS instead of the IPPS solely because their Medicare inpatient average length of stay is greater than 25 days (69 FR 25686). In addition, prior to qualifying as a LTCH, hospitals generally are paid under the IPPS during the period in which they demonstrate that they have an average Medicare inpatient length of stay of greater than 25 days (69 FR 25686).

The primary reason that we did not update the LTCH PPS labor-related share for the 2004 and 2005 LTCH PPS rate years was the same reason that we explained for not updating the labor-related share under the IPPS for FY 2004 (see August 1, 2003; 68 FR 27226) and FY 2005 (see FY 2005 IPPS final rule (69 FR 49069)), which are equally applicable to the LTCH PPS. As we noted above, and as we explained in the May 7, 2004 LTCH PPS final rule (69 R 5686), we did not revise the labor-related share under the IPPS based on the revised and rebased FY 1997 hospital market basket and the excluded hospital market basket because of data and methodological concerns. We indicated that we would conduct further analysis to determine the most appropriate methodology and data for determining the labor-related share.

The IPPS labor-related share of 71.066 percent was established in the August 29, 1997 IPPS final rule (62 FR 45995), effective for IPPS discharges occurring on or after October 1, 1997 (FY 1998). This (71.066 percent) is the most recent estimate of ''the proportion (as estimated by CMS from time to time) of Federal rates'' under the IPPS adjusted to account for different area wage levels and labor-related costs (§ 412.62(k)). As also explained in the August 29, 1997 IPPS final rule (62 FR 45995), the labor-related portion of the IPPS operating standardized amounts is determined by summing the labor-related items of the revised 1992-based operating prospective payment hospital market basket (that is, wages and salaries, employee benefits, professional fees, business services, computer and data processing services, postage, and all other labor intensive services). This is the same methodology used to determine the operating portion of the current LTCH PPS labor-related share established in the August 30, 2002 LTCH PPS final rule (67 FR 56016), which is effective for LTCH PPS discharges occurring in cost reporting periods beginning on or after October 1, 2002 (FY 2003). (Note, as discussed in the August 30, 2002 LTCH PPS final rule (67 FR 56016), because the LTCH PPS standard Federal rate includes both operating and capital costs, the LTCH PPS labor-related share includes the labor-related share of capital costs as well as the labor-related share of operating costs.)

As noted above, the IPPS labor-related share of 71.066 percent became effective for IPPS discharges occurring on or after October 1, 1997. As we also discussed in the February 3, 2005 proposed rule (70 FR 5737), for purposes of payment under the IPPS, section 403 of MMA amended section 1886(d) of the Act to provide that for discharges occurring on or after October 1, 2004, the Secretary must employ 62 percent as the labor-related share under the IPPS, unless this ''would result in lower payments to a hospital than would otherwise be made.'' That is, beginning in FY 2005 under the IPPS, the labor-related share remains 71.066 percent for acute-care hospitals with a wage index greater than 1.0, while the labor-related share is equal to 62 percent for acute-care hospitals under the IPPS with a wage index less than or equal to 1.0 (69 FR 49070). This alternative labor-related share is only applicable to acute care hospitals paid under the IPPS and does not apply to LTCHs.

The current LTCH PPS labor share (72.885 percent) was developed using the same methodology used to develop the existing IPPS labor share (71.066). The statutory alternative (62 percent) is limited to acute care hospitals paid under the IPPS and does not apply to hospitals paid under the LTCH PPS. Since we had not yet completed the research of the labor-share methodology used to establish the current IPPS labor-related share estimated by CMS from time (71.066 percent) and the current LTCH PPS labor-related share (72.885 percent), we did not change the LTCH PPS labor-share for the 2005 LTCH PPS rate year.

Since we are continuing our research into updating the hospital labor-related share and because we have not implemented a change in the methodology for determining both the existing IPPS labor-related share estimated by CMS from time to time (as discussed in the FY 2005 IPPS final rule (69 FR 49069)) and the current LTCH PPS labor-related share, in the February 3, 2005 proposed rule, we did not propose to change the LTCH PPS labor-related share at this time. We received no comments on our proposal not to revise the labor-related share for the 2006 LTCH PPS rate year. Accordingly, under the broad authority in section 123 of the BBRA and section 307(b)(1) of BIPA, the labor-related share for the 2006 LTCH PPS rate year will remain at 72.885 percent. As is the case under the IPPS, once our research on the labor-related share is complete, any future revisions to the LTCH PPS labor-related share will be proposed and subject to public comment in a future rule.

c. Revision of LTCH PPS Geographic Classifications

As discussed in the August 30, 2002 LTCH PPS final rule, which implemented the LTCH PPS (67 FR 56015), in establishing an adjustment for area wage levels under § 412.525(c), the labor-related portion of a LTCH's Federal prospective payment is adjusted by using an appropriate wage index. As set forth in § 412.525(c), a LTCH's wage index is determined based on the location of the LTCH in an urban or rural area as defined in § 412.62(f)(1)(ii) and (f)(1)(iii), respectively. An urban area, under the LTCH PPS, is defined at § 412.62(f)(1)(ii)(A) and (B). In general, an urban area is defined as a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA) as defined by the Office of Management and Budget (OMB). (In addition, a few counties located outside of MSAs are considered urban as specified at § 412.62(f)(1)(ii)(B).) Under § 412.62(f)(1)(iii), a rural area is defined as any area outside of an urban area. The geographic classifications defined in § 412.62(f)(1)(ii) and (f)(1)(iii), respectively, were used under the IPPS from FYs 1984 through 2004 (§ 412.62(f) and § 412.63(b)), and have been used under the LTCH PPS since it was implemented for cost reporting periods beginning on or after October 1, 2002 (FY 2003).

Under the IPPS, the wage index is calculated and assigned to hospitals on the basis of the labor market area in

which the hospital is located or geographically reclassified to in accordance with sections 1886(d)(8) and (d)(10) of the Act. Under the LTCH PPS, the wage index is calculated using IPPS wage index data (as discussed below in section V.C.1.d of this preamble) on the basis of the labor market area in which the hospital is located, but without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act. The applicable LTCH wage index value is assigned to a LTCH on the basis of the labor market area in which the LTCH is geographically located.

The current LTCH PPS labor market areas are defined based on the definitions of MSAs, Primary MSAs (PMSAs), and NECMAs issued by the OMB (commonly referred to collectively as MSAs). These MSA definitions, which are discussed in greater detail below, are currently used under the LTCH PPS and other non-IPPS prospective payment systems (that is, the inpatient rehabilitation facility PPS (IRF PPS), the inpatient psychiatric facility PPS (IPF PPS), the home health agency PPS (HHA PPS), and the skilled nursing facility PPS (SNF PPS)). In the FY 2005 IPPS final rule (67 FR 49026–49034), revised labor market area definitions were adopted under the IPPS (§ 412.64(b)), which were effective October 1, 2004. These new standards, called Core-Based Statistical Areas (CBSAs), were announced by the OMB late in 2000 and are discussed in greater detail below.

1. Current LTCH PPS Labor Market Areas Based on MSAs

Below, we will provide a description of the current labor markets that have been used for area wage adjustments under the LTCH PPS since its implementation for cost reporting periods beginning on or after October 1, 2002. As we discussed in the February 3, 2005 proposed rule, previously, we have not described the labor market areas used under the LTCH PPS in detail, although we have published each area's wage index in tables, in the LTCH PPS final rules, each year and noted the use of the geographic area (MSA) in applying the wage index adjustment in LTCH PPS payment examples in the final regulation implementing the LTCH PPS (August 30, 2002, 67 FR 56037). The LTCH industry has also understood that the same labor market areas in use under the IPPS (from the time LTCH PPS was implemented, for cost reporting periods beginning on or after October 1, 2002) would be used under the LTCH PPS. As we also explained in the February 3, 2005 proposed rule, because OMB has adopted new statistical area definitions (as discussed in greater detail below) and we proposed to adopt new labor market area definitions based on these areas under the LTCH PPS (as discussed in greater detail below), we believe it is helpful to provide a more detailed description of the current LTCH PPS labor market areas, in order to better understand the change to the LTCH PPS labor market areas presented below in this final rule.

As mentioned earlier, since the implementation of the LTCH PPS in the August 30, 2002 LTCH PPS final rule, we have used labor market areas to further characterize urban and rural areas as determined under § 412.62(f)(1)(ii) and (iii). To this end, we have defined labor market areas under the LTCH PPS based on the definitions of MSAs, PMSAs, and NECMAs issued by the OMB, which is consistent with the IPPS approach (prior to the adoption of the new CBSA-based labor market areas under the IPPS rule beginning in FY 2005). Prior to modifying its statistical area definitions. The OMB also designates Consolidated MSAs (CMSAs). A CMSA is a metropolitan area with a population of one million or more, comprising two or more PMSAs (identified by their separate economic and social character). For purposes of the LTCH PPS wage index, we use the PMSAs rather than CMSAs because they allow a more precise breakdown of labor costs. If a metropolitan area is not designated as part of a PMSA, we use the applicable MSA.

These different designations use counties as the building blocks upon which they are based. Therefore, under the LTCH PPS, hospitals are assigned to either an MSA, PMSA, or NECMA based on whether the county in which the LTCH is located is part of that area. All of the counties in a State outside a designated MSA, PMSA, or NECMA are designated as rural. Specifically, for purposes of calculating the wage index, we currently combine all of the counties in a State outside a designated MSA, PMSA, or NECMA together to calculate the statewide rural wage index for each State. The labor market area definitions currently used under the LTCH PPS are the same as those used for acute care inpatient hospitals under the IPPS prior to FY 2005 (69 FR 49026).

2. Core-Based Statistical Areas

The OMB reviews its Metropolitan Area definitions preceding each decennial census. As discussed in the FY 2005 IPPS final rule (69 FR 49027), in the fall of 1998, the OMB chartered the Metropolitan Area Standards Review Committee to examine the Metropolitan Area standards and develop recommendations for possible changes to those standards. Three notices related to the review of the standards, providing an opportunity for public comment on the recommendations of the Committee, were published in the **Federal Register** on the following dates: December 21, 1998 (63 FR 70526); October 20, 1999 (64 FR 56628); and August 22, 2000 (65 FR 51060).

In the December 27, 2000 **Federal Register** (65 FR 82228), OMB announced its new standards. In that notice, OMB defines a CBSA, beginning in 2003, as ''a geographic entity associated with at least one core of 10,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. The standards designate and define two categories of CBSAs: MSAs and Micropolitan Statistical Areas.'' (65 FR 82236)

According to OMB, MSAs are based on urbanized areas of 50,000 or more population, and Micropolitan Statistical Areas (referred to in this discussion as Micropolitan Areas) are based on urban clusters of at least 10,000 population, but less than 50,000 population. Counties that do not fall within CBSAs (either MSAs or Micropolitan Areas) are deemed ''Outside CBSAs.'' In the past, the OMB defined MSAs around areas with a minimum core population of 50,000, and smaller areas were ''Outside MSAs.'' On June 6, 2003, OMB announced the new CBSAs, comprised of MSAs and the new Micropolitan Areas based on Census 2000 data. (A copy of the announcement may be obtained at the following Internet address: *http://www.whitehouse.gov/omb/bulletins/fy04/b04–03.html.*) The new CBSA designations recognize 49 new MSAs and 565 new Micropolitan Areas, and extensively revise the composition of many of the existing MSAs. There are 1,090 counties in MSAs under the new CBSA designations (previously, there were 848 counties in MSAs). Of these 1,090 counties, 737 are in the same MSA as they were prior to the change in designations, 65 are in a different MSA, and 288 were not previously designated to any MSA. There are 674 counties in Micropolitan Areas. Of these, 41 were previously in an MSA, while 633 were not previously designated to an MSA. There are five counties that previously were designated to an MSA but are no longer designated to either an MSA or a new Micropolitan Area: Carter County,

KY; St. James Parish, LA; Kane County, UT; Culpepper County, VA; and King George County, VA. For a more detailed discussion of the conceptual basis of the new CBSAs, refer to the FY 2005 IPPS final rule (67 FR 49026–49034).

3. Revision of the LTCH PPS Labor Market Areas

In its June 6, 2003 announcement, OMB cautioned that these new definitions ''should not be used to develop and implement Federal, State, and local nonstatistical programs and policies without full consideration of the effects of using these definitions for such purposes. These areas should not serve as a general-purpose geographic framework for nonstatistical activities, and they may or may not be suitable for use in program funding formulas.''

As discussed in the FY 2005 IPPS final rule (69 FR 49027), we have previously examined alternatives to the use of MSAs for the purpose of establishing labor market areas for Medicare wage indices in general. For purposes of the proposed changes to the LTCH PPS labor market areas, we examined the same alternatives to the use of MSAs as examined under the IPPS. In the May 27, 1994, IPPS proposed rule (59 FR 27724), we presented our latest research concerning possible future refinements to the labor market areas. Specifically, we discussed and solicited comment on the proposal by the Prospective Payment Assessment Commission (ProPAC), a predecessor organization to the MedPAC, for hospital-specific labor market areas based on each hospital's nearest neighbors, and our research and analysis on alternative labor market areas. Even though we found that none of the alternative labor market areas that we studied provided a distinct improvement over the use of MSAs, we presented an option using the MSA-based wage index, but generally giving a hospital's own wages a higher weight than under the current system. We also described for comment a State labor market option, under which hospitals would be allowed to design labor market areas within their own State boundaries.

We described the comments we received in the June 2, 1995 IPPS proposed rule (60 FR 29219). Specifically, as we discussed in that same proposed rule, there was no consensus among the commenters on the choice for new labor market areas. Many individual hospitals that commented on that proposed rule expressed dissatisfaction with all of the proposals. However, several State hospital associations that commented on that proposed rule stated that the options merited further study. Therefore, at that time we contacted the association representatives that participated in our November 1993 meeting on labor market issues in which we solicited ideas for additional types of labor market research to conduct. None of the individuals we contacted suggested any ideas for further research. After considering these same options for the LTCH PPS, we conclude that there is no basis for believing that either the nearest neighbor option or the State labor market option would result in a wage index adjustment that would be more appropriate for LTCHs than the MSA-based wage index adjustment. As discussed in the June 2, 1995 IPPS proposed rule (60 FR 29219), these options could inappropriately reward the highest cost hospitals with higher wage indexes and there would likely be less than full consent by hospitals to participate in the alternative options, particularly if hospitals face lower reimbursement due to the change.

Consequently, consistent with the approach taken under the IPPS, we have used MSAs to define labor market areas for purposes of Medicare wage indices in the LTCH PPS since its implementation for cost reporting periods beginning on or after October 1, 2002. In fact, MSAs are also used to define labor market areas for purposes of the wage index for many of the other Medicare payment systems (for example, IRF PPS, SNF PPS, HHA PPS, Outpatient PPS, and IPF PPS). While we recognize MSAs are not designed specifically to define labor market areas, we believe they do represent a reasonable and appropriate proxy for this purpose, because they are based upon characteristics we believe also generally reflect the characteristics of unified labor market areas. For example, CBSAs reflect a core population plus an adjacent territory that reflects a high degree of social and economic integration. This integration is measured by commuting ties, thus, demonstrating that these areas may draw workers from the same general areas. In addition, the most recent CBSAs reflect the most up to date information. The OMB reviews its Metropolitan Area definitions preceding each decennial census to reflect recent population changes and the CBSAs are based on the Census 2000 data. Our analysis and discussion here are focused on issues related to adopting the new CBSA-based designations to define labor market areas for purposes of the IPPS and for purposes of proposing them for LTCH PPS.

Historically, Medicare PPSs have utilized Metropolitan Area definitions developed by OMB. The labor market areas currently used under the LTCH PPS (described above in section V.C.1.c.1. of this preamble) are based on the Metropolitan Area definitions issued by OMB. As noted above, OMB reviews its definitions preceding each decennial census to reflect more Metropolitan Area recent population changes. As discussed in greater detail above in section V.C.1.c.2., the CBSAs are the OMB's latest Metropolitan Area definitions based on the Census 2000 data. As we discussed in the February 3, 2005 proposed rule (70 FR 5739), because we believe that OMB's latest Metropolitan Area designations more accurately reflect the local economies and wage levels of the areas in which hospitals are currently located, under the LTCH PPS we proposed to adopt revised labor market area designations based on the OMB's CBSA designations which were adopted under the IPPS.

Comment: Five commenters supported our proposed adoption of revised labor market area designations under the LTCH PPS based on the OMB's CBSA designations, stating that they believe that as the CBSA designations more precisely defines distinct labor market areas for LTCHs. We received no comments opposing the proposed revisions to the LTCH PPS labor market area definitions.

Response: We appreciate the commenters' support for the adoption of the proposed changes to the LTCH PPS labor market area definitions based on OMB's new CBSA designations for, as noted above, and we agree with the commenters that the proposed changes to the LTCH PPS labor market area definitions would more precisely define distinct labor market areas for LTCHs. Accordingly, in this final rule, under the broad authority of section 123 of Pub. L. 106–113 and section 307(b)(1) of Pub. L. 106–554, we are adopting revised labor market area definitions under the LTCH PPS based on OMB's new CBSA designations, as discussed in greater detail below. When we implemented the wage index adjustment at § 412.525(c) under the LTCH PPS in the August 30, 2002 LTCH PPS final rule (67 FR 56016), we explained that the LTCH PPS wage index adjustment was intended to reflect the relative hospital wage levels in the geographic area of the hospital as compared to the national average hospital wage level. Because we believe that OMB's CBSA designations based on Census 2000 data reflect the most recent available geographic classifications (Metropolitan Area definitions), we are revising the labor market area definitions used under the LTCH PPS based on OMB's CBSA

designations to ensure that the LTCH PPS wage index adjustment most appropriately accounts for and reflects the relative hospital wage levels in the geographic area of the hospital as compared to the national average hospital wage level. Specifically, we are revising the LTCH PPS labor market definitions based on OMB's new CBSA designations (as discussed in greater detail below) effective for LTCH PPS discharges occurring on or after July 1, 2005. Accordingly, as we proposed in the February 3, 2005 proposed rule (70 FR 5739), we are revising § 412.525(c) to specify that for discharges occurring on or after July 1, 2005, the application of the wage index under the LTCH PPS will be made on the basis of the location of the facility in an urban or rural area as defined in § 412.64(b)(1)(ii)(A)-(C). (As a conforming change, as we proposed in the February 3, 2005 LTCH PPS proposed rule, we are also revising § 412.525(c) to specify when the current labor area definitions in the existing § 412.525(c) are applicable. We note that in this final rule, we are revising the final regulations text at § 412.525(c)(1) to explicitly state that the current MSA-based labor area definitions are effective ''for cost reporting periods beginning on or after October 1, 2002, with respect to discharges occurring during the period covered by such cost reports but before July 1, 2005.'' We are clarifying the regulations text because we do not want the public to misinterpret the ''July 1, 2005'' date as referring to ''cost reporting periods'' when in fact it applies to ''discharges.'' In addition, we want to make it clear that the urban and rural definitions in § 412.62(f)(1)(iii), respectively, apply to a LTCH's discharges occurring no earlier than the date upon which the LTCH became subject to the LTCH PPS. Although we did our best to convey this in the proposed regulations text presented in the February 3, 2005 proposed rule, we believe that the regulations text could be improved to better reflect this clarification. While this revision is not a change in the policy presented in the February 3, 2005 LTCH PPS proposed rule (70 FR 5739), we believe that this language change more clearly articulates that the current MSA-based labor market definitions are effective for LTCH discharges occurring before July 1, 2005 that are subject to the LTCH PPS (that is, occurring in cost reporting periods beginning on or after October 1, 2002). We also note that these are the same labor market area definitions (based on the OMB's new CBSA designations) implemented for acute care inpatient hospitals under the IPPS at § 412.64(b), which were effective for those hospitals beginning October 1, 2004 as discussed in the FY 2005 IPPS final rule (69 FR 49026).

As discussed above in section V.C.1.b. of this preamble, the LTCH PPS was modeled after the IPPS for short-term acute care inpatient hospitals. The similarity between the IPPS and the LTCH PPS includes the adoption in the initial implementation of the LTCH PPS of the same labor market area definitions under the LTCH PPS that existed under the IPPS at that time, as well as the use of acute care inpatient hospitals' wage data in calculating the LTCH PPS wage index. Therefore, besides reflecting the most recent available geographic classifications and, consequently, more accurately reflecting the current labor markets (which is the primary reason for adopting OMB's new CBSA-based designations), we believe that this revision to the LTCH PPS labor market area definitions based on OMB's new CBSA-based designations is also consistent with our historical practice of modeling LTCH PPS policy after IPPS policy.

Below, we discuss the composition of the LTCH PPS labor market areas based on the OMB's new CBSA designations, as we proposed in the February 3, 2005 proposed rule. It should be noted that OMB's new CBSA designations are comprised of several county-based area definitions as explained above, which include Metropolitan Areas, Micropolitan Areas, and areas ''outside CBSAs.'' Under the LTCH PPS, since the implementation of the LTCH PPS, we have used two types of labor market areas, urban and rural. As discussed in greater detail below, in this final rule, in adopting revised labor market areas under the LTCH PPS based on OMB's new CBSA-based designations, we will continue to have 2 types of labor market areas (urban and rural). In the discussion that follows, we explain our recognition of Metropolitan Areas, which include New England MSAs and Metropolitan Divisions, as urban. We also explain our recognition of Micropolitan Areas and areas ''outside CBSAs'' as rural. The following discussion, which was presented in the February 3, 2005 proposed rule (70 FR 5739–5742), describes the methodology for mapping OMB's CBSA-based designations into the LTCH PPS (urban area or rural area) format.

a. New England MSAs

As stated above, under the LTCH PPS, we currently use NECMAs to define labor market areas in New England, because these are county-based designations rather than the 1990 MSA definitions for New England, which used minor civil divisions such as cities and towns. Under the current MSA definitions, NECMAs provided more consistency in labor market definitions for New England compared with the rest of the country, where MSAs are county-based. Under the new CBSAs, OMB has now defined the MSAs and Micropolitan Areas in New England on the basis of counties. OMB also established New England City and Town Areas, which are similar to the previous New England MSAs.

In order to create consistency across all LTCH labor market areas, in the February 3, 2005 proposed rule (70 FR 5740), under the LTCH PPS, we proposed to use the county-based areas for all MSAs in the nation, including those in New England. The OMB has now defined the New England area based on counties, creating a city and town-based system as an alternative. As we explained in that same proposed rule, we believe that adopting county-based labor market areas for the entire country except those in New England would lead to inconsistencies in our designations. Adopting county-based labor market areas for the entire country provides consistency and stability in Medicare program payment because all of the labor market areas throughout the country, including New England, would be defined using the same system (that is, counties) rather than different systems in different areas of the country, and minimizes programmatic complexity.

In addition, we have consistently employed a county-based system for New England for precisely that reason: To maintain consistency with the labor market definitions used throughout the country. Because we have never used cities and towns for defining LTCH labor market areas, employing a county-based system in New England maintains that consistent practice. We note that this is consistent with the implementation of the CBSA-based designations under the IPPS for New England (69 FR 49028). Accordingly, under the LTCH PPS we will use the New England MSAs as determined under the new CBSA-based labor market area definitions in defining the revised LTCH PPS labor market areas. We did not receive any comments regarding the proposed use of county-based areas for all MSAs in the nation, including those in New England, in our proposal to make revisions to the LTCH PPS labor market area definitions based on OMB's CBSA designations. Therefore, under the broad authority of section 123 of Pub. L. 106–113 and section 307(b)(1) of Pub. L. 106–554, we are adopting this

policy as final as part of the changes to the LTCH PPS labor market area definitions we are establishing in this final rule for the reasons explained above.

b. Metropolitan Divisions

Under the OMB's new CBSA designations, a Metropolitan Division is a county or group of counties within a CBSA that contains a core population of at least 2.5 million, representing an employment center, plus adjacent counties associated with the main county or counties through commuting ties. A county qualifies as a main county if 65 percent or more of its employed residents work within the county and the ratio of the number of jobs located in the county to the number of employed residents is at least 0.75. A county qualifies as a secondary county if 50 percent or more, but less than 65 percent, of its employed residents work within the county and the ratio of the number of jobs located in the county to the number of employed residents is at least 0.75. After all the main and secondary counties are identified and grouped, each additional county that already has qualified for inclusion in the MSA falls within the Metropolitan Division associated with the main/secondary county or counties with which the county at issue has the highest employment interchange measure. Counties in a Metropolitan Division must be contiguous. (65 FR 82236)

The construct of relatively large MSAs being comprised of Metropolitan Divisions is similar to the current construct of CMSAs comprised of PMSAs. As noted above, in the past, the OMB designated CMSAs as Metropolitan Areas with a population of one million or more and comprised of two or more PMSAs. Under the LTCH PPS, we currently use the PMSAs rather than CMSAs to define labor market areas because they comprise a smaller geographic area with potentially varying labor costs due to different local economies. As we discussed in the February 3, 2005 proposed rule (70 FR 5740), we believe that CMSAs may be too large of an area with a relatively large number of hospitals, to accurately reflect the local labor costs of all of the individual hospitals included in that relatively ''large'' area. A large market area designation increases the likelihood of including many hospitals located in areas with very different labor market conditions within the same market area designation. This variation could increase the difficulty in calculating a single wage index that would be relevant for all hospitals within the market area designation. Similarly, we believe that MSAs with a population of 2.5 million or greater may be too large of an area to accurately reflect the local labor costs of all of the individual hospitals included in that relatively ''large'' area. Furthermore, as indicated above, Metropolitan Divisions represent the closest approximation to PMSAs, the building block of the current LTCH PPS labor market area definitions, and, therefore, would most accurately maintain our current structuring of the LTCH PPS labor market areas. Therefore, as implemented under the IPPS (69 FR 49029), under the LTCH PPS we proposed to use the Metropolitan Divisions where applicable (as described below) under the new CBSA-based labor market area definitions. We did not receive any comments regarding our proposed use of Metropolitan Divisions under our proposed revisions to the LTCH PPS labor market area definitions based on OMB's new CBSA designations. Therefore, under the broad authority of section 123 of Pub. L. 106–113 and section 307(b)(1) of Pub. L. 106–554, we are adopting this policy as final as part of the changes we are making to the LTCH PPS labor market area definitions in this final rule for the reasons explained above.

In addition to being comparable to the organization of the labor market areas under current MSA designations (that is, the use of PMSAs rather than CMSAs), we believe that using Metropolitan Divisions where applicable (as described below) under the LTCH PPS will result in a more accurate adjustment for the variation in local labor market areas for LTCHs. Specifically, if we recognize the relatively ''larger'' CBSA that comprises two or more Metropolitan Divisions as an independent labor market area for purposes of the wage index, it will be too large and will include the data from too many hospitals to compute a wage index that would accurately reflect the various local labor costs of all of the individual hospitals included in that relatively ''large'' CBSA. As mentioned earlier, a large market area designation increases the likelihood of including many hospitals located in areas with very different labor market conditions within the same market area designation. This variation could increase the difficulty in calculating a single wage index that would be relevant for all hospitals within the market area designation. Rather, by recognizing Metropolitan Divisions where applicable (as described below) under the new CBSA-based labor market area definitions under the LTCH PPS, we believe that in addition to more accurately maintaining the current structuring of the LTCH PPS labor market areas, the local labor costs will be more accurately reflected, thereby resulting in a wage index adjustment that better reflects the variation in the local labor costs of the local economies of the LTCHs located in these relatively ''smaller'' areas.

As discussed below, and in the February 3, 2005 proposed rule (70 FR 5741), we describe where Metropolitan Divisions will be applicable under the new CBSA-based labor market area definitions under the LTCH PPS.

Under OMB's new CBSA-based designations, there are 11 MSAs containing Metropolitan Divisions: Boston; Chicago; Dallas; Detroit; Los Angeles; Miami; New York; Philadelphia; San Francisco; Seattle; and Washington, DC. Although these MSAs were also CMSAs under the prior definitions, in some cases these areas have been significantly altered. Under the current LTCH PPS MSA designations, Boston is a single NECMA. Under the CBSA-based labor market area designations, it will be comprised of 4 Metropolitan Divisions. Los Angeles will go from 4 PMSAs under the current LTCH PPS MSA designations to 2 Metropolitan Divisions under the CBSA-based labor market area designations because 2 MSAs became separate MSAs. The New York CMSA will go from 15 PMSAs under the current LTCH PPS MSA designations down to only 4 Metropolitan Divisions under the CBSA-based labor market area designations. Five PMSAs in Connecticut under the current LTCH PPS MSA designations will become separate MSAs under the CBSA-based labor market area designations, and the number of PMSAs in New Jersey under the current LTCH PPS MSA designations will go from 5 to 2, with the consolidation of 2 New Jersey PMSAs (Bergen-Passaic and Jersey City) into the New York–Wayne–White Plains, NY–NJ Division, under the CBSA-based labor market area designations. In San Francisco, under the CBSA-based labor market area designations, only 2 Divisions will remain where there were once 6 PMSAs some of which are now separate MSAs under the current LTCH PPS labor market area designations.

Under the current LTCH PPS labor market area designations, Cincinnati, Cleveland, Denver, Houston, Milwaukee, Portland, Sacramento, and San Juan are all designated as CMSAs, but will no longer be designated as CMSAs under the CBSA-based labor

market area designations. As noted previously, the population threshold to be designated a CMSA under the current LTCH PPS labor market area designations is one million. In most of these cases, counties currently in a PMSA under the current LTCH PPS labor market area designations will become separate, independent MSAs under the CBSA-based labor market area designations.

c. Micropolitan Areas

Under the OMB's new CBSA-based designations, Micropolitan Areas are essentially a third area definition made up mostly of currently rural areas, but also include some or all of areas that are currently designated as an urban MSA. As discussed in greater detail in the FY 2005 IPPS final rule (69 FR 49029), how these areas are treated would have significant impacts on the calculation and application of the wage index. Specifically, whether or not Micropolitan Areas are included as part of the respective statewide rural wage indices would impact the value of statewide rural wage index of any State that contains a Micropolitan Area because a hospital's classification as urban or rural affects which hospitals' wage data are included in the statewide rural wage index. As discussed above in section V.C.1.c.1., we combine all of the counties in a State outside a designated urban area together to calculate the statewide rural wage index for each State.

In general, as discussed in the February 3, 2005 proposed rule (70 FR 5741), including Micropolitan Areas as part of the statewide rural labor market area would result in an increase to the statewide rural wage index because hospitals located in those Micropolitan Areas typically have higher labor costs than other rural hospitals in the State. Alternatively, as discussed in greater detail below, if Micropolitan Areas would be recognized as independent labor market areas, because there would be so few hospitals in each labor market area, the wage indices for LTCHs in those areas could become relatively unstable as they would change considerably from year to year.

Because we currently use MSAs to define urban labor market areas and we group all the hospitals in counties within each State that are not assigned to an MSA together into a statewide rural labor market area, we have used the terms ''urban'' and ''rural'' wage indexes in the past for ease of reference. However, the introduction of Micropolitan Areas by the OMB potentially complicates this terminology because these areas include many hospitals that are currently included in the statewide rural labor market areas.

In the February 3, 2005 proposed rule (70 FR 5741), we proposed to treat Micropolitan Areas as rural labor market areas under the LTCH PPS for the reasons outlined below. That is, counties that are assigned to a Micropolitan area under the CBSA-based designations would be treated the same as other ''rural'' counties that are not assigned to either an MSA (Metropolitan Statistical Area) or a Micropolitan Area. We received no comments on our proposal to treat Micropolitian Areas as rural labor market areas under the LTCH PPS. Therefore, for the reasons discussed above and under the broad authority of section 123 of Pub. L. 106–113 and section 307(b)(1) of Pub. L. 106–554, we are adopting this policy as final as part of the changes we are making to the LTCH PPS labor market area definitions in this final rule. Accordingly, in determining a LTCH's applicable wage index (based on IPPS hospital wage index data, as discussed in greater detail below in section V.C.d. of this preamble), a LTCH in a Micropolitan Area under the OMB's CBSA-based designations will be classified as ''rural'' and will be assigned the statewide rural wage index for the State in which it resides.

In the FY 2005 IPPS final rule (69 FR 49029–49032), we discuss our evaluation of the impact of treating Micropolitan Areas as part of the statewide rural labor market area instead of treating Micropolitan Areas as independent labor market areas for hospitals paid under the IPPS. As an alternative to treating Micropolitan Areas as part of the statewide rural labor market area for purposes of the LTCH PPS, we examined treating Micropolitan Areas as separate (urban) labor market areas, just as we did when implementing the revised labor market areas under the IPPS. As discussed in that same final rule, one of the reasons Micropolitan Areas have such a dramatic impact on the wage index is, because Micropolitan Areas encompass smaller populations than MSAs, they tend to include fewer hospitals per Micropolitan Area. There were only 25 MSAs with one hospital in the MSA. However, under the new CBSA-based definitions, there are 373 Micropolitan Areas with one hospital, and 49 MSAs with only one hospital.

This large number of labor market areas with only one hospital and the increased potential for dramatic shifts in the wage indexes from 1 year to the next is a problem for several reasons. First, it creates instability in the wage index from year to year for a large number of hospitals. Second, it reduces the averaging effect (This averaging effect allows for more data points to be used to calculate a representative standard of measured labor costs within a market area.) lessening some of the incentive for hospitals to operate efficiently. This incentive is inherent in a system based on the average hourly wages for a large number of hospitals, as hospitals could profit more by operating below that average. In labor market areas with a single hospital, high wage costs are passed directly into the wage index with no counterbalancing averaging with lower wages paid at nearby competing hospitals. Third, it creates an arguably inequitable system when so many hospitals have wage indexes based solely on their own wages, while other hospitals' wage indexes are based on an average hourly wage across many hospitals.

For the reasons noted above, and consistent with the treatment of these areas under the IPPS, we are not adopting Micropolitan Areas as independent labor market areas under the LTCH PPS, but instead, Micropolitan Areas, under the CBSA-based labor market area definitions, will be considered part of the statewide rural labor market area. Accordingly, the LTCH PPS statewide rural wage index will be determined using acute-care IPPS hospital wage data (the rationale for using IPPS hospital wage data is discussed in greater detail below in section V.C.1.d. of this preamble) from hospitals located in non-MSA areas (for example, rural areas, including Micropolitan Areas) and that statewide rural wage index will be assigned to LTCHs located in those non-MSA areas.

Comment: One commenter brought to our attention the fact that that we included two Micropolitian Areas, Enid, OK (CBSA 21240) and Jamestown, NY (CBSA 27640), in our Table of proposed urban area wage indexes (as shown in Table 1 of the addendum to the February 3, 2005 proposed rule (70 FR 5772)).

Response: We thank the commenter for bringing this inadvertent error to our attention. We have removed those two Micropolitan areas (which we proposed to treat as rural) from Table 1 (urban area wage indexes) of the Addendum to this final rule. We also want to note that, despite this error, the statewide average rural wage indexes in Table 2 for rural OK and NY, respectively, correctly included the wage data for these Micropolitan areas.

4. Implementation of the Revised Labor Market Areas Under the LTCH PPS

As we discussed in the February 3, 2005 proposed rule (70 FR 5742), consistent with our policy under the IPPS, we did not propose to adopt the new labor market area definitions themselves in a budget neutral manner. We did not receive any comments and, therefore, under the generally broad authority conferred upon the Secretary to develop the LTCH PPS under section 123 of Pub. L. 106–113 and section 307 of Pub. L. 106–554, are not adopting the new labor market area definitions under the LTCH PPS in a budget neutral manner, just as implemented under the IPPS.

Furthermore, as we also discussed in that same proposed rule and as we discussed in the August 30, 2002 LTCH PPS final rule, under section 123 of the BBRA, and section 307 of the BIPA, the Secretary generally has broad authority in developing the LTCH PPS, including whether and how to make adjustments to the LTCH PPS. In that same final rule we state that we will consider whether it is appropriate for us to propose a budget neutrality adjustment in the annual update of some aspects of the LTCH PPS under our broad discretionary authority under the statute to provide ''appropriate adjustments'' to the LTCH PPS. Until the 5-year transition from cost-based reimbursement to prospective payment is complete, including the end of the phase-in of the wage index adjustment under § 412.525(c), as we explained in the February 3, 2005 proposed rule, we believe that it would not be appropriate to update any aspects of the LTCH PPS in a budget neutral manner. A primary reason for waiting until after the transition is complete before evaluating aspects of the LTCH PPS, including the budget neutrality issue, is that the data available to analyze such issues is very limited because the LTCH PPS is still relatively new and there is a lag time in data availability. Also, the fact that a number of LTCHs were and some still are transitioning to 100 percent of the Federal prospective payment rate may make the available data even less appropriate for an analysis, since hospitals may still be modifying their behavior based on their transition to prospective payment and our data may not yet replace any operational changes LTCHs may have made in response to prospective payment. Once the transition is complete, we will have a better opportunity to evaluate the impacts of the implementation of this new payment system based on a number of years of LTCH PPS data.

To facilitate an understanding of the policies related to the change to the LTCH PPS labor market areas discussed above, in Table 4 of the Addendum of this final rule, we are providing a listing of each LTCH's State and county location; existing labor market area designation; and its new CBSA-based labor market area designation based on the best available cost report data from HCRIS (FYs 1999–2003) and county information from our OSCAR database. Any questions or corrections (including additions or deletions) to the information provided in Table 4 should be e-mailed to the following CMS Web address: *cmsltchpps@cms.hhs.gov.* A link to this address can be found on the following CMS Web page *http://www.cms.hhs.gov/providers/longterm/default.asp*. We also note that a crosswalk file is available on the CMS Web page *http://www.cms.hhs.gov/providers/longterm/frnotices.asp*, which shows, by county, a crosswalk of the MSA-based labor market areas to the new CBSA-based labor-market areas adopted in this final rule.

As we discussed in the February 3, 2005 proposed rule (70 FR 5743), when the revised labor market areas based on the OMB's new CBSA-based designations were adopted under the acute care hospital IPPS beginning on October 1, 2004, a transition to the new labor market area designations was established due to the scope and significant implications of these new boundaries and to buffer the subsequent significant impacts it may have on payments to numerous hospitals. As discussed in the FY 2005 IPPS final rule (69 FR 49032), during FY 2005, a blend of wage indexes is calculated for those acute care IPPS hospitals experiencing a drop in their wage indexes because of the adoption of the new labor market areas. Also, as described in that same final rule (69 FR 49032), under the IPPS, hospitals that previously were located in an urban MSA, but then became rural under the new CBSA-based definitions are assigned the wage index value of the urban area to which they previously belonged, for 3 years (FYs 2005–2007).

Also, in the February 3, 2005 proposed rule, we explained that we did not believe it was necessary to propose a transition policy for the revision to the LTCH PPS labor market area definitions because the impact of the revision to the labor market area definitions would only have a minimal impact on LTCH PPS payments (as explained below). Instead, under the LTCH PPS, we proposed to adopt the new CBSA-based labor market area definitions beginning with the 2006 LTCH PPS rate year without a transition period. As also discussed in greater detail below, we believe that this policy is appropriate because despite significant similarities between the LTCH PPS and the IPPS, there are clear distinctions between the payment systems, particularly regarding wage index issues.

The most significant distinction upon which we have based this policy determination, as we discussed in the February 3, 2005 proposed rule, is that where acute care hospitals under the IPPS have been paid using full wage index adjusted payments since 1983 and had used the previous IPPS MSA-based labor market area designations for over 10 years, under the LTCH PPS, a wage index adjustment is being phased-in over a 5-year period, and as noted above, most LTCHs are still in their FY 2004 cost reporting period (the vast majority of LTCHs start their cost reporting periods on July 1 or September 1), and are, therefore, in the 2nd year of the 5-year phase-in of the LTCH PPS wage index adjustment, and the applicable wage index value is 2/5ths (40 percent) of the applicable full LTCH PPS wage index adjustment. Since most LTCHs are only in the 2nd year of the 5-year phase-in of the wage index adjustment, for most LTCHs, the labor-related portion of the standard Federal rate is only adjusted by 40 percent of the applicable full wage index (that is, 2/5th wage index value). The LTCH PPS wage index adjustment is made by multiplying the LTCH PPS standard Federal rate by the applicable wage index value, and the current LTCH PPS labor related-share is 72.885 percent. Consequently, for most LTCHs, only 29 percent of the standard Federal rate is affected by the wage index adjustment (72.885 percent $\times$ 0.4 = 29.154 percent), and the revision to the labor market area definitions based on OMB's new CBSA-based designations will only have a minimal impact on LTCH PPS payments. Thus, the impact that the wage index can have on LTCH PPS payments is limited at this point, since only a small percentage of the LTCH PPS standard Federal rate is affected by the wage index (approximately 29 percent in most cases, as explained above) because of the 5-year phase-in of the wage index adjustment.

Our initial analysis of the appropriateness of including a wage index adjustment in the March 22, 2002 proposed rule for the LTCH PPS (67 FR 13465) indicated that a wage adjustment did not lead to an increase in the accuracy of LTCH PPS payments because a statistical analysis did not show a significant relationship between LTCHs costs and their geographic location. However, based upon

comments, we revisited this proposed determination after additional data analysis and a more general policy evaluation, and we stated that we ''believe that the conceptual reasons for having an area wage adjustment support transitioning into a wage adjustment, notwithstanding the data problems and issues with the regression analysis'' (see August 30, 2002 LTCH PPS final rule (67 FR 56018)). However, given the lack of strong empirical evidence to support a wage index adjustment under the LTCH PPS, we provided for a 5-year transition to the full implementation of the wage index adjustment. We also noted that we would ''* * * continue to reevaluate LTCH data as they become available and would propose to adjust the phase-in if subsequent data support a change.'' In each subsequent LTCH PPS proposed and final rule since FY 2003, we have evaluated the most recent LTCH data available and still have found no empirical evidence to support a change in the 5-year phase-in of the wage index adjustment under the LTCH PPS.

A wage index adjustment has been a stable feature of the acute care hospital IPPS since its 1983 implementation and, furthermore, the IPPS had utilized the prior MSA-based labor market area designation for over 10 years. As explained in detail above, the proposed revisions to the labor market area definitions based on OMB's new CBSA designations would not have the same impact on the LTCH PPS, which has only been implemented since October 1, 2002, as it did on the IPPS. Given the clear distinction between the impact of the revisions to the labor market area definitions on the IPPS as compared to those same proposed revisions to the LTCH PPS, therefore, we believe that, although it is appropriate to adopt transition policies for acute care hospitals under the IPPS, it is also equally appropriate not to treat the impact of the proposed revisions to the LTCH PPS labor market area definitions in the same way under the LTCH PPS. We believe that the revision to the labor market area definitions based on OMB's new CBSA-based designations would only have a minimal impact on LTCH PPS payments.

As we discussed in the February 3, 2005 proposed rule, because the impact of the revision to the labor market area definitions would only have a minimal impact on LTCH PPS payments (as explained above), we do not believe it is necessary to have a transition policy for the revision to the LTCH PPS labor market area definitions. In contrast, a transition policy to the revised IPPS labor market area definitions under the IPPS was appropriate because individual hospitals could experience a significant impact as a result of the new labor market definitions, especially because the full labor-related share of either 71.066 percent or 62 percent (as discussed above in section V.C.1.b. of this preamble) of the IPPS standardized amount (that is, Federal rate) is affected by the IPPS wage index adjustment, which resulted in a more significant projected impact for acute care hospitals under the IPPS. Furthermore, as we explained in that same proposed rule, we do not believe that it is necessary to further transition any changes to the LTCH PPS wage index adjustment, including the revision of the labor market area definitions, because, in fact, the LTCH PPS wage index adjustment is still being phased-in over 5 years as established in the August 30, 2002 LTCH PPS final rule (67 FR 56018). Accordingly, in the February 3, 2005 proposed rule, we explained that, to the extent the new CBSA-based labor market area definitions are implemented, we would not expect them to have as significant of an impact on LTCHs, as they do for IPPS hospitals since the full wage index adjustment had been a stable factor of IPPS payment for over 20 years.

Comment: One commenter believes that we should implement our proposed revisions to the LTCH PPS labor market area based on OMB's CBSA designations with the same transition as was implemented under the IPPS.

Response: As discussed in the February 3, 2005 proposed rule, we did not provide for a transition policy under the LTCH PPS for changes to the labor market area definitions even though a transition policy was implemented under the IPPS. We believe it was necessary to provide additional protection to acute care hospitals that due to the new CBSA designations experienced reductions in their wage indices, given the scope and potentially significant implications of these new labor market areas. Moreover, as noted above, a wage index adjustment has been a stable feature of the acute care hospital IPPS almost since its implementation in 1983. The prior MSA-based labor market area designations were utilized in IPPS for over 10 years, thus, reinforcing our belief that a transition policy was appropriate.

We recognize that, just like IPPS hospitals, many LTCHs would experience decreases in their wage index as a result of the labor market area changes. At the same time, a significant number of LTCHs may benefit from these changes. However, we believe that because we are in the midst of a 5-year transition to a full wage-index adjustment under the LTCH PPS, the effects of these newest CBSA-based changes to the LTCH PPS labor market areas definitions will be mitigated. Specifically, as noted above, many LTCHs are still in the early stages of the 5-year phase-in of the LTCH PPS wage index adjustment. In fact, many LTCHs are only in the 2nd year of the 5-year phase-in of the LTCH PPS wage index adjustment. Therefore, for most LTCHs, the labor-related portion of the standard Federal rate is only adjusted by 40 percent of the applicable full wage index (that is, 2/5th wage index value). Also, as noted above, the LTCH PPS wage index adjustment is made by multiplying the LTCH PPS standard Federal rate by the applicable wage index value, and the current LTCH PPS labor related-share is 72.885 percent. Consequently, for most LTCHs, only 29 percent of the standard Federal rate is affected by the wage index adjustment (72.885 percent $\times$ 0.4 = 29.154 percent), and the proposed revision to the labor market area definitions based on OMB's new CBSA-based designations will only have a minimal impact on LTCH PPS payments.

An additional distinction between the IPPS and the LTCH PPS regarding the wage index adjustment is that the IPPS policies that provide for a transition policy from MSA-based labor market areas to CBSA-based labor market areas were implemented in a budget neutral manner under the IPPS (69 FR 49034–49035 and 49275). However, as noted above, wage index changes are not budget neutral under the LTCH PPS; therefore, a transition policy similar to what was implemented for the IPPS would result in additional LTCH spending by the Medicare program. Therefore, as explained in more detail above, despite the fact that we have established a transition policy for the implementation of CBSA-based labor market areas under the IPPS, we do not believe that it is either appropriate or necessary to establish a similar transition policy under the LTCH PPS. This is the case, in large part, because there are clear differences in the impact of the wage index adjustment between the IPPS and the LTCH PPS. Primarily, we would note that the full 100 percent wage index adjustment has been a feature of the IPPS since its beginning in 1983 where under the LTCH PPS, which has been in effect for cost reporting periods beginning on or after October 1, 2002, many LTCHs are only in the 2nd year of a 5-year phase-in of a full wage index adjustment. Therefore,

even though there are many LTCHs that will experience decreases in their wage index as a result of the labor market changes, and there are a significant number of LTCHs that may benefit from the changes, we believe that the effects of the changes to the LTCH PPS labor market area definition resulting from the new CBSA-based designations will be mitigated because, presently, payments to LTCHs do not include a full wage index adjustment. Therefore, under the broad authority of section 123 of Pub. L. 106–113 and section 307(b)(1) of Pub. L. 106–554, we are not providing for a transition period for purposes of implementing the new CBSA-based labor market area definitions.

In addition, in the February 3, 2005 proposed rule (70 FR 5744), we proposed to revise § 412.525(c) to clarify the application of the current adjustment for area wage levels under the LTCH PPS, which was originally established in the August 30, 2002 final rule (67 FR 56015–56019). Specifically, we proposed to revise § 412.525(c) to state that the labor portion of a LTCH's Federal prospective payment is adjusted to account for geographical differences in the area wage levels using an appropriate wage index (established by CMS). The wage index reflects the relative level of hospital wages and wage-related costs in the geographic area of the hospital compared to the national average level of hospital wages and wage-related costs. Currently, urban or rural area is determined in accordance with the definitions at § 412.62(f)(1)(ii) and (iii). We received no comments on our proposed revisions to § 412.525(c), and, therefore, are adopting those changes in this final rule. As we discussed above, because we are revising those definitions in this final rule, urban or rural area will be determined in accordance with the revisions to § 412.525(c)(1) or the revisions to § 412.525(c)(2), respectively. In addition, § 412.525(c) will be revised to specify that the appropriate wage index (established by CMS) is updated annually. We note that this revision to the language in § 412.525(c), which codifies our existing policy into regulations, is similar to the wage index adjustment codified in regulations under the IPPS at § 412.64(h). As stated above, this clarification to § 412.525(c) clearly outlines in regulations our established methodology for the application of the area wage adjustment under the LTCH PPS. As noted above, this methodology was established when we implemented the LTCH PPS (that is, cost reporting periods beginning on or after October 1, 2002) in the August 30, 2002 final rule (67 FR 56015).

d. Wage Index Data

In the May 7, 2004 final rule (69 FR 25684), we established LTCH PPS wage index values for the 2005 LTCH PPS rate year calculated from the same data (generated in cost reporting periods beginning during FY 2000) used to compute the FY 2004 acute care hospital inpatient wage index data without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act. The LTCH wage index values applicable for discharges occurring on or after July 1, 2004 through June 30, 2005 are shown in Table 1 (for urban areas) and Table 2 (for rural areas) in the Addendum to that final rule. Acute care hospital inpatient wage index data is also used to establish the wage index adjustment used in the IRF PPS, IPF PPS, HHA PPS, SNF PPS, and inpatient psychiatric facility PPS (IPF). As we discussed in the August 30, 2002 LTCH PPS final rule (67 FR 56019), since hospitals that are excluded from the IPPS are not required to provide wage-related information on the Medicare cost report and because we would need to establish instructions for the collection of this LTCH data in order to establish a geographic reclassification adjustment under the LTCH PPS, the wage adjustment established under the LTCH PPS is based on a LTCH's actual location without regard to the urban or rural designation of any related or affiliated provider. Therefore, because complete LTCH wage-related data are not currently available on the cost report, we do not have complete LTCH wage related data to use for the purposes of creating a LTCH wage index based on LTCH wage data, and since the labor market areas of acute care hospitals under the IPPS are similar to those of LTCHs, we believe wage data of acute care IPPS hospitals accurately capture the relationship between the wage related costs for LTCHs in an area as compared to the national average. Therefore, we believe IPPS acute care hospitals' wage data are the best available data to use for the wage index under the LTCH PPS.

In the February 3, 2005 proposed rule, for the 2006 LTCH PPS rate year, we proposed to use acute care hospital inpatient wage index data generated from cost reporting periods beginning during FY 2001 without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act to determine the applicable wage index values under the LTCH PPS because these data (FY 2001) are the most recent complete data. These data are the same FY 2001 acute care hospital inpatient wage data that were used to compute the FY 2005 wage indices currently used under the IPPS, SNF PPS, and HHA PPS. The proposed full wage index values applicable for LTCH PPS discharges occurring on or after July 1, 2005 through June 30, 2006 are shown in Tables 1 and 2 in the Addendum to that same proposed rule (70 FR 5772–5806). As we noted in earlier in this section, we inadvertently included two Micropolitian Areas, Enid, OK (CBSA 21240) and Jamestown, NY (CBSA 27640) (which we proposed to treat as rural), in Table 1 (proposed urban area wage indexes) of the Addendum to the February 3, 2005 proposed rule. Despite this error, the proposed statewide average rural wage indexes in Table 2 of the Addendum to that same proposed rule for rural OK and NY, respectively, correctly included the wage data for these Micropolitan areas. We have removed these two geographic areas from Table 1 (urban area wage indexes) of the Addendum to this final rule. We received no comments on the proposed wage index values for 2006 LTCH PPS rate year. Accordingly, in this final rule, we are establishing wage index values for the 2006 LTCH PPS rate year calculated from the same data used to calculate the FY 2005 acute care hospital wage index used under the IPPS (generated in FY 2001) without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act. The LTCH wage index values that will be applicable for discharges occurring on or after July 1, 2005 through June 30, 2006, are shown in Table 1 (for urban areas) and Table 2 (for rural areas) in the Addendum to this final rule. We note a labeling error published in prior years wage index tables used in the LTCH PPS. That labeling error was the listing of Stanly County, NC as one of the areas under MSA 1520 when, in fact, we consider Stanly County, NC to be a rural area in North Carolina. Stanly County wage data have always been correctly treated as rural in the actual creation of the LTCH wage index values, and it has only been the listing of Stanly County under MSA 1520 in prior years LTCH PPS index tables that was in error. Consequently, Table 1a in the Addendum to this final rule correctly removes Stanly County from the list of areas that fall under the MSA 1520 wage index. As this is strictly a labeling correction that does not affect the actual computation of the wage index values, any LTCHs located in Stanly County,

NC, will continue to fall under, and use, the wage index for rural North Carolina. As we also noted above, we have removed the inadvertent inclusion of two Micropolitian Areas (which we are treating as rural), Enid, OK (CBSA 21240) and Jamestown, NY (CBSA 27640), from Table 1 (urban area wage indexes) of the addendum this final rule).

As noted above, a listing of each LTCH's State and county location; existing MSA-based labor market area designation; and its new CBSA-based labor market area designation based on the best available cost report data (FYs 1999–2003) from HCRIS and county information from our OSCAR database, are shown in Table 4 of the Addendum to this final rule. As we also noted earlier in this section, we encourage LTCHs to review the county location and both the current and labor market area assignments for accuracy. Any questions or corrections (including additions or deletions) to the information provided in Table 4 should be emailed to the following CMS Web address: *cmsltchpps@cms.hhs.gov.* A link to this address can be found on the following CMS Web page *http://www.cms.hhs.gov/providers/longterm/frnotices.asp.* Also, as noted earlier, a crosswalk file is available on the CMS Web page *http://www.cms.hhs.gov/providers/longterm/frnotices.asp* which shows, by county, a crosswalk of the MSA-based labor market areas to the new CBSA-based labor-market areas adopted in this final rule.

As discussed earlier in this section (V.C.1.a.), the applicable wage index phase-in percentages are based on the start of a LTCH's cost reporting period beginning on or after October 1st of each year during the 5-year transition period. Thus, for cost reporting periods beginning on or after October 1, 2004 and before October 1, 2005 (FY 2005), the labor portion of the standard Federal rate would be adjusted by three-fifths of the applicable LTCH wage index value. For example, for a LTCH's discharges occurring during the 2006 LTCH PPS rate year (that is, July 1, 2005 through June 30, 2006) and occurring in the LTCH's cost reporting period beginning during FY 2005, the applicable wage index value would be three-fifths of the full FY 2005 acute care hospital inpatient wage index data, without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act (shown in Tables 1 and 2 of the Addendum to this final rule). Similarly, for a LTCH's discharges occurring during the 2006 LTCH PPS rate year (that is, July 1, 2005 through June 30, 2006) and occurring in the LTCH's cost reporting period beginning during FY 2006, the applicable wage index value will be four-fifths of the full FY 2005 acute care hospital inpatient wage index data, without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act (shown in Tables 1 and 2 in the Addendum to this final rule).

Because the phase-in of the wage index does not coincide with the LTCH PPS rate year (July 1st through June 30th), most LTCHs will experience a change in the wage index phase-in percentages during the LTCH PPS rate year. For example, during the 2006 LTCH PPS rate year, for a LTCH with a January 1st fiscal year, the three-fifths wage index would be applicable for the first 6 months of the 2006 LTCH PPS rate year (July 1, 2005 through December 31, 2005) and the four-fifths wage index would be applicable for the second 6 months of the 2006 LTCH PPS rate year (January 1, 2006 through June 30, 2006). We also note that some providers will still be in the second year of the 5-year phase-in of the LTCH wage index (that is, those LTCHs who began the second year of the 5-year phase-in during their cost reporting periods that began between July 1, 2004 and September 30, 2004). For the remainder of those LTCHs' FY 2004 cost reporting periods which will conclude during the first 3 months of the 2006 LTCH PPS rate year, the applicable wage index value will be two-fifths of the full FY 2005 acute care hospital inpatient wage index data, without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act as shown in Tables 1 and 2 in the Addendum to this final rule. Since there are no longer any LTCHs in their cost reporting period that began during FY 2003 (the first year of the 5-year wage index phase-in), we are no longer showing the ⅕th wage index value in Tables 1 and 2 in the Addendum to this final rule.

2. Adjustment for Cost-of-Living in Alaska and Hawaii

In the August 30, 2002 LTCH PPS final rule (67 FR 56022), we established, under § 412.525(b), a cost-of-living adjustment (COLA) for LTCHs located in Alaska and Hawaii to account for the higher costs incurred in those States. (The inadvertent omission of § 412.525(b) by the OFR noted in the May 7, 2004 LTCH PPS final rule (69 FR 25686) has been corrected in 42 CFR parts 400 to 429 revised as of October 1, 2004). In the May 7, 2004 final rule (69 FR 25686), for the 2005 LTCH PPS rate year, we established that we make a COLA to payments for LTCHs located in Alaska and Hawaii by multiplying the standard Federal payment rate by the appropriate factor listed in Table I of that same final rule.

In the February 3, 2005 proposed rule, for the 2006 LTCH PPS rate year, we proposed to make a COLA to payments to LTCHs located in Alaska and Hawaii by multiplying the standard Federal payment rate by the factors listed in Table I below. These factors are obtained from the U.S. Office of Personnel Management (OPM) and are currently used under the IPPS. In addition, in that same proposed rule, we proposed that if the OPM releases revised COLA factors before March 1, 2005, we would use them for the development of the payments for the 2006 LTCH rate year and publish them in the LTCH PPS final rule. The OPM has not revised the COLA factors for Alaska and Hawaii since the publication of the proposed rule. Therefore, we are using the proposed COLA factors published in the February 3, 2005 proposed rule for this final rule.

We received no comments on the proposed COLA factors for LTCHs located in Alaska and Hawaii for the 2006 LTCH PPS rate year. Therefore, under § 412.525(b) and the broad authority of section 123 of Pub. L. 106–113 and section 307(b)(1) of Pub. L. 106–554, we are establishing the COLA factors for LTCHs located in Alaska and Hawaii, as shown below in Table I, for the 2006 LTCH PPS rate year.

TABLE I.—COST-OF-LIVING ADJUSTMENT FACTORS FOR ALASKA AND HAWAII HOSPITALS FOR THE 2006 LTCH PPS RATE YEAR

Alaska:	
All areas	1.25
Hawaii:	
Honolulu County	1.25
Hawaii County	1.165
Kauai County	1.2325
Maui County	1.2375
Kalawao County	1.2375

3. Adjustment for High-Cost Outliers

a. Background

Under § 412.525(a), we make an adjustment for additional payments for outlier cases that have extraordinarily high costs relative to the costs of most discharges. Providing additional payments for outliers strongly improves the accuracy of the LTCH PPS in determining resource costs at the patient and hospital level. These additional payments reduce the financial losses that would otherwise be caused by treating patients who require more

costly care and, therefore, reduce the incentives to underserve these patients. We set the outlier threshold before the beginning of the applicable rate year so that total outlier payments are projected to equal 8 percent of estimated total payments under the LTCH PPS.

Under § 412.525(a), we make outlier payments for any discharges if the estimated cost of a case exceeds the adjusted LTCH PPS payment for the LTC–DRG plus a fixed-loss amount. The fixed-loss amount is the amount used to limit the loss that a hospital will incur under the outlier policy for a case with unusually high costs. This results in Medicare and the LTCH sharing financial risk in the treatment of extraordinarily costly cases. The LTCH's loss is limited to the fixed-loss amount and a fixed percentage of costs above the marginal cost factor. We calculate the estimated cost of a case by multiplying the overall hospital cost-to-charge ratio by the Medicare allowable covered charge. In accordance with § 412.525(a)(3), we pay outlier cases 80 percent of the difference between the estimated cost of the patient case and the outlier threshold (the sum of the adjusted Federal prospective payment for the LTC–DRG and the fixed-loss amount).

Under the LTCH PPS, we determine a fixed-loss amount, that is, the maximum loss that a LTCH can incur under the LTCH PPS for a case with unusually high costs before the LTCH will receive any additional payments. We calculate the fixed-loss amount by simulating estimated aggregate payments with and without an outlier policy. We set the fixed-loss amount at a level that would result in estimated total outlier payments being projected to be equal to 8 percent of projected total LTCH PPS payments. Currently, MedPAR claims data and cost-to-charge ratios based on data from the latest available cost report data from the Hospital Cost Report Information System (HCRIS) and corresponding MedPAR claims data are used to establish a fixed-loss threshold amount under the LTCH PPS.

b. Cost-to-Charge Ratios (CCRs)

As we noted above, we calculate the estimate of the cost of the case used in determining LTCH PPS outlier payments by multiplying the Medicare allowable charges for the case by the LTCH's overall CCR. As we established in the June 9, 2003 IPPS high-cost outlier final rule (68 FR 34494–34515), for discharges occurring on or after October 1, 2003, FIs use either the most recent settled cost report or the most recent tentative settled cost report, whichever is from the later period, to determine a LTCH's CCR. As we specified in Program Memorandum Transmittal A–02–093 when we implemented the LTCH PPS and as codified in regulation at § 412.525(a)(4)(ii) which incorporates § 412.84(i)(3), for discharges occurring on or after August 8, 2003, for LTCHs for which we are unable to compute an accurate CCR (for example, due to faulty or unavailable data), we assign the applicable statewide average CCR to the LTCH. (Currently, the applicable statewide average CCRs can be found in Tables 8A and 8B of the FY 2005 IPPS final rule (69 FR 49687–49688).)

As set forth in § 412.525(a)(4)(ii), by cross-referencing § 412.84(i)(3), currently, we apply the applicable statewide average CCR when a LTCH's CCR exceeds the maximum CCR threshold (ceiling) set forth at § 412.84(i)(3)(ii). As we explained in the June 9, 2003 high-cost outlier final rule (68 FR 34506–34507), CCRs above this range are probably due to faulty data reporting or entry. Therefore, these CCRs should not be used to identify and make payments for outlier cases because the data are clearly errors and should not be relied upon. We also have a similar policy regarding use of the statewide average CCR under the short-stay outlier policy at § 412.529. Since CCRs are also used in determining short-stay outlier payments, the rationale for that policy mirrors that for high-cost outliers. (As specified in Transmittal 309 (October 1, 2004), the current LTCH PPS CCR ceiling is 1.409, which is equal to the combined operating and capital CCR ceilings (69 FR 49278).)

Currently, for discharges occurring on or after August 8, 2003, only a maximum CCR threshold (ceiling) is applied to a LTCH's CCR ratio. For discharges occurring on or after August 8, 2003, a minimum CCR threshold (floor) is no longer applicable (See June 8, 2003, 68 FR 34506–34507). As discussed above, if a LTCH's CCR is above the ceiling, the applicable statewide average CCR is assigned to the LTCH. However, a LTCH's CCR is no longer raised to the applicable statewide average CCR if it falls below a minimum CCR threshold (floor) for discharges occurring on or after August 8, 2003, in order to prevent hospitals from receiving inappropriately high outlier payments. As we explained in the June 6, 2003 final rule, (68 FR 34143–34144), we believe that using the current combined IPPS operating and capital CCR ceiling for LTCHs is appropriate since LTCHs are certified as acute care hospitals that meet the criteria set forth in section 1861(e) of the Act to participate as a hospital in the Medicare program, and, in general, hospitals are paid as LTCHs only because their Medicare average length of stay is greater than 25 days in accordance with § 412.23(e). Furthermore, as explained in that same final rule, prior to qualifying as a LTCH under § 412.23(e)(2)(i), a hospital generally is paid as an acute care hospital under the IPPS during the period in which it demonstrates that it has an average length of stay of greater than 25 days. (Refer to the June 9, 2003 high-cost outlier final rule (68 FR 34506–34507) for further explanation of the establishment of the current CCR policy.)

c. Establishment of the Fixed-Loss Amount

When we implemented the LTCH PPS, as discussed in the August 30, 2002 final rule (67 FR 56022–56026), we established a fixed-loss amount so that total estimated outlier payments are projected to equal 8 percent of total estimated payments under the LTCH PPS. To determine the fixed-loss amount, we estimate outlier payments and total LTCH PPS payments for each case using claims data from the MedPAR. Specifically, to determine the outlier payment for each case, we estimate the cost of the case by multiplying the Medicare covered charges from the claim by the LTCH's hospital specific CCR. In accordance with § 412.525(a)(3), if the estimated cost of the case exceeds the outlier threshold (the sum of the adjusted Federal prospective payment for the LTC–DRG and the fixed-loss amount), we pay an outlier payment equal to 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the adjusted Federal prospective payment for the LTC–DRG and the fixed-loss amount).

In the May 7, 2004 final rule, in calculating the fixed-loss amount that would result in outlier payments projected to be equal to 8 percent of total estimated payments for the 2005 LTCH PPS rate year, we used claims data from the December 2003 update of the FY 2003 MedPAR files, as that was the best available data at that time. We calculated LTCHs' CCRs for determining the fixed-loss amount based on the latest available cost report data in HCRIS from FYs 1999 through 2002. Also, as we explained in that same final rule (68 FR 25687), we calculated a single fixed-loss amount for the 2005 LTCH PPS rate year based on Version 21.0 of the GROUPER, which was the version in effect as of the beginning of

the LTCH PPS rate year (that is, July 1, 2004, for the 2005 LTCH PPS rate year).

We also applied the current outlier policy under § 412.525(a) in determining the fixed-loss amount for the 2005 LTCH PPS rate year. Accordingly, we used the FY 2004 IPPS combined operating and capital CCR ceiling of 1.366 (as explained in the IPPS final rule, published August 1, 2003 (68 FR 45478)) to evaluate whether each LTCH's CCR exceeded the ceiling. (Our rationale for using the FY 2004 combined IPPS operating and capital CCR ceiling for LTCHs is stated above in section V.C.3.b. of this preamble.) As we discuss in greater detail below, in determining the fixed-loss amount for the 2005 LTCH PPS rate year, there were no LTCHs with missing CCRs or with CCRs in excess of the current ceiling and, therefore, there was no need to assign the applicable statewide average CCR to any LTCHs in determining the fixed-loss amount (unless this was already done by the FI).

For the 2005 LTCH PPS rate year, in the May 7, 2004 final rule (69 FR 25689), we established a fixed-loss amount of $17,864. Thus, in the 2005 LTCH PPS rate year, we pay an outlier case 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the adjusted Federal LTCH PPS payment for the LTC–DRG and the fixed-loss amount of $17,864).

In the February 3, 2005 proposed rule (70 FR 5746–5749), we did not propose to change our established methodology for determining the fixed-loss amount. However, we proposed to use more recently available data to determine the fixed-loss amount for the 2006 LTCH PPS rate year, including the most recent available claims data and data from the Provider Specific File (PSF). Specifically, in that same proposed rule, for the 2006 LTCH PPS rate year, we used the September 2004 update of the FY 2003 MedPAR claims data to determine a proposed fixed-loss amount that would result in projected outlier payments being equal to 8 percent of total projected LTCH PPS payments, based on the policies described in that proposed rule, because those data were the best LTCH data available at that time. As noted above, we determined the proposed fixed-loss amount based on the version of the GROUPER that will be in effect as of the beginning of the 2006 LTCH PPS rate year (July 1, 2005), that is, Version 22.0 of the LTCH PPS GROUPER (69 FR 48982).

As we explained in the February 3, 2005 proposed rule, in determining the LTCH PPS fixed-loss amount, CCRs are used to estimate the cost of each case by multiplying the Medicare covered charges from the claim by the appropriate CCR. Rather than using CCRs calculated from the latest available cost report data in HCRIS and corresponding claims data from the MedPAR data as we did when we determined the 2005 LTCH PPS rate year fixed-loss amount (as noted above), in that proposed rule, for purposes of determining the proposed fixed-loss amount for the 2006 LTCH PPS rate year, we proposed to use CCRs from the PSF as they are based on the best available data for the LTCH PPS because, as we discuss in greater detail below, they are based on more recent data and were actually used to make LTCH PPS payment.

The PSF contains CCRs computed by FIs in accordance with Program Memorandum Transmittal A–02–093 and Program Memorandum Transmittal A–03–058, which reflects the changes made in the June 9, 2003 high-cost outlier final rule (68 FR 34494), including the use of either the most recently settled or tentatively settled cost report, whichever is later, to determine a LTCH's CCR. This also includes the assignment of the applicable statewide average CCR by the FI in cases where the FI was unable to compute a CCR (for example, due to faulty or unavailable data), or the CCR computed by the FI exceeded the applicable CCR ceiling. While FIs have been determining a CCR for each LTCH and entering it on the PSF (as instructed in Program Transmittal A–02–093 and Program Memorandum Transmittal A–03–058) in order to determine the LTCH PPS payment for each discharge using the LTCH PPS PRICER software, we have only recently had access to the complete PSF data for all LTCHs due to the lag time in data availability (the LTCH PPS has only been in effect for slightly over 2 years, that is for cost reporting periods beginning on or after October 1, 2002). Thus, this is the first opportunity that we have had to use CCRs from the PSF in determining the fixed-loss amount.

We proposed to use the CCRs from the PSF rather than computing CCRs from the latest MedPAR claims data and corresponding cost report data for purposes of determining the fixed-loss amount under the LTCH PPS because, as we discussed in the February 3, 2005 proposed rule, we believe that using these CCRs to estimate the cost of the case used in determining outlier payments would be more accurate than using our current source for obtaining CCRs to estimate the fixed-loss amount (that is, calculating CCRs from the latest cost report data in HCRIS and corresponding claims data in the MedPAR files, as explained above). Specifically, as we discuss in greater detail below, CCRs in the PSF are based on the most recently settled or tentatively settled cost report, whichever is later, whereas the CCRs computed from HCRIS and corresponding MedPAR data are several years old due to the lag time in data availability. Increasing the accuracy of the estimate of outlier payments that is used in determining the fixed-loss amount by using CCRs from the PSF rather than CCRs computed from HCRIS and corresponding MedPAR data would help ensure that outlier payments are projected to equal 8 percent of total estimated LTCH PPS payments as we established in the August 30, 2002 final rule (67 FR 56026). Using CCRs from the PSF should result in a more precise fixed-loss amount because these CCRs are based on more recent available data and, as explained above, these are the CCRs actually used by FIs to make LTCH PPS payments using the LTCH PPS PRICER software. As discussed in the February 3, 2005 proposed rule, the CCRs in the PSF also reflect the changes to the CCR and outlier policy made in the June 9, 2003 high-cost outlier final rule (68 FR 34494), which includes the use of either the most recently settled or tentatively settled cost reports, whichever is later, by FIs to determine a LTCH's CCR. In addition, because all of the LTCHs with claims in the September 2004 update of the FY 2003 MedPAR files (which we used to determine the proposed fixed-loss amount) have an entry in the PSF, there were no LTCHs with missing CCRs, and, therefore, there was no need to assign the applicable statewide average CCR to any LTCHs in determining the fixed-loss amount for the 2006 LTCH PPS rate year (unless this was already done by the FI when entering the CCR in the PSF). This results in a more accurate CCR for each LTCH, and therefore a more accurate estimate of the cost of each case for LTCHs that, in the past, were assigned the applicable statewide average CCR in determining the fixed-loss amount because the data needed to compute a CCR were unavailable. (We note that consistent with our established methodology for determining CCRs for the purposes of determining the fixed-loss amount, if, in the future, a LTCH were missing a CCR in the PSF, we would assign the applicable statewide average CCR.)

We believe that CCRs from the PSF are a better approximation of the CCRs that would be used to determine LTCHs' LTCH PPS payments during the 2006

LTCH PPS rate year because these are the most recent available CCRs actually used to make LTCH PPS payments. The CCRs that we have previously used to estimate the fixed-loss amount, computed from cost report data in HCRIS and corresponding claims data in the MedPAR files, were not used by FIs to make LTCH payments. Data from the PSF have only recently become available for all LTCHs because the LTCH PPS has only been in effect for slightly over 2 years (that is, cost reporting periods beginning on or after October 1, 2002). Prior to the availability of PSF data, for purposes of determining the fixed-loss amount, CCRs were computed based on the best available data (that is, from cost report data in HCRIS and corresponding MedPAR claims data). However, because there is lag time between the submission of cost report data and the availability of that data in HCRIS, CCRs may have been computed from cost reports that were several years old. In addition, often the applicable statewide average CCR was assigned to LTCHs when cost report and corresponding claims data necessary to compute a CCR were unavailable. This change in the source of obtaining CCRs for computing the fixed-loss amount results in more up-to-date and generally lower CCRs. This is the same data source used for obtaining CCRs under the IPPS for determining the IPPS fixed-loss amount annually (FY 2005 IPPS final rule, 69 FR 49276).

As stated above, in the February 3, 2005 proposed rule, we only proposed to change the data source for obtaining the CCRs used in determining the fixed-loss amount and not our established methodology for determining the fixed-loss amount or our established rules for determining CCRs for LTCH PPS payment purposes. In that same proposed rule, for purposes of determining the proposed 2006 LTCH PPS rate year fixed-loss amount that would result in projected outlier payments being equal to 8 percent of total projected LTCH PPS payments, we used CCRs from the June 2004 update of the PSF, and LTCH claims from the September 2004 update of the FY 2003 MedPAR files. Accordingly, based on the data and policies described in that proposed rule, we proposed a fixed-loss amount of $11,544 for the 2006 LTCH PPS rate year. Thus, we proposed to pay an outlier case 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the adjusted Federal LTCH payment for the LTC-DRG and the fixed-loss amount of $11,544).

As we discussed in the February 3, 2005 proposed rule, the proposed fixed-loss amount of $11,544 for the 2006 LTCH PPS rate year is significantly lower than the current fixed-loss amount of $17,864 for the 2005 LTCH PPS rate year. This notable change in the fixed-loss amount is primarily due to the change in the source of LTCHs' CCRs that are used to estimate costs when estimating LTCH PPS payments (specifically, using CCRs from the PSF rather than computing them from HCRIS and corresponding MedPAR data). As we discussed in that same proposed rule and as we discuss in greater detail below, we believe that a decrease in the fixed-loss amount is appropriate and necessary to maintain that estimated outlier payments would equal 8 percent of estimated total LTCH PPS payments, as required under § 412.525(a).

Comment: Seven commenters supported our decision to use hospital-specific CCRs, which resulted in a significant reduction in the proposed fixed-loss amount. One provider particularly endorsed the resulting reduction in the fixed-loss amount which, in the future, should help ensure that estimated outlier payments would equal 8 percent of estimated total Medicare payments to LTCHs. Several of the hospitals that commented noted that since this change would effectively reduce the financial loss suffered by LTCHs in treating high-cost cases, it would be highly effective in encouraging LTCHs to provide treatment for the some of the sickest Medicare beneficiaries.

Response: We appreciate the commenters' endorsement of our use of hospital-specific CCRs for purposes of determining the 2006 LTCH PPS rate year fixed-loss amount. As stated above, in proposing the revised outlier threshold, we have not proposed a change to our established methodology for determining the fixed-loss amount, we only proposed changing the data source.

At the outset of the LTCH PPS, we used the best available data in calculating the CCRs, which were the latest available cost data in HCRIS and corresponding claims data from MedPAR. The most recently available claims data from the PSF that we proposed to use to update the CCRs have only recently become available for all LTCHs. The LTCH PPS has only been in effect for slightly over 2 years (that is, for cost reporting periods beginning on or after October 1, 2002) and because many LTCHs did not transition to the LTCH PPS until FY 2003, the PSF was not created until relatively recently. For the 2006 LTCH PPS rate year, in calculating the proposed fixed-loss amount under § 412.525(a), we used the September 2004 update of the FY 2003 MedPAR claims data because those data were the best available LTCH data.

Therefore, in this final rule we are establishing that in determining a fixed-loss amount that would result in estimated outlier payments equal to 8 percent of estimated total LTCH PPS payments, we will use the CCRs from the latest available PSF. Consistent with our established policy, we will continue to assign the applicable statewide average CCRs if a LTCH's CCR is unavailable or exceeds the maximum CCR threshold (as discussed above). In this final rule, for purposes of determining the final 2006 LTCH PPS rate year fixed-loss amount, we are using CCRs from the December 2004 update of the PSF, which are the CCRs that were used by FIs to make LTCH PPS payments to LTCHs as of December 31, 2004, and LTCH claims data from the December 2004 update of the FY 2004 MedPAR files, as these are the best available data. As discussed above, the CCRs in the PSF also reflect the changes to the CCR and outlier policy made in the June 9, 2003 high-cost outlier final rule (68 FR 34494), which include the use of either the most recently settled or tentatively settled cost reports, whichever is later, by FIs to determine a LTCH's CCR. In addition, because all of the LTCHs with claims in the December 2004 update of the FY 2004 MedPAR files (which we used to determine the fixed-loss amount for the final 2006 LTCH PPS rate year) have an entry in the PSF, there were no LTCHs with missing CCRs, and, therefore, there was no need to assign the applicable statewide average CCR to any LTCHs in determining the fixed-loss amount (unless this was already done by the FI when entering the CCR in the PSF). (We note that consistent with our established methodology for determining CCRs for the purposes of determining the fixed-loss amount, if, in the future, a LTCH were missing a CCR in the PSF, we would assign the applicable statewide average CCR.)

Based on the data and policies described in this final rule, we are establishing a fixed-loss amount of $10,501 for the 2006 LTCH PPS rate year. Thus, we will pay an outlier case 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the adjusted Federal LTCH payment for the LTC–DRG and the fixed-loss amount of $10,501). We note that the fixed-loss amount of $10,501 for the 2006 LTCH PPS rate year is lower than the proposed fixed-loss amount for the 2006 LTCH

PPS rate year of $11,544 and significantly lower than the current fixed-loss amount of $17,864 for the 2005 LTCH PPS rate year. As we discussed in the February 3, 2005 proposed rule, this notable change in the fixed-loss amount for the 2006 LTCH PPS rate year as compared to the 2005 LTCH PPS rate year is primarily due to the change in the source of LTCHs' CCRs used to estimate costs when estimating LTCH PPS payments (specifically, using CCRs from the PSF rather than computing them from HCRIS and corresponding MedPAR data). As described above, in the past we have used CCRs that were calculated using costs from the most recent available cost report data in HCRIS and corresponding charges from MedPAR claims data. As also noted above, often the statewide average CCR was assigned to LTCHs when data to compute a CCR was unavailable. However, for the 2006 LTCH PPS rate year, in determining the fixed-loss amount, we are using CCRs from the PSF because, as we discussed above, we believe that these CCRs will more closely approximate the CCRs that will be used to make payments to LTCHs during the 2006 LTCH PPS rate and will result in a more accurate estimate of the cost of each case used in determining outlier payments.

As we noted above, CCRs from the PSF are based on more recent data and are generally lower than the CCRs computed from cost report data in HCRIS and corresponding claims data in the MedPAR files. Specifically, in comparing the best available data for 335 LTCHs, we found that almost 40 percent of LTCHs would experience a decrease in the CCR we used for computing the fixed-loss amount. Furthermore, for those LTCHs with a CCR in the PSF that is lower than CCRs used to determine the 2005 LTCH PPS rate year fixed-loss amount, we found that the difference in the CCRs was more than a 75 percent decrease for some LTCHs for which the applicable statewide average CCR previously been assigned because we were unable to compute a CCR (for example, due to faulty or unavailable data).

In determining estimated outlier payments (80 percent of costs beyond the fixed-loss amount), as discussed above, costs are estimated by multiplying the Medicare-covered charges for the case by the LTCH's CCR. When relatively lower CCRs are used to estimate costs from charges, the resulting estimated cost of each case is lower, thereby reducing estimated outlier payments since outlier payments are projected to equal 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the adjusted Federal prospective payment for the LTC–DRG and the fixed-loss amount). As we discussed in the February 3, 2005 proposed rule, lowering the fixed-loss amount results in more cases qualifying as outlier cases as well as an increase in the amount of the outlier payment for an outlier case because the maximum loss that a LTCH must incur before receiving an outlier payment (that is, the fixed-loss amount) will be smaller. Thus, in order to ensure that estimated outlier payments will be equal to 8 percent of estimated total LTCH PPS payments, the outlier fixed-loss amount should be lowered.

As stated above, we have established that under the LTCH PPS, outlier payments are estimated to be equal to 8 percent of estimated total LTCH PPS payments. As we discussed in the February 3, 2005 proposed rule, an analysis of recent LTCH PPS claims indicates that the 2004 and 2005 LTCH PPS rate year outlier fixed-loss amounts may have resulted in LTCH PPS outlier payments that fell below the estimated 8 percent. Specifically, based on claims discharged during the 2004 LTCH PPS rate year (July 1, 2003 through June 30, 2004), we estimate that outlier payments equal about 6 percent of estimated total LTCH PPS payments.

As an alternative to lowering the fixed-loss amount, as we discussed in the February 3, 2005 proposed rule, we examined adjusting the marginal cost factor (that is, the percentage that Medicare will pay of the estimated cost of a case that exceeds the sum of the adjusted Federal prospective payment for the LTC–DRG and the fixed-loss amount for LTCH PPS outlier cases (§ 412.525(a)(3)), as a means of ensuring that estimated outlier payments would be projected to equal 8 percent of estimated total LTCH PPS payments. Under the LTCH PPS high-cost outlier policy at § 412.525(a)(3), the marginal cost factor is currently equal to 80 percent, as we established in the August 30, 2002 final rule (67 FR 56022–56026). As we discuss in that same final rule, a marginal cost factor equal to 80 percent means that we pay the LTCH for an outlier case, 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the adjusted Federal rate for the LTC–DRG PPS payment and the fixed-loss amount).

As we discussed in the August 30, 2002 final rule (67 FR 56023), the marginal cost factor is designed to share the financial risk of treating extremely costly LTCH cases between LTCHs and the Medicare program by providing ''a balance between the need to protect LTCHs financially, while encouraging them to treat expensive patients and maintain the incentives of a prospective payment system to improve the efficient delivery of care.'' Increasing the marginal cost factor from the established 80 percent, while maintaining the existing fixed-loss amount would increase total outlier payments because we would pay a larger percentage of the estimated costs that exceed the outlier threshold (the sum of the adjusted Federal rate for the LTC–DRG and the fixed-loss amount). For example, if we were to increase the marginal cost factor to 90 percent without lowering the fixed-loss amount, we would pay outlier cases an additional 10 percent (90 percent minus 80 percent) of the estimated costs that exceed the outlier threshold (the sum of the adjusted Federal rate for the LTC–DRG and the fixed-loss amount).

While this alternative would also help to ensure that outlier payments are projected to equal 8 percent of estimated total LTCH PPS payments, it would not maintain the existing balance between providing an incentive for LTCHs to treat expensive patients and improving the efficient delivery of care. It would significantly reduce the LTCHs' share of the financial risk in treating those costly patients. As we discussed in the August 30, 2002 final rule (67 FR 56023–56024), our analysis of payment-to-cost ratios for outlier cases showed that a marginal cost factor of 80 percent appropriately addresses outlier cases that are significantly more expensive than non-outlier cases, while simultaneously maintaining the integrity of the LTCH PPS.

Lowering the fixed-loss amount from $17,864 to $10,501 will reduce the amount of the loss that a LTCH must incur under the LTCH PPS for a case with unusually high costs before the LTCH will receive any additional Medicare payments. However, as we explain above, we believe the 80 percent marginal cost factor continues to adequately maintain the LTCHs' share of the financial risk in treating those costly patients and ensure the efficient delivery of services. LTCHs will still have to first lose $10,501 before receiving any additional payment for treating an unusually costly case. We believe the fixed-loss amount of $10,501 in conjunction with the requirement that the LTCH is responsible for 20 percent of all estimated costs incurred beyond the outlier threshold (the sum of the adjusted Federal rate for the LTC–DRG PPS payment and the fixed-loss amount) will be significant enough to avoid the ''incentive'' for LTCHs to allow cases to reach the outlier

threshold in order to receive an additional payment. Therefore, we believe the fixed-loss mount of $10,501 will sufficiently identify unusually costly LTCH cases while maintaining the integrity of the LTCH PPS. Consequently, under the broad authority of section 123 of Pub. L. 106–113 and section 307(b)(1) of Pub. L. 106–554, we are adopting a fixed-loss amount of $10,501 that is calculated from CCRs derived from the best available claims data and CCRs from the PSF.

Accordingly, we are not adjusting the marginal cost factor under the LTCH PPS high-cost outlier policy. Rather, as discussed in detail above, we believe that employing actual CCR data from the PSF for purposes of determining the fixed-loss amount will result in a more accurate estimate of LTCH PPS outlier payments. Therefore, a decrease in the fixed-loss amount is appropriate and necessary to maintain estimated outlier payments equal to 8 percent of estimated total estimated LTCH PPS payments, as required under § 412.525(a).

We note that the fixed-loss amount for the 2006 LTCH PPS rate year established in this final rule ($10,501) is less than the fixed-loss amount ($11,544) proposed in the February 3, 2005 proposed rule. This is primarily due to the fact that the average case-mix of the LTCH claims in the FY 2004 MedPAR files, which are being used to compute the final fixed-loss amount is higher than the average case-mix of the LTCH claims in the FY 2003 MedPAR files, which were used to compute the proposed fixed-loss amount. Specifically, based on the claims in the December 2004 update of the MedPAR files and version 22.0 of the GROUPER, we found that the average case-mix increased over 6 percent from FY 2003 to FY 2004. In addition, the final standard Federal rate of $38,086.04, which is based on the most recent estimate of the market basket update of 3.4 percent, is 0.3 percent higher than the proposed Federal rate of $37,975.53, which was based on the proposed market basket update of 3.1 percent, as discussed above in section V.B.1.b of this preamble. Both the increase in case-mix and the increase in the Federal rate result in slightly higher overall payments to LTCHs. Therefore, it is necessary for the fixed-loss amount to decrease slightly in order to ensure that estimated outlier payments remain equal to 8 percent of estimated total LTCH PPS payments.

As we stated above, based on an analysis of recent LTCH claims data, we now estimate that actual outlier payments in the 2004 LTCH PPS rate year equal about 6 percent of actual total LTCH PPS payments. In this final rule, as discussed above, using the best data available at this time we are establishing a revised fixed-loss amount (outlier threshold) so that estimated outlier payments are projected to be 8 percent of estimated total LTCH PPS payments in the 2006 LTCH PPS rate year; the revised outlier threshold is significantly lower than the current outlier threshold. We will continue to monitor outlier payments, including actual outlier payments in the 2006 LTCH PPS rate year. Although we do not adjust the outlier threshold for a given year to account for differences between projected payments and actual payments, we do examine actual payments for purposes of determining whether it might be necessary to refine our estimation methodology. In setting the outlier threshold for the 2007 LTCH PPS rate year, we will use the best data available at the time and also propose refinements to the estimation methodology if necessary and appropriate so that our projections for the 2007 LTCH PPS rate year are as accurate as possible.

Comment: One commenter noted that the fixed-loss amount and, therefore, the outlier threshold has been decreasing since the start of the LTCH PPS. The commenter also noted that we indicated in the proposed rule that based on claims discharged during the 2004 LTCH PPS rate year, we estimated that outlier payments that were made during the 2004 LTCH PPS rate year were approximately equal to 6 percent of estimated total LTCH PPS payments. The commenter suggests that this 6 percent figure means that the ''process utilized by CMS to project [o]utlier payments has resulted in roughly 2 percent of the [o]utlier budget funding to not be paid to providers.'' The commenter suggests that CMS implement a one-time adjustment to account for the portion of outlier funds that have not been paid to LTCHs since the inception of the LTCH PPS and further that CMS implement a threshold that ensures that the entire 8 percent of estimated total LTCH PPS payments set aside for outlier payments for future years is paid to providers.

Response: As discussed above, the progressive decrease in the fixed-loss amount has resulted from the fact that the CCRs that we have previously used to estimate the fixed-loss amount were determined based on cost report data in HCRIS and corresponding claims data in the MedPAR files, but that data were not used by FIs to make actual LTCH PPS payments. Data from the PSF, which are used to make outlier payments under the LTCH PPS, have only recently become available for all LTCHs. Also, as noted above, because there is lag time between the submission of cost report data in HCRIS and the availability of that data, CCRs may have been computed from cost reports that were several years old. Furthermore, for many LTCHs the applicable statewide average CCR was assigned to the LTCH when cost report and corresponding claims data to compute a CCR were unavailable. Accordingly, as our data sources have more accurately reflected actual LTCH PPS payments, the fixed-loss amount has been determined based on more recent CCR data and it has progressively decreased each year since the start of the LTCH PPS. As discussed above, the change in the fixed-loss amount for the 2006 LTCH PPS rate year is primarily a result of using CCRs from the PSF to estimate costs under the LTCH PPS rather than computing CCRs from HCRIS and corresponding MedPAR data. (This is the same data source used for obtaining CCRs under the IPPS for determining the IPPS outlier fixed-loss amount (69 FR 49276, August 11, 2004).)

As we noted in the February 3, 2005 proposed rule and reiterate in the discussion above, an analysis of recent LTCH PPS claims indicates that the outlier fixed-loss amounts established for the 2004 and 2005 LTCH PPS rate years may have resulted in LTCH PPS outlier payments that fell below the estimated 8 percent in those rate years. We would remind the commenter that the decision to make estimated outlier payments equal to 8 percent of the estimated total payments under the LTCH PPS was based on data analyses by our contractors when we first designed the LTCH PPS effective for LTCH cost reporting periods beginning during FY 2003. The August 30, 2002 final rule (67 FR 56022–56027) details our determinations based on the results of the evaluations presented by 3M Health Information Systems and also an industry study commissioned by NALTH, as well as the original study by the RAND Corporation for the IPPS (57 FR 23640, June 4, 1992). As noted in that final rule, ''In order to determine the most appropriate outlier policy, we analyzed the extent to which the various options would reduce financial risk, reduce incentives to underserve costly beneficiaries, and improve the overall fairness of the system. We believed an outlier target of 8 percent would allow us to achieve a balance of the above stated goals.'' (57 FR 56023).

The regulations at § 412.523(d)(1) specify that ''CMS adjusts the standard Federal rate by a reduction factor of 8

percent, the estimated proportion of outlier payments'' under the LTCH PPS as described in § 412.525(a). This policy is similar to the policy for outliers under the IPPS. Under the IPPS there have been some years when outlier payments exceed the projected target percentage (5.1 percent) and other years when they fall below. In the August 11, 2004 final rule for the IPPS, we stated that ''[n]evertheless, consistent with the policy and statutory interpretations that we have maintained since the inception of the IPPS, we do not plan to make payments to ensure that the percentage of total outlier payments actually reflect the percentage target of total IPPS payments.'' (69 FR 49278)

Each year we estimate, based on the best data available at the time, the amount Medicare will pay LTCHs under the LTCH PPS. Based on that estimate, and an estimate of the proposed outlier payments that would be paid, we establish a fixed-loss amount that will generate estimated outlier payments that would equal 8 percent of the estimated total payments under the LTCH PPS. Thus, we estimate the fixed-loss amount based on the best available data to us at the time. If ultimately it is determined that some of the estimated factors used to determine the fixed-loss amount were not accurate and, therefore, we ultimately pay either more or less than 8 percent as outlier payments, no adjustment to future LTCH PPS payments is appropriate. Therefore, a payment adjustment to providers that would represent the difference between estimated outlier payments and those that Medicare actually made since the start of the LTCH PPS would not be appropriate. We believe, however, that the use of the PSF for determining CCRs for purposes of calculating the fixed-loss amount, will most likely result in actual outlier payments that more closely equal the requirement for estimated outlier payments to equal 8 percent of estimated total LTCH PPS payments.

Based on the data and policies described in this final rule, we are establishing a fixed-loss amount of $10,501 for the 2006 LTCH PPS rate year. Thus, we will pay an outlier case 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the adjusted Federal LTCH payment for the LTC–DRG and the fixed-loss amount of $10,501). As also discussed above, consistent with our longstanding policy under both the IPPS and the LTCH PPS, we are not making any additional adjustments to the outlier policy at § 412.525(a) or to the standard Federal rate to account for any amount that actual outlier payments may have been more or less than 8 percent of estimated total LTCH PPS payments.

d. Reconciliation of Outlier Payments Upon Cost Report Settlement

In the June 9, 2003 high-cost outlier final rule (68 FR 34508–34512), consistent with the change made for acute care hospitals under the IPPS at § 412.84(m), we established under § 412.525(a)(4)(ii), by cross-referencing § 412.84(i)(4) and (m), that effective for LTCH PPS discharges occurring on or after August 8, 2003, reconciliation of outlier payments may be made upon cost report settlement to account for differences between the actual CCR and the estimated CCR ratio for the period during which the discharge occurs. As is the case with the changes made to the outlier policy for acute care hospitals under the IPPS, the instructions for implementing these regulations are discussed in further detail in Program Memorandum Transmittal A–03–058. In addition, in that same final rule (68 FR 34513), we established a similar change to the short-stay outlier policy at § 412.529(c)(5)(ii).

We also discussed in the June 9, 2003 high-cost outlier final rule (68 FR 34494–34515), consistent with the policy change for acute care hospitals under the IPPS at § 412.84(i)(2), that, for LTCH PPS discharges occurring on or after October 1, 2003, FIs will use either the most recent settled cost report or the most recent tentative settled cost report, whichever is from the later period, to determine a LTCH's CCR. In addition, in that same final rule, we established a similar change to the short-stay outlier policy at § 412.529(c)(5)(iii).

e. Application of Outlier Policy to Short-Stay Outlier Cases

As we discussed in the August 30, 2002 LTCH PPS final rule (67 FR 56026), under some rare circumstances, a LTCH discharge could qualify as a short-stay outlier case (as defined under § 412.529 and discussed in section VI.B.4. of this preamble) and also as a high-cost outlier case. In such a scenario, a patient could be hospitalized for less than five-sixths of the geometric average length of stay for the specific LTC–DRG, and yet incur extraordinarily high treatment costs. If the costs exceeded the outlier threshold (that is, the short-stay outlier payment plus the fixed-loss amount), the discharge would be eligible for payment as a high-cost outlier. Thus, for a short-stay outlier case in the 2006 LTCH PPS rate year, the high-cost outlier payment will be 80 percent of the difference between the estimated cost of the case and the outlier threshold (the sum of the fixed-loss amount of $10,501 and the amount paid under the short-stay outlier policy).

4. Adjustments for Special Cases

a. General

As discussed in the August 30, 2002 LTCH PPS final rule (67 FR 55995), under section 123 of Pub. L. 106–113, the Secretary generally has broad authority in developing the PPS for LTCHs, including whether (and how) to provide for adjustments to reflect variations in the necessary costs of treatment among LTCHs.

Generally, LTCHs, as described in section 1886(d)(1)(B)(iv) of the Act, are distinguished from other inpatient hospital settings by maintaining an average inpatient length of stay of greater than 25 days. However, LTCHs may have cases that have stays of considerably less than the average length of stay and that receive significantly less than the full course of treatment for a specific LTC–DRG. As we explained in the August 30, 2002 LTCH PPS final rule (67 FR 55954), these cases would be paid inappropriately if the hospital were to receive the full LTC–DRG payment. Below we discuss the payment methodology for these special cases.

b. Adjustment for Short-Stay Outlier Cases

A short-stay outlier case may occur when a beneficiary receives less than the full course of treatment at the LTCH before being discharged. These patients may be discharged to another site of care or they may be discharged and not readmitted because they no longer require treatment. Furthermore, patients may expire early in their LTCH stay.

Generally, LTCHs are defined by statute as having an average inpatient length of stay of greater than 25 days. We believe that a payment adjustment for short-stay outlier cases results in more appropriate payments because these cases most likely would not receive a full course of treatment in this short period of time and a full LTC–DRG payment may not always be appropriate. Payment-to-cost ratios simulated for LTCHs, for the cases described above, show that if LTCHs receive a full LTC–DRG payment for those cases, they would be significantly ''overpaid'' for the resources they have actually expended.

Under § 412.529, in general, we adjust the per discharge payment to the least of 120 percent of the cost of the case, 120 percent of the LTC–DRG specific per diem amount multiplied by the length of stay of that discharge, or the full LTC–DRG payment, for all cases

with a length of stay up to and including five-sixths of the geometric average length of stay of the LTC–DRG.

As we noted in section VI.C.3. of this preamble, in the June 9, 2003 high-cost outlier final rule (68 FR 34494–34515), we revised the methodology for determining CCRs for acute care hospitals under the IPPS because we became aware that payment vulnerabilities existed in the previous IPPS outlier policy. Consistent with the policy established for acute care hospitals under the IPPS at § 412.84(i) and (m) in the June 9, 2003 high-cost outlier final rule (68 FR 34515), and similar to the policy change described above for LTCH PPS high-cost outlier payments at § 412.525(a)(4)(ii), we established under § 412.529(c)(5)(ii) that for discharges on or after August 8, 2003, short-stay outlier payments are subject to the provisions in the regulations at § 412.84(i)(1), (i)(3) and (i)(4), and (m).

In addition, we also discussed in the June 9, 2003 high-cost outlier final rule (68 FR 34508–34513) that short-stay outlier payments are subject to the provisions in the regulations at § 412.84(i)(2) for discharges on or after October 1, 2003 in accordance with § 412.529(c)(5)(iii). In addition, in that same final rule, we established that the applicable statewide average CCR is applied when a LTCH's CCR exceeds the ceiling or in certain other instances as specified in § 412.84(i)(3). Thus, the applicable statewide average CCR is no longer applied when a LTCH's CCR falls below the floor. Furthermore, we also established that any reconciliation of payments for short-stay outliers may be made upon cost report settlement to account for differences between the estimated CCR and the actual CCR for the period during which the discharge occurs. In the June 6, 2003 final rule for the 2004 LTCH PPS rate year (68 FR 34146–34148), for certain hospitals that qualify as LTCHs under section 1886(d)(1)(B)(iv)(II) of the Act (''subclause (II)'' LTCHs) as added by section 4417(b) of Pub. L. 105–33, and implemented in § 412.23(e)(2)(ii), we established a temporary adjustment to the short-stay outlier policy during the 5-year transition period. Under § 412.529(c)(4), effective for discharges from a ''subclause (II)'' LTCH occurring on or after July 1, 2003, the short-stay outlier percentage is 195 percent during the first year of the hospital's 5-year transition. For the second cost reporting period, the short-stay outlier percentage is 193 percent; for the third cost reporting period, the percentage is 165 percent; for the fourth cost reporting period, the percentage is 136 percent; and for the final cost reporting period of the 5-year transition (and future cost reporting periods), the short-stay outlier percentage is 120 percent, that is, the same as it is for all other LTCHs under the LTCH PPS.

As we discussed in the June 6, 2003 final rule for the 2004 LTCH PPS rate year (68 FR 34147), we established this formula with the expectation that an adjustment to short-stay outlier payments during the transition will result in reducing the difference between payments and costs for a ''subclause (II)'' LTCH for the period of July 1, 2003 through the end of the transition period, when the LTCH PPS will be fully phased-in.

As we stated in that same final rule, we also expect that during this 5-year period, ''subclause (II)'' LTCHs will make every attempt to adopt the type of efficiency enhancing policies that generally result from the implementation of prospective payment systems in other health care settings. We did not propose any changes to the short-stay outlier policy in the February 3, 2005 proposed rule and did not receive any comments regarding the short-stay outlier policy at § 412.529.

5. Hospital-Within-Hospitals and Satellites of LTCHs Notification Requirements

In the August 30, 2002 LTCH PPS final rule, we established a notification requirement for LTCHS that were HwHs, as defined in § 412.22(e) and satellites of LTCHs, as defined in § 412.22(h)(5), and for LTCHs and satellites of LTCHs that were subject to onsite provider payment adjustment under § 412.532. At existing § 412.22(e)(3) and (h)(5), we require a LTCH HwH or a satellite of a LTCH, respectively, to notify its FI and CMS of its co-located status within 60 days of the start of its first cost reporting period under the LTCH PPS. At existing § 412.532(i), we require the LTCH or satellite of a LTCH that is co-located with another hospital or a SNF to provide notification of its co-location within 60 days following the effective date of the regulations. We also established an additional notification requirement at § 412.532(i) for a LTCH or a satellite of a LTCH subject to the onsite provider payment adjustment at § 412.532, to notify its FI and CMS within 60-days of a change in co-located status. We intended that these regulations also require LTCHs and satellites of LTCHs to identify particular co-located Medicare providers.

As we discussed in the February 3, 2005 proposed rule (70 FR 5750), it appears that this expectation is unclear in our present regulations. We have been informed by some of our regional offices and FIs that LTCHs and satellites of LTCHs, for which they are responsible, have in many cases neglected to specify the name(s), address(es), and Medicare provider number(s) of the co-located providers covered by § 412.22(e)(3), (h)(5), and § 412.532, as applicable. Therefore, in that same proposed rule, with respect to § 412.22(e)(3), we proposed to clarify our policy that a LTCH that occupies space in a building used by another hospital or in one or more entire buildings located on the same campus as buildings used by another hospital and that meets the criteria of paragraph (e)(1) or (e)(2) of § 412.22 must inform its FI and CMS in writing of its co-located status, as well as, provide the name(s), address(es), and the Medicare provider number(s) of the other co-located hospitals (that is, acute care hospitals, IRFs, and psychiatric facilities and units).

We also proposed to clarify that with respect to § 412.22(h)(5), a satellite of a LTCH that occupies space in a building used by another hospital, or in one or entire buildings located on the same campus as buildings used by another hospital, and that meets the criteria of paragraphs (h)(1) through (h)(4) of § 412.22 must notify its FI and CMS in writing of its co-location and identify by name(s), address(es), and Medicare provider number(s) those hospital(s) with which it is co-located. In addition, we proposed to clarify the notification requirements in § 412.532 that apply to a LTCH or satellite of a LTCH. For example, we clarified that the notification requirements apply to a LTCH or a satellite of a LTCH that is co-located with a SNF. Furthermore, since the existing regulation text at § 412.22(e)(3)and (h)(5) required that the notification take place within 60 days of the LTCH's first cost reporting period beginning on or after October 1, 2002 and § 412.532(i) required that the notification occur within 60 days of the effective date of the original regulation (cost reporting periods beginning on or after October 1, 2002), and this timeframe for many providers has long since passed, we proposed to eliminate the specific timing requirement in favor of the on-going, prospective notification requirement described above, which is also clearer and more comprehensive. Therefore, we proposed to delete the phrase ''within 60 days of its first cost reporting period that begins on or after October 1, 2002'' at § 412.22(e)(3) and (h)(5). We also proposed to delete the phrase ''within 60 days following the

effective date of these regulations'' from § 412.532(i). We also proposed to delete the phrase ''and within 60 days of a change in co-located status'' from § 412.532(i) because, as we explained in that same proposed rule, we believe that the proposed continuing notification requirement in the revised regulation text at § 412.22(e)(3)and (h)(5), as well as at § 412.532(i), would include the obligation to notify CMS and the FI in writing of any changes in co-located status and the obligation to provide the requisite information detailed above. Accordingly, we proposed to revise each of the three notification provisions, to establish consistency and to clearly state the on-going requirement that a LTCH or satellite of a LTCH that is co-located with another hospital or a SNF inform their FIs and CMS in writing of the name(s), address(es), and Medicare provider number(s) of particular co-located Medicare providers.

Comment: While three commenters agreed with the proposed clarification of the notification requirement, one of the commenters requested that there be no penalty for a provider who fails to meet the notification requirement.

Response: While we thank these commenters for their support, we would point out that our notification requirements have existed since the implementation of the LTCH PPS. What we proposed in the February 3, 2005 LTCH PPS proposed rule were clarifications of these requirements.

In the August 30, 2002 LTCH PPS final rule, we stated that we would be monitoring HwHs and satellite facilities of LTCHs for compliance with existing regulations, growth in numbers and transfer patterns. To that end, we included a requirement in the regulations at § 412.22(e)(3) and (h)(5), respectively, that HwHs and satellites of LTCHs notify their FIs and CMS regional offices about their co-location with any other hospital, within 60 days following the initial effective date of the LTCH PPS. In addition, we provided for an additional requirement at § 412.532(i), to have a LTCH (including a satellite of a LTCH) that is subject to the onsite provider payment adjustment notify its FI and CMS within 60 days of a change in its co-located status and within 60 days following the effective date of those regulations. We believed that § 412.532(i) of the regulations also requires that a LTCH that is co-located with another hospital or a SNF identify particular Medicare co-located providers that are covered within the scope of § 412.532(a), as applicable. Also, in the February 3, 2005 proposed rule (70 FR 5755), we proposed a revision to § 412.532(i) to clarify that the notification requirement applies to situations where a LTCH, or a satellite of a LTCH, occupies space in a building used by a SNF or in one or more entire buildings located on the same campus as buildings used by a SNF. However, in the course of revising language in § 412.532(i), while we clearly intended to apply the notification requirement to a LTCH or a satellite of a LTCH that is co-located with a SNF, we are concerned that the public may misinterpret the proposed regulation text to mean that a LTCH or a satellite of a LTCH which is co-located with a SNF need only provide notification if it meets the requirements in § 412.22(e)(1) or (e)(2) or § 412.22(h)(1) through (h)(4). However, since those regulations do not currently apply to a LTCH or a satellite of a LTCH which is co-located with a SNF, we believe the intent of this change, that is, to apply the notification requirement to a LTCH or a satellite of a LTCH that occupies space in a building used by a SNF or in one or more entire buildings located on the same campus as buildings used by a SNF, would not be met. This is clearly contrary to our intent as expressed in the February 3, 2005 proposed rule (70 FR 5755). Accordingly, we have restructured the paragraph to clarify that only a LTCH or a satellite of a LTCH that is co-located with another hospital (that is, onsite acute care hospital, an onsite IRF, or an onsite psychiatric facility or unit) is required to meet the specific criteria at § 412.22(e)(1) or (e)(2) or § 412.22(h)(1) through (h)(4). The regulation text as revised does not require these criteria to be met in the case of a SNF that is co-located with a LTCH or satellite of a LTCH for the notification requirement to apply.

In addition, we had indicated in the February 3, 2005 proposed rule that a LTCH or a satellite of a LTCH would have to provide specific information about those providers specified at § 412.532(a). In this final rule, we are making an editorial change to § 412.532(i) by deleting the general reference to providers ''specified at paragraph (a)'' and in its place inserting the specific providers listed in paragraph (a) to which the particular provision applies.

For the reasons explained previously, we are finalizing our proposed regulation text concerning the notification requirements (with some minor editorial clarifications) and our proposal to eliminate the specific timing requirements.

We believe that these clarifications to the notification requirements establish consistency and clearly state the ongoing requirement that a LTCH HwHs and a satellite of a LTCH that is co-located with another hospital or SNF notify their CMS regional office and FI in writing, supplying the requisite information. Since we did not receive any comments in opposition to our proposed clarifications, we are finalizing those clarifications with the editorial modifications discussed above. Therefore, in this final rule, we are revising each of the three notification provisions to establish consistency and to clearly state the on-going requirement that a LTCH or a satellite of a LTCH that is co-located with another hospital or a SNF inform their FI and CMS in writing of the name(s), address(es), and Medicare provider number(s) of particular co-located Medicare providers. While we did not propose a penalty for nonconformance with the notification requirements, we trust that, being aware of our monitoring activities with regard to this regulation, LTCHs would make every effort to comply with the notification requirements. As stated in the August 30, 2002 LTCH PPS final rule, if we believe that LTCHs are not complying with this requirement, it may become necessary for us to revisit the existing regulations dealing with ownership and control of HwHs through notice and comment rulemaking.

6. Other Payment Adjustments

As indicated earlier, we have broad authority under section 123 of Pub. L. 106–113, including whether (and how) to provide for adjustments to reflect variations in the necessary costs of treatment among LTCHs. Thus, in the August 30, 2002 LTCH PPS final rule (67 FR 56014–56027), we discussed our extensive data analysis and rationale for not implementing an adjustment for geographic reclassification, rural location, treating a disproportionate share of low-income patients (DSH), or indirect medical education (IME) costs. In that same final rule, we stated that we would collect data and reevaluate the appropriateness of these adjustments in the future once more LTCH data become available after the LTCH PPS is implemented.

Because the LTCH PPS has only been implemented for a few years and there is a lag-time in data availability, sufficient new data have still not yet been generated that would enable us to conduct a comprehensive reevaluation of these payment adjustments. Nonetheless, we have reviewed the limited data that are available and have found no evidence to support additional proposed policy changes. Therefore, in the February 3, 2005 proposed rule, we did not propose to make any adjustments for geographic

reclassification, rural location, DSH, or IME. However, we will continue to collect and interpret new data as they become available in the future to determine if these data support proposing any additional payment adjustments.

Comment: Three of the commenters who supported our proposed adoption of the revised labor market areas based on OMB's new CBSA designations urged us to allow LTCHs the same opportunity that exists for acute care hospitals of applying for geographic reclassification to neighboring counties for wage index purposes. To limit this option to acute care hospitals in the same labor market, they argue, puts LTCHs at a competitive disadvantage. In stating the value of consistency in the Medicare program, one commenter notes the automatic ''out-migration adjustment'' in section 505 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 for acute care hospitals in qualifying counties where hospital employees commute to higher wage index areas. The commenter urges us to, therefore, consider geographic reclassification for LTCHs, particularly one that could meet qualifications for reclassification to a neighboring urban CBSA under the criteria and conditions for geographic reclassification set forth in 42 CFR 412.230 through 234 through the Medicare Geographic Classification Review Board (MGCRB).

Response: We appreciate the commenters' support for the adoption of OMB's new CBSA-based designations for the LTCH PPS and, as noted above, we will be finalizing that provision. However, we are not adopting the suggestion to establish a geographic reclassification procedure for LTCHs that parallels either the MGCRB set forth in section 1886(d)(10) of the Act and implemented at 42 CFR 412.230, or the recent ''out-migration adjustment'' in section 505 of the MMA of 2003, which adds section 1886(d)(13) to the Act and is implemented at 42 CFR 412.64(h)(5)(i). The Congress clearly targeted both of these provisions, as well as the reclassification provision set forth in section 1886(d)(8) of the Act, specifically for ''subsection (d)'' hospitals, that is, inpatient acute care hospitals. As we discuss below, we believe that the considerable administrative burdens inherent in establishing a reclassification process for a hospital system as authorized by the Congress for the approximately 4,500 ''subsection (d)'' hospitals nationwide, is neither reasonable nor appropriate for the LTCH system with only approximately 350 hospitals that are unevenly dispersed throughout the country.

In the August 1, 2002 final rule for the LTCH PPS, in which we presented features of the new payment system and detailed explanation of the analytical foundations of our determinations, we stated that we were not implementing an adjustment for geographic reclassification in the LTCH PPS because our data supported ''neither an adjustment to account for differences in area wage levels nor an adjustment for LTCHs located in rural areas or large urban areas * * *'' In that final rule, we noted that ''* * * regression analysis indicated that wage adjustment for LTCHs would not increase the accuracy of payments'' (67 FR 56019). Although we did provide for a 5-year phase-in of the wage adjustment for LTCHs in the August 1, 2002 final rule, we determined that we would not establish a geographic reclassification process for the initial years of the LTCH PPS. We cited the fact that excluded hospitals (that is, hospitals paid under the TEFRA payment system) were not required to provide wage-related information on the Medicare cost report (Worksheet S–3). At that point, we were not prepared to create instructions for data collection on LTCH wage-related costs or to develop the full range of application and determination procedures required in order to establish a new geographic reclassification system. Furthermore, in the August 1, 2002 final rule, where we established a 5-year phase-in to a full wage index for the new LTCH PPS, we sought consistency with area wage adjustments made to all other postacute providers (that is, the existing HHA, SNF, and IRF PPSs) in using ''pre-reclassification'' inpatient acute care hospital wage data without regard to any approved geographic reclassifications under section 1886(d)(8) or 1886(d)(10) of the Act. The resulting phased-in area wage adjustment for LTCHs is based on the provider's actual location, without regard to the urban or rural designation of any affiliated or related providers. In further discussing geographic reclassification, we noted that the administrative burden resulting from an attempt to develop an adjustment for geographic reclassification far outweighed any potential resulting benefits. The administrative burden of developing a geographic reclassification process would likely entail creating a provider application with an appropriate deadline (and engaging in Paperwork Reduction Act analysis), creating an entity to process, evaluate and determine provider applications, and establishing an appeals process for those who disagreed with the reclassification decision. Also, we would need to develop criteria for geographic reclassification as well as evaluate the effect of a reclassification provision in terms of budget neutrality. We would need to publish reclassification data in each payment notice and reclassification determinations would need to be completed by the effective date of each year's payment notice. We believe this administrative burden outweighs the benefit that would be received by the few LTCH hospitals that would receive reclassification under such a system. Thus, we reiterate our belief that it is neither reasonable nor cost-effective to establish a reclassification system under the LTCH PPS.

In section XII. (Regulatory Impact Analysis) of the February 3, 2005 proposed rule, we provided data in Table II of that section that indicated that the impact of the change from the 2005 LTCH PPS rate year to the 2006 LTCH PPS rate year for wage index changes for the LTCH PPS, which include the progression of the phase-in of the wage index and the proposed update in the wage index data, as well as the proposed change in the labor market area definitions, is, on average, a positive increase in payments of 0.1 percent. (The same table also indicates that the average percent change in payments per discharge from the 2005 LTCH PPS rate year to the 2006 LTCH PPS rate year, as a result of all changes being proposed, is estimated to be an increase of 5.5 percent.) (70 FR 5764)

Therefore, while we do understand that there are a few individual LTCHs and also one particular county near Boston that will experience more than a negligible negative impact because of the adoption of CBSAs, and, therefore, believe themselves to be at a competitive disadvantage with regard to hiring hospital personnel as compared to acute care hospitals in the same market, we continue to believe that, as described above, it is not administratively feasible to establish a geographic reclassification procedure for so few LTCHs. (Table II indicates that for LTCHs in New England, the average percent change in Medicare payments per discharge from the 2005 LTCH PPS rate year to the 2006 LTCH PPS rate year is estimated to be an increase of 7.5 percent.) We believe that it is revealing of Congressional intent that existing reclassification provisions in the statute continue to be limited to short-term acute care or ''section (d)'' hospitals. Furthermore, the Congress has not deemed it appropriate to

mandate a geographical reclassification policy for any of the IPPS-excluded hospital prospective payment systems. We do not believe that the small universe of LTCHs that are slightly negatively affected by the CBSA-based labor market area definitions as they apply to their wage index adjustment would justify the serious and considerable administrative burden entailed in establishing a geographic reclassification adjustment under the LTCH PPS.

7. Budget Neutrality Offset To Account for the Transition Methodology

Under § 412.533, we implemented a 5-year transition period for moving to 100 percent of the Federal prospective payment rate, during which a LTCH is paid an increasing percentage of the LTCH PPS Federal payment rate and a decreasing percentage of reasonable cost-based payment for each discharge. Furthermore, we allow a LTCH to elect to be paid based on 100 percent of the standard Federal rate in lieu of the blended methodology.

The standard Federal rate was determined as if all LTCHs will be paid based on 100 percent of the standard Federal rate. As stated earlier, we provide for a 5-year transition period that allows LTCHs to receive payments based partially on the reasonable cost-based methodology. Section 123(a)(1) of the Pub. L. 106–113 requires that the Secretary shall develop a per discharge prospective payment system for LTCHs and such system shall ''maintain budget neutrality.'' Accordingly, as we established in the August 30, 2002 final rule (67 FR 56033–56036), during the 5-year transition period, we reduce all LTCH Medicare payments (whether a LTCH elects payment based on 100 percent of the Federal rate or whether a LTCH is being paid under the transition blend methodology) to account for the cost of the transition methodology in the given LTCH PPS rate year. Specifically, we reduce all LTCH Medicare payments during the 5-year transition by a factor that is equal to 1 minus the ratio of the estimated reasonable cost-based payments that would have been made if the LTCH PPS had not been implemented to the projected total Medicare program PPS payments (that is, payments made under the transition methodology and the option to elect payment based on 100 percent of the Federal rate).

In the May 7, 2004 final rule (69 FR 25702), based on the best available data at that time, we projected that approximately 93 percent of LTCHs will be paid based on 100 percent of the standard Federal rate rather than receive payment under the transition blend methodology for the 2005 LTCH PPS rate year. Using the same methodology described in the August 30, 2002 LTCH PPS final rule (67 FR 56034), this projection, which used updated data and inflation factors, was based on our estimate that either—(1) A LTCH has already elected payment based on 100 percent of the Federal rate prior to the start of the 2005 LTCH PPS rate year (July 1, 2004); or (2) a LTCH would receive higher payments based on 100 percent of the 2005 LTCH PPS rate year standard Federal rate compared to the payments it would receive under the transition blend methodology. Similarly, we projected that the remaining 7 percent of LTCHs will choose to be paid based on the applicable transition blend methodology (as set forth under § 412.533(a)) because they would receive higher payments than if they were paid based on 100 percent of the 2005 LTCH PPS rate year standard Federal rate.

In that same final rule, based on the best available data at that time and policy revisions described in that same rule, we projected that the full effect of the remaining 4 years of the transition period (including the election option) would result in a cost to the Medicare program of $29 million. Specifically, for the 2005 LTCH PPS rate year, we estimated that the cost of the transition would be $15 million. In order to maintain budget neutrality, using the methodology established in the August 30, 2002 LTCH PPS final rule (67 FR 56034) based on updated data and the policies and rates discussed in the May 7, 2004 LTCH PPS final rule, we established a 0.5 percent reduction (0.995) to all LTCH payments in the 2005 LTCH PPS rate year to account for the $15 million estimated cost of the transition period methodology (including the option to elect payment based on 100 percent of the Federal rate) for the 2005 LTCH PPS rate year. Furthermore, we indicated that we would propose a budget neutrality offset for each of the remaining years of the transition period to account for the estimated costs for the respective LTCH PPS rate years.

In the February 3, 2005 proposed rule (70 FR 5754), based on the best available data at that time, using the same methodology established in the August 30, 2002 LTCH PPS final rule (67 FR 56034), we projected that approximately 94 percent of LTCHs would be paid based on 100 percent of the standard Federal rate rather than receive payment under the transition blend methodology during the 2006 LTCH PPS rate year. This projection was based on our estimate that either: (1) A LTCH has already elected payment based on 100 percent of the Federal rate prior to the beginning of the 2006 LTCH PPS rate year (July 1, 2005); or (2) a LTCH would receive higher payments based on 100 percent of the standard Federal rate compared to the payments they would receive under the transition blend methodology. Similarly, we projected that the remaining 6 percent of LTCHs would choose to be paid based on the transition blend methodology at § 412.533 because those payments are estimated to be higher than if they were paid based on 100 percent of the standard Federal rate.

Based on the best available data and the policies described in the February 3, 2005 proposed rule, we projected that in the absence of a transition period budget neutrality offset, the full effect of the remaining 3 years of the transition period (including the election option) as compared to payments as if all LTCHs would be paid based on 100 percent of the Federal rate would result in a cost to the Medicare program of $10 million as follows: $7 million in the 2006 LTCH PPS rate year; $3 million in the 2007 LTCH PPS rate year; and no cost in the 2008 LTCH PPS rate year. As we explained in that same proposed rule, we are no longer projecting a small cost for the 2008 LTCH PPS rate year (July 1, 2007 through June 30, 2008) even though some LTCH's will have a cost reporting period for the 5th year of the transition period which will be concluding in the first 3 months of the 2008 LTCH PPS rate year because as we discussed above, based on the most available data, we are projecting that the vast majority of LTCHs would have made the election to be paid based on 100 percent of the Federal rate rather than the transition blend.

Accordingly, using the methodology established in the August 30, 2002 LTCH PPS final rule (67 FR 56034) based on updated data and the policies and rates discussed in the February 3, 2005 proposed rule, we proposed a 0.2 percent reduction (0.998) to all LTCHs' payments for discharges occurring on or after July 1, 2005 and through June 30, 2006, to account for the estimated cost of the transition period methodology (including the option to elect payment based on 100 percent of the Federal rate) of the $7 million for the 2006 LTCH PPS rate year. We note that we did not receive any comments regarding our proposed budget neutrality factor to account for the cost of the transition period.

Therefore, in this final rule, based on the most recent available data, using the same methodology established in the

August 30, 2002 LTCH PPS final rule (67 FR 56034), we are projecting that approximately 98 percent of LTCHs will be paid based on 100 percent of the standard Federal rate rather than receive payment under the transition blend methodology during the 2006 LTCH PPS rate year. This projection, which uses updated data, is based on our estimate that either: (1) A LTCH has already elected payment based on 100 percent of the Federal rate prior to the beginning of the 2006 LTCH PPS rate year (July 1, 2005); or (2) a LTCH will receive higher payments based on 100 percent of the standard Federal rate compared to the payments they would receive under the transition blend methodology. Similarly, we project that the remaining 2 percent of LTCHs will choose to be paid based on the transition blend methodology at § 412.533 because those payments are estimated to be higher than if they were paid based on 100 percent of the standard Federal rate. The applicable transition blend percentage applies to the LTCH's entire cost reporting period beginning on or after October 1 (unless the LTCH elects payment based on 100 percent of the Federal rate).

Based on the best available data and the policies described in this final rule, we are projecting that the full effect of the remaining years of the transition period (including the election option) as compared to payments as if all LTCHs would be paid based on 100 percent of the Federal rate will result in a negligible cost to the Medicare program. Specifically, based on the most recent available data, we estimate that the cost of the transition period methodology (including the option to elect payment based on 100 percent of the Federal rate) would be approximately $1 million in the 2006 LTCH PPS rate year and approximately $675 thousand in the 2007 LTCH PPS rate year. As stated above, to account for the cost of the transition methodology in a given LTCH PPS rate year during the 5-year transition, we reduce all LTCH Medicare payments by a factor that is equal to 1 minus the ratio of the estimated reasonable cost-based payments that would have been made if the LTCH PPS had not been implemented to the projected total Medicare program PPS payments (that is, payments made under the transition methodology and the option to elect payment based on 100 percent of the Federal rate). Because we estimate that the additional cost of the transition period methodology (including the option to elect payment based on 100 percent of the Federal rate) will be approximately $1 million for the 2006 LTCH PPS rate year (and will be less than $1 million for the 2007 LTCH PPS rate year) and because this amount is a small percentage of total LTCH PPS payments (estimated at over $3 billion, as shown in the table below), the formula that we have used to establish the budget neutrality offset in prior years results in a factor (as described above) that we reduce all LTCH Medicare payments by to account for those additional costs of zero (as a function of rounding). In addition, as explained above, we are no longer projecting an additional cost to the Medicare program resulting from the transition period methodology (including the option to elect payment based on 100 percent of the Federal rate) for the 2008 LTCH PPS rate year.

Accordingly, using the methodology established in the August 30, 2002 LTCH PPS final rule (67 FR 56034), based on updated data and the policies and rates discussed in this final rule, we are establishing a 0.0 percent reduction (a budget neutrality offset of 1.000) to all LTCHs' payments for discharges occurring on or after July 1, 2005 and through June 30, 2006, to account for the estimated cost of the transition period methodology (including the option to elect payment based on 100 percent of the Federal rate). As stated above, in order to maintain budget neutrality, we indicated that we will use a budget neutrality offset for each of the remaining years of the transition period to account for the estimated costs for the respective LTCH PPS rate years. In this final rule, based on the best available data, we estimate there would be a 0.0 percent budget neutrality offset to LTCH PPS payments during the remaining years of the transition period since, as explained above, we currently estimate that the additional cost to the Medicare program resulting from the transition period methodology is so small that the budget neutrality factor determined under our established methodology would round to zero.

As we discussed in the August 30, 2002 LTCH PPS final rule (67 FR 56036), consistent with the statutory requirement for budget neutrality in section 123(a)(1) of Pub. L. 106–113, we intended that estimated aggregate payments under the LTCH PPS for FY 2003 equal the estimated aggregate payments that would be made if the LTCH PPS were not implemented. Our methodology for estimating payments for purposes of the budget neutrality calculations uses the best available data at the time and necessarily reflect assumptions. As the LTCH PPS progresses, we are monitoring payment data and will evaluate the ultimate accuracy of the assumptions used in the budget neutrality calculations (for example, inflation factors, intensity of services provided, or behavioral response to the implementation of the LTCH PPS) described in the August 30, 2002 LTCH PPS final rule (67 FR 56027–56037). To the extent these assumptions significantly differ from actual experience, the aggregate amount of actual payments may turn out to be significantly higher or lower than the estimates on which the budget neutrality calculations were based.

Section 123 of Pub. L. 106–113 and section 307 of Pub. L. 106–554 provide broad authority to the Secretary in developing the LTCH PPS, including the authority for appropriate adjustments. Under this broad authority, as implemented in the regulations at § 412.523(d)(3), we have provided for the possibility of making a one-time prospective adjustment to the LTCH PPS rates by October 1, 2006, so that the effect of any significant difference between actual payments and estimated payments for the first year of the LTCH PPS would not be perpetuated in the LTCH PPS rates for future years.

In the May 7, 2004 LTCH PPS final (69 FR 25703–25704), based on the best available data at that time, we estimated that total Medicare program payments for LTCH services over the next 5 LTCH PPS rate years would be $2.96 billion for the 2005 LTCH PPS rate year; $2.98 billion for the 2006 LTCH PPS rate year; $2.95 billion for the 2007 LTCH PPS rate year; $3.01 billion for the 2008 LTCH PPS rate year; and $3.12 billion for the 2009 LTCH PPS rate year.

In the February 3, 2005 proposed rule, consistent with the methodology established in the August 30, 2002 LTCH PPS final rule (67 FR 56036), based on the best available data at that time, we estimated that total Medicare program payments for LTCH services for the next 5 LTCH PPS rate years would be $2.94 billion in the 2006 LTCH PPS rate year; $2.90 billion in the 2007 LTCH PPS rate year; $2.96 billion in the 2008 LTCH PPS rate year; $3.08 billion in the 2009 LTCH PPS rate year; and $3.24 billion in the 2010 LTCH PPS rate year. These estimates were based on the projection that 94 percent of LTCHs would elect to be paid based on 100 percent of the 2006 LTCH PPS rate year proposed standard Federal rate rather than the applicable transition blend, and our estimate of 2006 LTCH PPS rate year payments to LTCHs. These estimates were also based on our Office of the Actuary's most recent estimate of the excluded hospital with capital market basket for the 2006 through 2010

LTCH PPS rate years and our Office of the Actuary's projection of the change in Medicare beneficiary fee-for-service enrollment for the 2006 through 2010 LTCH PPS rate years (70 FR 5752).

Comment: Two commenters requested that we include estimates of the impact of our recent payment adjustment for LTCH HwHs and satellites of LTCHs in our projections of future LTCH PPS payments.

Response: The tables in section V.C.7. of this preamble and the impact analysis in section XII.B.5. have not factored in the estimated impact of the recent payment adjustment for LTCH HwHs and satellites of LTCHs that were established in the August 11, 2004 IPPS final rule and codified at § 412.534. In that same final rule, we noted that quantifying the effect of the payment adjustment for LTCH HwHs and satellites under § 412.534 on Medicare expenditures for the LTCH PPS was problematic because ''[w]e cannot estimate the numbers of existing entities that will be affected by these revisions, nor can we estimate the specific DRGs that will be affected at those hospitals'' (69 FR 49771). We expected some degree of behavioral changes in discharge and admission policies between host hospitals and their LTCH HwHs or LTCH satellites, but ''* * * we [also] do not know the number of new applications for either LTCH hospital-within-a-hospital or LTCH satellite status that would [be] subject to review under these new circumstances.'' (69 FR 49771) Additionally, we note that we adopted a ''hold harmless'' policy the first year following the implementation of this policy (cost reporting periods beginning on or after October 1, 2004). That is, LTCH HwHs and LTCH satellites are not subject to the payment adjustment if the percentage of discharges admitted by the LTCH HwH or satellite of the LTCH from the host hospital do not exceed the percentage of discharges admitted from the host in its FY 2004 cost reporting period (§ 412.534(f)(1)). Furthermore, under § 412.534(f), we have also provided for a transition to the full payment adjustment for a hospital that is paid under the provisions of subpart O on October 1, 2005 and whose qualifying period under § 412.23(e) began on or before October 1, 2004. We know from comments that we received on the May 18, 2004 IPPS proposed rule (69 FR 28196) that there could be a considerable number of these LTCHs in formation and yet since they are presently acute care hospitals, they are receiving Medicare payments under the IPPS. No claims or cost reporting data have been submitted by these hospitals under the LTCH PPS because they are not LTCHs at this time and, therefore, our projections would be unable to capture data on this not-inconsiderable group of providers that would be affected by the payment adjustment.

Since the publication of the August 11, 2004 final rule, however, we have compiled a more comprehensive list of HwHs and asked our Office of the Actuary to utilize the best available Medicare data in order to evaluate whether it could be used to create a preliminary estimate of the impact of the LTCH HwH and satellite payment adjustment on Medicare payments during the three years of the transition to the full payment adjustment (FYs 2006–2008). Presently, based on our best data available to us, we believe that there are approximately 170 HwHs, but, because of the lag time in the availability of discharge data, we do not have complete data on the percentage of each LTCH's discharges that were admitted from its host during FY 2004. However, we do have specific discharge pattern data from 48 HwHs and their hosts (for CY 2003) provided by a LTCH HwH chain.

Our Office of the Actuary evaluated the available data on those LTCH HwHs to develop projections based on the specified yearly ceilings of admissions from the host during the transition (that is, 75 percent in FY 2006, 50 percent in 2007 and 25 percent in FY 2008) and extrapolated the results from these calculations to the remaining LTCH HwHs for which we lacked specific patient discharge pattern data. Because of the limited availability of hospital-specific admission and discharge data, those estimates were based on several assumptions, including behavioral changes by hosts that would result in fewer patients being discharged to the LTCH HwH and no additional increase in the number of LTCH patients.

Although the actual result of these analyses, projections, and extrapolations initially indicated an estimated reduction in Medicare payments under the LTCH PPS, these estimates do not account for the possibility that there could be an increase in the number of non-outlier patients discharged from host hospitals who were admitted to and receive Medicare covered services at another LTCH that was not co-located with the host. Since these LTCHs that are not co-located with the host would also submit claims under the LTCH PPS for treating the Medicare beneficiaries admitted, at this point, we believe it would be inappropriate to project a significant reduction in payments to LTCHs under the LTCH PPS. Therefore, based on the data available at this time, we continue to believe that it is difficult to accurately quantify the impact on Medicare payments under the LTCH PPS resulting from the recent payment adjustment at § 412.534. We believe that any attempt to include the impact of this particular policy in our projections of future LTCH PPS spending could undermine the credibility of these projections. For these reasons, while the effect of the change to the LTCH HwH and LTCH satellite policy has been considered, we do not believe that it is appropriate at this point to reduce our projection of LTCH PPS payments in this final rule.

As we explained in detail in our August 11, 2004 final rule for the IPPS (69 FR 49196) we implemented the payment adjustment for LTCH HwHs and satellites at § 412.534 because we believe that the co-location of LTCHs or LTCH satellites with other Medicare providers, particularly acute care hospitals, bore a ''strong resemblance * * * to LTCH units of acute care hospitals, a configuration precluded by statute.'' (69 FR 49201, August 11, 2004) Although we are not presently capable of publishing reliable data projections that reflect the impact of this policy on the LTCH PPS, we continue to believe, as stated in the August 11, 2004 final rule, ''* * * [t]o the extent that these policy revisions will eliminate hospital-within-hospital arrangements that circumvented our existing requirements, the Medicare program will avoid making unnecessary payments under the more costly'' LTCH prospective payment system (69 FR 49771).

In this final rule, consistent with the methodology established in the August 30, 2002 LTCH PPS final rule (67 FR 56036), based on the most recent available data, we estimate that total Medicare program payments for LTCH services for the next 5 LTCH PPS rate years will be as follows:

LTCH PPS rate year	Estimated payments ($ in billions)
2006	3.32
2007	3.38
2008	3.48
2009	3.63
2010	3.79

In accordance with the methodology established in the August 30, 2002 LTCH PPS final rule (67 FR 56037), these estimates are based on the projection that 98 percent of LTCHs will elect to be paid based on 100 percent of the 2006 LTCH PPS rate year proposed standard Federal rate rather than the applicable transition blend, and our estimate of 2006 LTCH PPS rate year

payments to LTCHs using our Office of the Actuary's most recent estimate of the excluded hospital with capital market basket of 3.4 percent for the 2006 LTCH PPS rate year, 3.0 percent for the 2007 LTCH PPS rate year, 2.8 for the 2008 LTCH PPS rate year, and 2.9 percent for the 2009 and 2010 LTCH PPS rate years. We also took into account our Office of the Actuary's projection that there will be a change in Medicare fee-for-service beneficiary enrollment of −1.0 percent in the 2006 LTCH PPS rate year, −2.1 percent in the 2007 LTCH PPS rate year, −1.0 percent in the 2008 LTCH PPS rate year, 0.3 percent in the 2009 and 2010 LTCH PPS rate years. (We note that, based on the most recent available data, our Office of the Actuary is projecting a slight decrease in Medicare fee-for-service Part A enrollment, in part, because they are projecting an increase in Medicare managed care enrollment as a result of the implementation of several provisions of the MMA of 2003.)

As we discussed in the May 7, 2004 LTCH PPS final rule (69 FR 25704), because the LTCH PPS has only been recently implemented, sufficient new data have not been generated that would enable us to conduct a comprehensive reevaluation of our budget neutrality calculations. Accordingly, we did not make a one-time adjustment under § 412.523(d)(3). In the February 3, 2005 proposed rule (70 FR 5752), we explained that at this time, we still do not have sufficient new data to enable us to conduct a comprehensive reevaluation of our budget neutrality calculations. Therefore, we did not propose to make a one-time adjustment under § 412.523(d)(3) so that the effect of any significant difference between actual payments and estimated payments for the first year of the LTCH PPS is not perpetuated in the PPS rates for future years.

We note that we did not receive any comments on our proposal not to make a one-time adjustment under § 412.523(d)(3) in the LTCH PPS rate year 2006. Accordingly, at this time, we are not making a one-time adjustment under § 412.523(d)(3) so that the effect of any significant difference between actual payments and estimated payments for the first year of the LTCH PPS is not perpetuated into the LTCH PPS rates for future years. However, we will continue to collect and interpret new data as the data become available in the future to determine if such an adjustment should be proposed.

8. Extension of the Interrupted Stay Policy

In the May 7, 2004 LTCH PPS final rule, we revised the definition of an ''interruption of a stay'' at § 412.531 by establishing two distinct categories, ''[a] 3-day or less interruption of stay'' at (a)(1) and ''[a] greater than 3-day interruption of stay'' at (a)(2). The ''greater than 3-day interruption of stay'' which was directly based on the original ''interruption of stay'' policy that had been implemented at the start of the LTCH prospective payment system (August 30, 2002 LTCH PPS final rule, 67 FR 56002) is defined as a stay at a LTCH during which a Medicare inpatient is discharged from the LTCH to an acute care hospital, an IRF, or a SNF (or swing bed) for a period of greater than 3 days, but is readmitted to the LTCH within the applicable fixed day period, that is, between 4 and 9 consecutive days for an acute care hospital, between 4 and 27 consecutive days for an IRF, and between 4 and 45 consecutive days for a SNF. In both the ''3-day or less interruption of stay'' and the ''greater than 3-day interruption of stay'', the day count begins on the day of discharge from the LTCH, (which is also the day of admission to the other site of care). The payment features of the ''greater than 3-day'' policy itself govern the stay after day 4 once the ''3-day or less'' policy no longer applies.

As defined in the previous paragraph, for purposes of Medicare payment to the LTCH, a greater than 3-day interruption of stay is treated as only one discharge from the LTCH and generates only one LTC–DRG payment. However, under this policy, Medicare makes a separate payment to the intervening provider (that is, acute care hospital, IRF, or SNF) for the treatment or care given to the beneficiary during the interruption.

In implementing this policy, we provided that, in the event a Medicare inpatient is discharged from a LTCH and is readmitted and the stay qualifies as an interrupted stay, the provider must cancel the claim generated by the original stay in the LTCH and submit one claim for the entire stay. (For further details, see Medicare Program Memorandum Transmittal A–02–093, September 2002.) On the other hand, if the patient stay exceeds the total fixed-day threshold at the other facility before being readmitted to the LTCH, two separate LTCH PPS payments would be made. One would be based on the principal diagnosis and length of stay for the first discharge from the LTCH and the other based on the principal diagnosis and length of stay for the second discharge from the LTCH. Depending upon their lengths of stay, both stays could result in payments as a short-stay outlier (§ 412.529), a full LTC–DRG, or even a high-cost outlier. Further, if the principal diagnosis is the same for both admissions, the hospital could receive two similar payments. It is also important to note that under the existing greater than 3-day interruption of stay policy, a separate Medicare payment is made to the intervening provider under that provider's payment system.

The 3-day or less interruption of stay policy is defined at § 412.531(a)(1) as ''a stay at a long-term care hospital during which a Medicare inpatient is discharged from the long-term care hospital to an acute care hospital, IRF, SNF, or the patient's home and readmitted to the same long-term care hospital within 3-days of the discharge from the long-term care hospital. The 3-day or less period begins with the date of discharge from the long-term care hospital and ends not later than midnight of the third day.'' As discussed in detail in the May 7, 2004 LTCH PPS final rule (69 FR 25691–25700), there are several components to this policy. First, only one LTC–DRG payment will be made to the LTCH for the patient who is discharged from the LTCH to an acute care hospital, IRF, SNF, or patient's home and readmitted to the same LTCH within 3 days. Secondly, any off-site tests or medical treatment, either inpatient or outpatient, delivered at an acute care hospital or an IRF, or care at a SNF, will be covered by the LTCH ''under arrangements'' if the patient is readmitted to the LTCH within 3 days. (We established a specific exception to the ''under arrangements'' requirement during the 2005 LTCH PPS rate year, which we will review below, at § 412.531(b)(1)(ii)(A)(1), in the event that the treatment was grouped to a surgical DRG under the IPPS at an acute care hospital.)

Existing regulations at § 412.509(c) require a LTCH to furnish all necessary covered services for a Medicare beneficiary who is an inpatient of the hospital either directly or ''under arrangements'' (as defined in § 409.3). The ''under arrangements'' policy set forth in § 412.509 derives from the regulations at § 411.15(m), which implement section 1862(a)(14) of the Act. Section 1862(a) of the Act specifies the services for which no payment may be made under Medicare Part A and Part B and also specifies the exception for certain services to be furnished ''under arrangements'' by providers. Under section 1862(a)(14) of the Act, notwithstanding any other provision of

this title, ''no payment may be made under part A or part B for any expenses incurred for items or services which are other than physicians' services (as defined in regulations promulgated specifically for purposes of this paragraph), services described by section 1861(s)(2)(K) of the Act (certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist, and which are furnished to an individual who is a patient of a hospital or critical access hospital by an entity other than the hospital or critical access hospital, unless the services are furnished under arrangements (as defined in section 1861(w)(1) of the Act)) with the entity made by the hospital or critical access hospital.'' Section 1861(w)(1) of the Act states that ''[t]he term ''arrangements'' is limited to arrangements under which receipt of payment by the hospital, critical access hospital, skilled nursing facility, home health agency, or hospice program (whether in its own right or as agent), with respect to services for which an individual is entitled to have payment made under this title, discharges the liability of such individual or any other person to pay for the services.'' We believed the objective of these statutory provisions, which were implemented for inpatient acute care hospitals in regulations at § 411.15(m) and subsequently at § 412.509 for LTCHs, was to discharge financial liability for inpatients who may have received additional care off-premises and to assign payment responsibility for the care to the hospital that is being paid for that beneficiary's total care for that spell of illness.

Over the years, we have often referred to this as the ''prohibition against unbundling'' for purposes of emphasizing that if a Medicare provider ''unbundles'' specific components of a beneficiary's total inpatient care (provided either ''directly'' or ''under arrangements'') and sends separate claims to Medicare for those tests or treatments, the provider would be acting in violation of the statute and applicable regulations. Since LTCHs treat patients with multicomorbidities who are often in need of a wide range of diagnostic and treatment modalities and lengthy hospitalizations, we believe that in this particular setting, this statutory requirement was particularly vulnerable to gaming. For that reason, in formulating the ''3-days or less interruption of stay policy'' at § 412.531(a), we clarified the existing general unbundling prohibition and the unbundling prohibition as it applied to the interrupted stay policy under the LTCH PPS.

As noted above, we were concerned that LTCH patients, under active treatment, were being inappropriately discharged to other treatment sites, receiving tests or procedures related to one of the diagnoses for which the patient was being hospitalized and which otherwise should have been provided at the LTCH either directly or ''under arrangements'' (§ 412.509) prior to being readmitted to the LTCH. This behavior resulted in another claim being submitted to Medicare by the other treatment site for those tests or procedures. Since it is a fundamental principle of all prospective payment systems that payments associated with specific diagnostic groups include all costs associated with rendering care to the type of patients treated, the behavior described above on the part of the LTCH would result in an additional and inappropriate Medicare payments for services delivered by an intervening provider.

If a LTCH obtains, from another facility ''under arrangements,'' a specific test or procedure that is not available on the LTCH's premises for one of its inpatients, as contemplated by § 412.509, a discharge and a subsequent readmission would therefore be unnecessary and inappropriate. This is true even if it is necessary to transport the patient to another facility to receive the arranged-for service. In this situation, generally, the LTCH would include the medically necessary test or procedure on its patient claim to Medicare which could have an effect on the assignment of the LTC–DRG and, thus, the Medicare payment to the LTCH, and the LTCH would be responsible for paying the provider directly for the test or procedure. Under the 3-day or less interruption of stay policy, if a LTCH patient is discharged to an acute care hospital, IRF, SNF, or patient's home and returns to the LTCH for further hospital-level care within 3 days, any Medicare-covered services delivered during that interruption will be deemed to have been delivered ''under arrangements'' and included in the one episode of care for which Medicare will pay the LTCH. Furthermore, under § 409.3, when services are furnished ''under arrangements,'' Medicare payments made to the provider that arranged for the services discharges the liability of the beneficiary or any other person to pay for those services.

Our policy was premised on the belief that 3 days, in most instances, represented an appropriate interval for establishing whether or not the reason for the patient's readmission was directly connected to the original episode of care at the LTCH. Therefore, no additional claim can be submitted to Medicare by the other provider that actually furnished the test or procedure if the patient is readmitted to the LTCH within 3 days since the initial LTCH admission triggered a Medicare payment under the LTCH prospective payment system that has been calibrated to cover payment for all necessary Medicare covered services delivered to a beneficiary during that episode of care.

Moreover, under this established policy, where the LTCH is required to pay for outpatient or inpatient medical treatment or care provided at an acute care hospital, an IRF or SNF during any days of the 3-day or less interruption, all days of the 3-day or less interruption that the patient is away from the LTCH will be included in that patient's day count at the LTCH. If the LTCH patient goes home during the interruption and receives no additional medical care prior to being readmitted to the LTCH, the intervening days will not be included in the day count because the LTCH did not deliver any services to the patient during those days either directly or ''under arrangement.''

In the policy, as established in the May 7, 2004 LTCH PPS final rule, for LTCH rate year 2005, we did provide a limited exception to the prohibition against additional Medicare payments to an intervening provider under the less than 3-day interruption of stay policy at § 412.531(b)(1)(ii)(A)(*1*). Under this exception, during the 2005 LTCH PPS rate year, if a patient was discharged from a LTCH, admitted as an inpatient to an acute care hospital and readmitted to the same LTCH within 3 days, and if the treatment that was delivered at the acute care hospital was grouped to a surgical DRG, Medicare will pay the acute care hospital separately for that surgical treatment. We also provided in § 412.531(b)(1)(i)(c) that the number of days that a beneficiary spends away from a LTCH during a 3-day or less interruption of stay during which a beneficiary receives a procedure that is grouped to a surgical DRG under the IPPS in an acute care hospital during the 2005 LTCH PPS rate year is not included in determining the length of stay of the patient at the LTCH. We established this exception in response to comments on the original policy that we proposed in the January 30, 2004 proposed rule (69 FR 4768–4772) requesting that we take into consideration the following scenario: the occurrence of an emergency ''totally unrelated'' to a LTCH patient's admitting diagnoses that occurred and

requiring surgery at an acute inpatient hospital, followed by the readmission of the patient within 3-days to the LTCH for a continuation of treatment of the patient's initial medical problems.

In our response to these concerns, we noted that the 3-day or less interruption of stay policy at 412.531 resulted from our concern that if a LTCH patient was discharged to an acute care hospital for only 1, 2, or 3 days, followed by a readmission to the LTCH, there could be reason to believe that the treatment delivered, even if it was grouped to a surgical DRG, was not a major procedure because of the relatively short length of stay, and, therefore, should have been provided ''under arrangements.''

In the May 7, 2004 LTCH PPS final rule, we stated that over the course of the first year of implementation of the revised 3-day or less interrupted stay policy, we would study relevant claims data in order to evaluate whether further proposed refinements to this policy would be warranted in this year's rule. Specifically, we stated that we would analyze new data to determine whether problems associated with LTCH interrupted stays equally affected all settings to which LTCH patients may have been discharged and subsequently readmitted and we would closely monitor patterns of discharges and readmissions under the first year of this policy. In order to pursue these analyses, we stated that we would be using relevant claims data as soon as they were available to determine whether our policy was producing its desired effect of reducing unnecessary and inappropriate Medicare payments while not compromising beneficiary access to medically necessary services. The 3-day interruption of stay policy was first implemented on July 1, 2004, and, therefore, we do not yet have sufficient data to accomplish the above evaluations. Therefore, in the February 3, 2005 proposed rule (70 FR 5754), we proposed to extend the surgical DRG exception in § 412.531(b)(1)(i)(C) and (b)(ii)(A)(*1*) through the 2006 LTCH rate year, from July 1, 2005 through June 30, 2006. As we explained in that same proposed rule, at that point, the policy will have been in effect for 12 months, and we believe that we will be better able to evaluate whether this exception should be extended further as well as whether the overall policy requires modification in order to serve the overall goals of the Medicare program.

Comment: Three commenters expressed strong support for our proposed one-year extension of the surgical DRG exception to our 3-days or less interrupted stay policy, noting that it prevents LTCHs from having to pay for costly surgical procedures ''under arrangements'' for patients who are otherwise being treated at LTCHs. One of the commenters urged us to make it a permanent feature of the policy.

Response: We appreciate the commenters' support for our proposed policy. As noted above, we will be analyzing claims data over the next year to determine whether the surgical DRG exception to the ''under arrangements'' feature of the 3-day or less interrupted stay policy is actively accomplishing our goal of reducing unnecessary Medicare payments and to deter inappropriate Medicare payments while not compromising beneficiary access to medically necessary services. We believe that we will have sufficient data to evaluate continuation of the exception and also whether additional refinements to the overall 3-day or less interruption of stay policy are warranted. We are particularly interested in analyzing data from LTCHs to determine whether there has been a significant increase in interruptions of 4-days since the establishment of the policy. To the extent interruption of stay has increased to at least 4 days, this behavior may indicate inappropriate efforts to side-step the provisions of our 3-day or less interruption of stay policy. Therefore, as proposed, we are extending the surgical DRG exception through the 2006 LTCH PPS rate year, from July 1, 2005–June 30, 2006 in § 412.531(b)(1)(i)(C) and (b)(ii)(A)(*1*).

9. Onsite Discharges and Readmittances

Under § 412.532, generally, if more than 5 percent of all Medicare discharges during a cost reporting period are patients who are discharged to an onsite SNF, IRF, or psychiatric facility, or to an onsite acute care hospital and who are then directly readmitted to the LTCH (including a satellite facility), only one LTC–DRG payment will be made to the LTCH for these type of discharges and readmittances during the LTCH's cost reporting period. Therefore, payment for the entire stay will be paid either as one full LTC–DRG payment or a short-stay outlier, depending on the duration of the entire LTCH stay.

In applying the 5-percent threshold, we apply one threshold for discharges and readmittances with the co-located acute care hospital. There is also a separate 5-percent threshold for the aggregate of all discharges and readmittances to the LTCH from its co-located SNFs, IRFs, and psychiatric facilities. In the case of a LTCH that is co-located with an acute care hospital, an IRF, or a SNF, the interrupted stay policy at § 412.531 applies until the 5-percent threshold is reached. Once the applicable 5-percent threshold is reached, all LTCH discharges and readmittances from the co-located acute care hospital for that cost reporting period are paid as one discharge pursuant to § 412.532. This means that once the 5-percent threshold has been reached, even if a discharged LTCH Medicare patient was readmitted to the LTCH following a stay in an acute care hospital of greater than 9 days, if the facilities share a common location, the subsequent discharge from the LTCH will not represent a separate hospitalization for payment purposes. Under this policy, the total stay for a patient will include LTCH days prior to the interruption and, also, the days after the readmission to the LTCH that followed the interruption and Medicare will make one LTC–DRG payment when the patient is discharged during a cost reporting period. One LTC–DRG will be assigned based upon all patient diagnoses and care delivered to the patient during the entire LTCH stay and included on the discharge claim regardless of the length of stay at the acute care hospital during the interruption.

Similarly, if the LTCH has exceeded its 5-percent threshold for all discharges to an onsite IRF, SNF, or psychiatric hospital or unit, which were readmitted to the LTCH from those providers, the subsequent LTCH discharge for those patients will not be treated as a separate discharge for Medicare payment purposes. (Unless the up to 3-day interrupted stay policy is applicable, payment to an acute care hospital under the IPPS, to the IRF under the IRF PPS, or to a SNF under the SNF PPS, will not be affected. Payments to the psychiatric facility also will not be affected.)

In the August 30, 2002 LTCH PPS final rule, we established a notification requirement for LTCHs that were HwHs, as defined in § 412.22(e), and satellites of LTCHs, as defined at § 412.22(h)(5), and for LTCHs and satellites of LTCHs that were subject to the onsite provider payment adjustment under § 412.532 because they were co-located with other Medicare providers, as specified in § 412.532(a). At existing § 412.22(e)(3) and (h)(5), we require a LTCH HwH and a satellite of a LTCH, respectively, to notify its FI and CMS of its co-located status within 60 days of the start of its first cost reporting period under the LTCH PPS. At existing § 412.532(i), we require the LTCH or satellite of a LTCH that is co-located with another hospital or a SNF to provide notification of its co-location within 60-days following the effective date of the regulations. We also

established an additional notification requirement at § 412.532(i), for a LTCH or satellite of a LTCH, subject to the onsite provider payment adjustment at § 412.532 to notify its FI and CMS within 60 days of a change in co-located status. We intended that these regulations also require LTCHs and satellites of LTCH that are co-located with other hospitals or SNFs to identify particular co-located Medicare providers.

As we discussed in the February 3, 2005 proposed rule (70 FR 5750), it appears that this expectation is unclear in our present regulations. We have been informed by some of our regional offices and FIs that LTCHs and satellites of LTCHs, for which they are responsible, have in many cases neglected to specify the name(s), address(es), and Medicare provider number(s) of the co-located providers covered by § 412.22(e)(3), (h)(5), and § 412.532, as applicable. Therefore, in that same proposed rule, with respect to § 412.22(e)(3), we proposed to clarify our policy that a LTCH that occupies space in a building used by another hospital, or in one or more entire buildings located on the same campus as buildings used by a hospital and that meets the criteria of paragraph (e)(1) or (e)(2) of § 412.22, must inform its FI and CMS in writing of its co-located status, as well as, provide the name(s), address(es), and the Medicare provider number(s) of the other co-located providers (that is, acute care hospitals, IRFs, and psychiatric facilities and units). We also proposed to clarify that, with respect to § 412.22(h)(5), a satellite of a LTCH that occupies space in a building used by another hospital, or in one or more entire buildings located on the same campus as buildings used by another hospital, and that meets the criteria of paragraphs (h)(1) through (h)(4) of § 412.22, must notify its FI and CMS in writing of its co-location and identify by name(s), address(es), and Medicare provider number(s), those hospital(s) with which it is co-located.

In addition, we proposed to clarify the notification requirements in § 412.532 that apply to a LTCH or satellite of a LTCH to which § 412.532 applies. For example, we clarified that the notification requirements apply to a LTCH or a satellite of a LTCH that is co-located with a SNF. Furthermore, since the existing regulation text at § 412.22(e)(3) and (h)(5) required that the notification take place within 60 days of the LTCH's first cost reporting period beginning on or after October 1, 2002 and § 412.532(i) required that the notification occur within 60 days of the effective date of the original regulation (cost reporting periods beginning on or after October 1, 2002), and this timeframe for many providers has long since passed, we proposed to eliminate the specific timing requirement in favor of the on-going, prospective notification requirement described above, which is also clearer and more comprehensive. Therefore, we proposed to delete the phrase ''within 60 days of its first cost reporting period that begins on or after October 1, 2002'' at § 412.22(e)(3) and (h)(5). We also proposed to delete the phrase ''within 60 days following the effective date of these regulations'' from § 412.532(i). We also proposed to delete the phrase ''and within 60 days of a change in co-located status'' from § 412.532(i) because, as we explained in that same proposed rule, we believe that the proposed continuing notification requirement in the revised regulation text at § 412.22(e)(3) and (h)(5), as well as at § 412.532(i), would include the obligation to notify CMS and the FI in writing of any changes in co-located status and the obligation to provide the requisite information detailed above. We also proposed to clarify that the notification requirement in § 412.532(i) applied to a LTCH or a satellite of a LTCH that is co-located with a SNF. Accordingly, we proposed to revise each of the three notification provisions, to establish consistency and to clearly state the on-going requirement that a LTCH and a satellite of a LTCH that is co-located with another hospital or a SNF inform their FIs and CMS in writing of the name(s), address(es), and Medicare provider number(s) of particular co-located Medicare providers.

As discussed earlier in the comment and response in section V.C.8. of this preamble, several commenters agreed with our proposed clarification of the notification requirement. There were no comments on the proposed elimination of the specific timing requirement, that is, notification occurs within 60 days of the LTCH's first cost reporting period beginning on or after October 1, 2002 and the notification occurs within 60 days of the effective date of the original regulation (October 1, 2002) and that notification occurs within 60 days of a change in co-located status, nor were there comments regarding our clarification that the notification requirements apply to a LTCH or a satellite of a LTCH that is co-located with a SNF. As explained in detail earlier in this section of the preamble, we are finalizing our proposed notification requirements with some minor editorial modifications.

VI. Computing the Adjusted Federal Prospective Payments for the 2006 LTCH PPS Rate Year

In accordance with § 412.525 and as discussed in section V.C. of this final rule, the standard Federal rate is adjusted to account for differences in area wages by multiplying the labor-related share of the standard Federal rate by the appropriate LTCH PPS wage index (as shown in Tables 1 and 2 of the Addendum to this final rule). The standard Federal rate is also adjusted to account for the higher costs of hospitals in Alaska and Hawaii by multiplying the nonlabor-related share of the standard Federal rate by the appropriate cost-of-living factor (shown in Table I in section V.C.2. of this preamble). In the May 7, 2004 final rule (69 FR 25674), we established a standard Federal rate of $36,833.69 for the 2005 LTCH PPS rate year. In February 3, 2005 proposed rule, based on the best available data, previously established policies, and the proposed policies described in that rule, we proposed a standard Federal rate of $37,975.53 for the 2006 LTCH PPS rate year as discussed in section V.B. of this preamble. In this final rule, based on the best available data and the finalized policies described in this final rule, we are establishing a standard Federal rate of $38,086.04 for the 2006 LTCH PPS rate year as discussed in section IV.B. of this preamble. We illustrate the methodology used to adjust the Federal prospective payments for the 2006 LTCH PPS rate year in the following example: During the 2006 LTCH PPS rate year, a Medicare patient is in a LTCH located in Chicago-Naperville-Joliet, Illinois (CBSA 16974). This LTCH is in the third year of the wage index phase-in, thus, the three-fifths wage index values are applicable. The three-fifths wage index value for CBSA 16974 is 1.0521 (see Table 1 in the Addendum to this final rule). The Medicare patient is classified into LTC–DRG 9 (Spinal Disorders and Injuries), which has a relative weight of 1.0950 (see Table 3 in the Addendum to this final rule). To calculate the LTCH's total adjusted Federal prospective payment for this Medicare patient, we compute the wage-adjusted Federal prospective payment amount by multiplying the unadjusted standard Federal rate ($38,086.04) by the labor-related share (72.885 percent) and the wage index value (1.0521). This wage-adjusted amount is then added to the nonlabor-related portion of the unadjusted standard Federal rate (27.115 percent; adjusted for cost of living, if applicable) to determine the adjusted Federal rate, which is then multiplied by the LTC–DRG relative

weight (1.0950) to calculate the total adjusted Federal prospective payment for the 2006 LTCH PPS rate year ($43,287.85). Finally, as discussed in section V.C.6. of this preamble, for the 2006 LTCH PPS rate year, there will be a 0.0 percent reduction (a budget neutrality offset of 1.000) to the total adjusted Federal prospective payment to account for the costs of the transition methodology.

The following illustrates the components of the calculations in this example:

Unadjusted Standard Federal Prospective Payment Rate	$38,086.04
Labor-Related Share	0.72885
Labor-Related Portion of the Federal Rate	= $27,759.01
3/5ths Wage Index (CBSA 16974)	1.0521
Wage-Adjusted Labor Share of Federal Rate	= $29,205.25
Nonlabor-Related Portion of the Federal Rate ($38,086.04 × 0.27115)	+ $10,327.03
Adjusted Federal Rate Amount	= $39,532.28
LTC–DRG 9 Relative Weight	× 1.0950
Total Adjusted Federal Prospective Payment (Before the Budget Neutrality Offset)	= $43,287.85
Budget Neutrality Offset	× 1.000
Total Federal Prospective Payment (Including the Budget Neutrality Offset)	= $43,287.85

VII. Transition Period

To provide a stable fiscal base for LTCHs, under § 412.533, we implemented a 5-year transition period whereby a LTCH receives payment consisting of a portion based on reasonable cost principles and a portion based on the Federal prospective payment rate (unless the LTCH elects payments based on 100 percent of the Federal rate). As discussed in the August 30, 2002 final rule (67 FR 56038), we believe that a 5-year phase-in provides LTCHs time to adjust their operations and capital financing to the LTCH PPS, which is based on prospectively determined Federal payment rates. Furthermore, we believe that the 5-year phase-in of the LTCH PPS also allows LTCH personnel to develop proficiency with the LTC–DRG coding system, which will result in improvement in the quality of the data used for generating our annual determination of relative weights and payment rates.

In accordance with § 412.533, the transition period for all hospitals subject to the LTCH PPS begins with the hospital's first cost reporting period beginning on or after October 1, 2002 and extends through the hospital's last cost reporting period beginning before October 1, 2006. During the 5-year transition period, a LTCH's total payment under the LTCH PPS is based on two payment percentages—one based on reasonable cost-based (TEFRA) payments and the other based on the standard Federal prospective payment rate. The percentage of payment based on the LTCH PPS Federal rate increases by 20 percentage points each year, while the reasonable cost-based payment rate percentage decreases by 20 percentage points each year, for the next 2 fiscal years. For cost reporting periods beginning on or after October 1, 2006, Medicare payment to LTCHs will be determined entirely under the Federal rate. The blend percentages as set forth in § 412.533(a) are as follows:

Cost reporting periods beginning on or after	Federal rate percentage	Reasonable cost principles rate percentage
October 1, 2002	20	80
October 1, 2003	40	60
October 1, 2004	60	40
October 1, 2005	80	20
October 1, 2006	100	0

For cost reporting periods that begin on or after October 1, 2004, and before October 1, 2005 (FY 2005), the total payment for a LTCH is 40 percent of the amount calculated under reasonable cost principles for that specific LTCH and 60 percent of the Federal prospective payment amount. For cost reporting periods that begin on or after October 1, 2005 and before October 1, 2006 (FY 2006), the total payment for a LTCH will be 20 percent of the amount calculated under reasonable cost principles for that specific LTCH and 80 percent of the Federal prospective payment amount. As we noted in the May 7, 2004 final rule (69 FR 25674), the change in the effective date of the annual LTCH PPS rate update from October 1 to July 1 has no effect on the LTCH PPS transition period as set forth in § 412.533(a). That is, LTCHs paid under the transition blend under § 412.533(a) will receive those blend percentages for the entire 5-year transition period (unless they elect payments based on 100 percent of the Federal rate). Furthermore, LTCHs paid under the transition blend will receive the appropriate blend percentages of the Federal and reasonable cost-based rate for their entire cost reporting period as prescribed in § 412.533(a)(1) through (a)(5).

The reasonable cost-based rate percentage is a LTCH specific amount that is based on the amount that the LTCH would have been paid (under TEFRA) if the PPS were not implemented. Medicare fiscal intermediaries will continue to compute the LTCH reasonable cost-based payment amount according to § 412.22(b) of the regulations and sections 1886(d) and (g) of the Act.

In implementing the PPS for LTCHs, one of our goals is to transition hospitals to full prospective payments as soon as appropriate. Therefore, under § 412.533(c), we allow a LTCH, which is subject to a blended rate, to elect payment based on 100 percent of the Federal rate at the start of any of its cost reporting periods during the 5-year transition period rather than incrementally shifting from reasonable cost-based payments to prospective payments. Once a LTCH elects to be paid based on 100 percent of the Federal rate, it will not be able to revert to the transition blend. For cost reporting periods that began on or after December 1, 2002, and for the remainder of the 5-year transition period, a LTCH must notify its fiscal intermediary in writing of its election on or before the 30th day prior to the start of the LTCH's next cost reporting period. For example, a LTCH with a cost reporting period that begins on May 1, 2005, must notify its fiscal intermediary in writing of an election on or before April 1, 2005.

Under § 412.533(c)(2)(i), the notification by the LTCH to make the election must be made in writing to the Medicare fiscal intermediary. Under §§ 412.533(c)(2)(ii) and (c)(2)(iii), the

intermediary must receive the request on or before the specified date (that is, on or before the 30th day before the applicable cost reporting period begins for cost reporting periods beginning on or after December 1, 2002 through September 30, 2006), regardless of any postmarks or anticipated delivery dates.

Notifications received, postmarked, or delivered by other means after the specified date will not be accepted. If the specified date falls on a day that the postal service or other delivery sources are not open for business, the LTCH will be responsible for allowing sufficient time for the delivery of the request before the deadline. If a LTCH's notification is not received timely, payment will be based on the transition period blend percentages.

VIII. Payments to New LTCHs

Under § 412.23(e)(4), for purposes of Medicare payment under the LTCH PPS, we define a new LTCH as a provider of inpatient hospital services that otherwise meets the qualifying criteria for LTCHs, set forth in § 412.23(e)(1) and (e)(2), under present or previous ownership (or both), and its first cost reporting period as a LTCH begins on or after October 1, 2002. We also specify in § 412.500 that the LTCH PPS is applicable to hospitals with a cost reporting period that began on or after October 1, 2002.

As we discussed in the August 30, 2002 final rule (67 FR 56040), this definition of new LTCHs should not be confused with those LTCHs first paid under the TEFRA payment system for discharges occurring on or after October 1, 1997, described in section 1886(b)(7)(A) of the Act, as added by section 4416 of the Balanced Budget Act of 1997 (BBA'97) (Pub. L. 105–33). As stated in § 413.40(f)(2)(ii), for cost reporting periods beginning on or after October 1, 1997, the payment amount for a ''new'' (post-FY 1998) LTCH is the lower of the hospital's net inpatient operating cost per case or 110 percent of the national median target amount payment limit for hospitals in the same class for cost reporting periods ending during FY 1996, updated to the applicable cost reporting period (see 62 FR 46019, August 29, 1997). Under the LTCH PPS, those ''new'' LTCHs that meet the definition of ''new'' under § 413.40(f)(2)(ii) and that have their first cost reporting period as a LTCH beginning prior to October 1, 2002, will be paid under the transition methodology described in § 412.533.

As noted above and in accordance with § 412.533(d), new LTCHs will not participate in the 5-year transition from reasonable cost-based reimbursement to prospective payment. As we discussed in the August 30, 2002 final rule (67 FR 56040), the transition period is intended to provide existing LTCHs time to adjust to payment under the new system. Since these new LTCHs with their first cost reporting periods as LTCHs beginning on or after October 1, 2002, would not have received payment under reasonable cost-based reimbursement for the delivery of LTCH services prior to the effective date of the LTCH PPS, we do not believe that those new LTCHs require a transition period in order to make adjustments to their operations and capital financing, as will LTCHs that have been paid under the reasonable cost-based methodology.

IX. Method of Payment

Under § 412.513, a Medicare LTCH patient is classified into a LTC–DRG based on the principal diagnosis, up to eight additional (secondary) diagnoses, and up to six procedures performed during the stay, as well as age, sex, and discharge status of the patient. The LTC–DRG is used to determine the Federal prospective payment that the LTCH will receive for the Medicare-covered Part A services the LTCH furnished during the Medicare patient's stay. Under § 412.541(a), the payment is based on the submission of the discharge bill. The discharge bill also provides data to allow for reclassifying the stay from payment at the full LTC–DRG rate to payment for a case as a short-stay outlier (under § 412.529) or as an interrupted stay (under § 412.531), or to determine if the case will qualify for a high-cost outlier payment (under § 412.525(a)).

Accordingly, the ICD–9–CM codes and other information used to determine if an adjustment to the full LTC–DRG payment is necessary (for example, length of stay or interrupted stay status) are recorded by the LTCH on the Medicare patient's discharge bill and submitted to the Medicare fiscal intermediary for processing. The payment represents payment in full, under § 412.521(b), for inpatient operating and capital-related costs, but not for the costs of an approved medical education program, bad debts, blood clotting factors, anesthesia services by hospital-employed nonphysician anesthetists or obtained under arrangement, or the costs of photocopying and mailing medical records requested by a Quality Improvement Organization (QIO), which are costs paid outside the LTCH PPS.

As under the previous reasonable cost-based payment system, under § 412.541(b), a LTCH may elect to be paid using the periodic interim payment (PIP) method described in § 413.64(h) and may be eligible to receive accelerated payments as described in § 413.64(g).

For those LTCHs that are paid during the 5-year transition based on the blended transition methodology in § 412.533(a) for cost reporting periods that began on or after October 1, 2002, and before October 1, 2006, the PIP amount is based on the transition blend. For those LTCHs that are paid based on 100 percent of the standard Federal rate, the PIP amount is based on the estimated prospective payment for the year rather than on the estimated reasonable cost-based reimbursement. We exclude high-cost outlier payments that are paid upon submission of a discharge bill from the PIP amounts. In addition, Part A costs that are not paid for under the LTCH PPS, including Medicare costs of an approved medical education program, bad debts, blood clotting factors, anesthesia services by hospital-employed nonphysician anesthetists or obtained under arrangement, and the costs of photocopying and mailing medical records requested by a QIO, are subject to the interim payment provisions (§ 412.541(c)).

Under § 412.541(d), LTCHs with unusually long lengths of stay that are not receiving payment under the PIP method may bill on an interim basis (60 days after an admission and at intervals of at least 60 days after the date of the first interim bill) and should include any high-cost outlier payment determined as of the last day for which the services have been billed.

X. MedPAC Recommendations/ Monitoring

The MedPAC's June 2004 Report to the Congress: Variation and Innovation in Medicare, contained a chapter on ''Defining Long-Term Care Hospitals.'' In this chapter, the Commission focused on a broad range of issues central to understanding LTCHs which, although rapidly increasing in number, is still the smallest of all provider categories, but the most costly to the Medicare program per beneficiary episode of care.

The Commission identified particular problems such as growth of the LTCH industry, and high payment rates that appear to result from current payment incentives. Specifically the report states, ''[F]irst, the financial incentive of the acute and long-term care hospital PPSs are likely to encourage facilities to selectively retain and admit certain types of patients to minimize their costs. Acute hospitals have a financial incentive to transfer patients as quickly as possible if they are likely to become

high-cost outliers (to avoid losses on those patients). LTCHs have an incentive to admit patients with a given diagnosis who are likely to require fewer resources. Second, as the number of LTCHs grows, facilities may find it increasingly difficult to find patients who truly require LTCH-level care; this would lead to an increase in lower severity patients being cared for in LTCHs and higher Medicare spending. Finally, LTCH care is costly. The per case base rate in $37,000 and payments can be as high as $115,000 per case for the most complex patients.'' (pp. 127–8)

The Commission also examined LTCHs in the June 2003 Report to the Congress, entitled, ''Monitoring post-acute care.'' Citing that Report, the Commission compared beneficiaries treated in LTCHs and other settings and determined that based on ''the 11 most common diagnoses in LTCHs, using descriptive analysis and controlling for diagnosis related group (DRG) and severity of illness * * * that patients in market areas with LTCHs had similar acute hospital lengths of stay [preceding the LTCH stay] whether they used these facilities or not.'' Further, ''[p]atients who used LTCHs were three to five times less likely to use skilled nursing facility (SNF) care, suggesting that SNFs and long-term care hospitals may be substitutes.'' The June 2004 Report had also noted that ''* * * Medicare pays more for patients treated in LTCHs, compared with patients not treated in them'', but also concluded that this study, as well as the rapid and continuing growth in the number of LTCHs, the corresponding increases in Medicare spending, combined with the markedly uneven distribution of LTCHs throughout the country, raised additional issues for further research. (p. 122)

In its June 2004 Report to the Congress, the Commission reported the results of this subsequent research, both qualitative and quantitative, which focused on the following questions: What role do long-term care hospitals play in providing care?; Where are clinically similar patients treated in areas without long-term care hospitals?; and How do Medicare payments and outcomes compare for LTCH patients versus those in other settings? (p. 122). The Commission's research utilized structured interviews with health care providers and hospital administrators; site visits and clinical presentations; and quantitative analyses of markets with and without LTCHs and patient-level analyses to examine outcomes and per-episode impact on Medicare costs. Responses to these questions included the following assertions:

- LTCHs provide post-acute care to a small number of medically complex patients who are more stable than patients in an intensive care unit (ICU) but may still have unresolved underlying complex medical conditions.
- The use of LTCHs is associated with certain diagnoses, severity levels and the proximity of the facility.
- In areas without LTCHs, acute hospitals and SNFs are the principal substitutes of LTCHs.
- When LTCH care is not targeted to patients most likely to need this level of care, care for patients at a LTCH is more costly to Medicare than for similar patients in alternative settings. Conversely, when LTCH care is targeted to patients most likely to need this level of care, costs for those patients appear to be comparable to costs for those who use other settings (and costs for LTCH patients with tracheostomies save Medicare money) in large part because of fewer acute hospital readmissions for those patients. (pp. 121–134)

The Commission's interpretations of its qualitative and quantitative research findings led to two specific recommendations:

''5A—The Congress and the Secretary should define long-term care hospitals by facility and patient criteria that ensure that patients admitted to these facilities are medically complex and have a good chance at improvement.

- Facility-level criteria should characterize this level of care by features such as staffing, patient evaluation and review processes, and mix of patients.
- Patient-level criteria should identify specific clinical characteristics and treatment modalities.

5B—The Secretary should require the Quality Improvement Organizations to review long-term care hospital admissions for medical necessity and monitor that these facilities are in compliance with defining criteria.'' (p. 120).

Since the publication of MedPAC's recommendations, we have discussed the implications of the Report with several trade associations that represent different facets of the LTCH industry (for example, older non-profit LTCHs; a for-profit chain that specializes in a particular case-mix; another for-profit chain which functions mainly in the HwH model).

In response to the recommendation in MedPAC's June 2004 Report that the Secretary examine defining LTCHs by facility and patient criteria, we have awarded a contract to Research Triangle Institute (RTI), International for a thorough examination of the Commission's recommendations based on the performance of a wide variety of analytic tasks using CMS data files, and also utilizing information collected from physicians, providers, and LTCH trade associations. This contract, ''Long Term Care Hospital (LTCH) Payment System Refinement/Evaluation,'' will assist (CMS) in researching MedPAC's recommendations regarding the appropriate and cost-effective use of LTCHs in the Medicare program. With the recommendations of MedPAC's June 2004 Report to Congress as a point of departure, RTI, International will evaluate patient or facility level characteristics for LTCHs in order to identify and distinguish the role of these hospitals as a Medicare provider. This effort will be multi-faceted. Claims analysis of patients treated by LTCHs, as well as outlier patients treated at acute care hospitals will provide information to help direct this work, and several additional types of data sources will be used to evaluate these two issues, including administrative data such as Medicare claims as well as primary data collected through interviews, and a secondary analysis of existing regulatory requirements. As they gather information for the purposes of determining the feasibility of establishing LTCH patient and facility-level criteria, our contractor has been directed to include information from representatives, along with other stake-holders in the LTCH industry. Additionally, the contractor will examine the present role of QIOs in the Medicare program, focusing on their responsibilities regarding the LTCH PPS, as well as the potential for an expanded QIO role as suggested by MedPAC's recommendations. The goals of this research will be to document current practices related to the MedPAC recommendations, both in terms of provider certification, quality reviews, and hospital practice patterns.

Specifically, the project itself will be completed in two phases. Phase I, which is presently being undertaken by the contractor, focuses on an analysis of LTCHs within the current Medicare system, their history as participating providers, their case-mix, the criteria used by QIOs to determine the appropriateness of treatment in LTCHs, and where similar patients are treated in areas that lack LTCHs. Prior analyses of these issues by other contractors will be utilized as well as preliminary discussions with MedPAC, other researchers, and the QIOs. Building on the work of Phase I, Phase II will continue to address the feasibility of MedPAC's proposed criteria by first investigating the appropriateness of patient level criteria to determine

whether there are distinctions between patients treated in LTCHs and other types of potential substitute providers (with particular attention to varying outcomes). Medicare claims data will be utilized for comparisons of LTCH patients and long-stay patients who are treated in acute care hospitals that have attained high cost outlier status. A separate analysis will be made for a subset of LTCH patients with diagnoses that are typically treated in IRFs. The contractor is then planning interviews with QIOs for the purpose of gathering information on assessment measures for each setting. Comparisons of these instruments will be made across regions for their usefulness as standardized patient screening or assessment tools. The contractors then plan to evaluate the outcomes of their research in the context of MedPAC's recommendation for the development of facility-level criteria, using claims, interviews, and document reviews. To the extent the analyses suggest that changes should be made that may affect LTCH payments, LTCH discharges, or the definition of LTCH, such proposed changes could necessitate some statutory or regulatory changes.

In the August 30, 2002 final rule (67 FR 56014), we described an on-going monitoring component of the new LTCH PPS that would enable us to evaluate the impact of the new payment policies. Specifically, we discussed on-going analysis of the various policies that we believe would provide equitable payment for stays that reflect less than the full course of treatment and reduce the incentives for inappropriate admissions, transfers, or premature discharges of patients that are present in a discharge-based PPS. To this end, we have designed system features utilizing MedPAR data that will enable us and the fiscal intermediary to track beneficiary movement to and from a LTCH and track LTCH patients to and from another Medicare provider. We also stated our intent to collect and interpret data on changes in average lengths of stay under the LTCH PPS for specific LTC–DRGs and the impact of these changes on the Medicare program. As part of our data analysis, we have revisited a number of our original and even pre-LTCH PPS policies in order to address what we believed were behaviors by certain LTCHs that have led to inappropriate Medicare payments. In recent **Federal Register** publications, for example, we have proposed and subsequently finalized revisions to the interruption of stay policy (69 FR 25692, May, 2004), and we established a payment adjustment for LTCH HwHs and satellites (69 FR 49191, August 11, 2004).

Also, in the June 6, 2003 final rule (68 FR 34157), we explained that, given that the only requirement that distinguishes a LTCH from other acute care hospitals is an average inpatient length of stay of greater than 25 days, we continue to be concerned about the extent to which LTCH services and patients differ from those services and patients treated in other Medicare covered settings (for example, SNFs and IRFs) and how the LTCH PPS will affect the access, quality, and costs across the health care continuum. Thus, we will be monitoring trends in the supply and utilization of LTCHs and Medicare's costs in LTCHs relative to other Medicare providers. For example, we intend to conduct medical record reviews of Medicare patients to monitor changes in service use (ventilator use, for example) over a LTCH episode of care and to assess patterns in the average length of stay at the facility level.

We also are collecting data on patients staying for periods of 6 months or longer in LTCHs and believe that QIOs will be evaluating whether or not such extensive stays may be indicative of LTCH patients who could be more appropriately served at a SNF.

As we discussed in the June 6, 2003 final rule (68 FR 34157), the MedPAC endorsed this monitoring activity as a primary aspect of the design and on-going functioning of the LTCH PPS. Furthermore, as discussed earlier, the Commission, in its June, 2004 Report to the Congress, recommended that we develop facility and patient criteria for LTCH admission and treatment and require a review by QIOs to evaluate whether LTCH admissions meet criteria for medical necessity once the recommended facility and patient criteria are established.

The involvement of QIOs in the LTCH PPS was established at the outset of the system at § 412.508, and was described in the August 30, 2002 final rule (67 FR 55975). Specific activities for QIOs regarding LTCHs are included in contracts awarded by our Office of Clinical Standards and Quality (OCSQ) detailing their scope(s) of work among which are reviewing random samples of LTCH records for medical necessity and coding for generating national payment error estimates; proposing projects to reduce improper payments utilizing the national payment error cause analysis or their own data collection. One direction that is being explored by OCSQ for this type of project is the identification of LTCHs that have specific diagnoses codes related to medically unnecessary admissions, or perhaps high levels of short-stay outliers.

In January 2004, QIOs began reviewing medical records for LTCH claims for the specific purpose of estimating a national payment error rate. Presently, QIOs review 116 LTCH cases each month for admission necessity, for acute care admission, and coding. A cause analysis will be done after the first year's sampling to discern patterns of improper payments for admission necessity and coding. The payment error estimates and some of these analyses will be included in the annual fee-for-service error report.

We continue to be concerned that our policies must assure that LTCHs only treat patients for whom the LTCH level of care is appropriate in order to ensure that Medicare is a prudent purchaser of these very costly services. In addressing one aspect of the issue of whether patients in LTCHs truly need hospital-level of care, beginning in October 2004 and slated to end in July 2005 OCSQ has undertaken a study of LTCH short-stay outliers. Under the short-stay outlier policy at § 412.529, when a LTCH patient stay is considered a short-stay outlier for Medicare payment purposes, the LTCH receives an adjusted (generally lower) payment when the covered days of care do not exceed 5/6 of the (geometric) average length of stay for the particular LTC–DRG assigned to the case. The study evaluates the extent of short-stay outliers and the possibility of retention of patients by the LTCH when the LTCH patient no longer requires hospital-level of care and could be effectively served in a SNF. Due to possible reductions in payment combined with a need to maintain an average length of stay of greater than 25 days to remain an LTCH, we believe that LTCHs may be retaining these patients beyond the short-stay outlier threshold in order to increase Medicare payments. The three QIOs located in States which house the majority of LTCHs are conducting reviews on six months of records from the monthly random sample for this study in order to assess this situation and to determine whether and to what extent patients are being retained at the LTCH beyond their need for hospital-level care and whether retention can be linked to the increased payment for patients exceeding the short-stay outlier threshold. If it is determined that retaining LTCH patients unnecessarily beyond the short-stay outlier threshold is a significant payment issue, OCSQ plans to add this review type to the standard QIO LTCH review.

In addition to existing tasks and the above research study on short-stay

outliers, in accordance with the goals of our on-going monitoring program as well as MedPAC's June 2003 recommendations, we believe the QIO's findings will be invaluable in both identifying the most appropriate type of patients for treatment at a LTCH as well as to begin to explore measures of cost-effectiveness for LTCH services.

Currently, we do not require LTCHs to submit any clinical or other quality data, thus, any measurement activity must be based solely on claims. General concerns that we have raised since the establishment of the LTCH PPS, however, and the analysis and very specific recommendations in the MedPAC's June 2004 Report have led us to question what level of additional data beyond current claims would be required for the creation of clinical quality measures for LTCHs. Furthermore, we are presently evaluating whether CMS's Quality Measurement and Health Assessment Group (QMHAG) will need to build a quality measurement program for the LTCH setting. (A quality measurement program would generally establish processes or a group of tasks or processes which, if completed satisfactorily, would indicate a level of compliance with program goals. Clinical quality measures for acute care hospitals based on voluntary data submission and for nursing homes and home health agencies based on a mandatory standardized data submission are currently being generated.)

As in the acute care hospital, in order to establish a robust set of clinical quality measures for LTCHs, the domains would have to reach a broad population, be based on medical evidence, be scientifically valid, and be actionable. We are also considering measures that cut across other care delivery sites and are broadly focused around areas such as medication management or patient safety. We anticipate a mix of process and outcomes measures that would reflect expected care for each setting, but we also believe that the measures should not ultimately be limited to clinical measures, but should include measures of institutional procedures related to delivery of care systems and patients' actual experience of care. Moreover, as we consider ways to link payment to outcome or performance, it is essential that these measures be adequately risk adjusted.

Therefore, in addition to pursuing our on-going monitoring program under the direction of our Office of Research, Development, and Information (ORDI), existing QIO monitoring and studies, and our considerations of expanding the QIO role in the LTCH PPS, as noted above, we have awarded a contract to RTI International for a thorough examination of the feasibility of implementing MedPAC's recommendations that are contained in the June 2004 Report to the Congress. The research contract was funded for FY 2005 and we anticipate that we will be able to make available RTI's findings in the FY 2007 LTCH PPS proposed rule.

Comment: Several commenters agreed with the MedPAC recommendations that were published in the February 3, 2005 proposed rule, and support CMS' decision to engage RTI in a research study to examine the feasibility of implementing the MedPAC recommendations. In addition, the majority commented that CMS and RTI should work in a collaborative effort with the LTCH community which is also compiling critical data. One commenter stated his belief that there is a geographic diversity among LTCHs due to the continuum of care resources available in a given area of the country. In this respect, the commenter opposes any attempt to narrowly define LTCHs based upon a so-called ''LTCH Prototype.'' Furthermore, the commenter believes that in order to comprehend the variations in lengths of stay among LTCHs, we must look to external contributory factors as well as LTCH specific internal data. Two other commenters, while supporting CMS' proposal to develop a quality measurement program for LTCHs, suggest that CMS establish some type of expert panel comprised of, among others, LTCH professionals, physicians and respiratory therapists. Several commenters are concerned that MedPAC did not recommend examining the role of nursing facilities, many of which attempt to provide a level of service far above their intended role and capabilities in the continuum of care. They question whether these facilities provide the same level of care and quality provided by LTCHs.

Response: We appreciate the commenters' support of our decision to have RTI assist us in examining potential criteria for assuring appropriate and cost effective use of LTCHs in the Medicare program. As you are aware, MedPAC identified particular problems, such as growth of the LTCH industry and high payment rates that appear to result from current payment incentives. Moreover, the Commission's interpretation of its qualitative and quantitative research findings led to two specific recommendations: ''5A—The Congress and the Secretary should define long-term care hospitals by facility and patient criteria that ensure that patients admitted to these facilities are medically complex and have a good chance at improvement * * *. 5B—The Secretary should require the Quality Improvement Organizations to review long-term care hospital admissions for medical necessity and monitor that these facilities are in compliance with defining criteria.'' As a result of MedPAC's recommendations, we awarded a contract to RTI International for a thorough examination of MedPAC's recommendations based on the performance of a wide variety of analytic tasks using our data files, and also utilizing information collected from physicians, providers, and LTCH trade associations. The information collected, both internally and externally, in this project is intended to provide information that will allow the Congress or the Secretary to develop criteria for distinguishing LTCHs from other acute care hospitals. We believe our role here is not to narrowly define the role of an LTCH, but rather to evaluate all information available to us in order to identify and distinguish the role of these hospitals as Medicare providers. Central to determining criteria for defining LTCHs is understanding differences between LTCHs and other types of post-acute providers and their patients. The contractor will use Medicare claims and payment data to examine the feasibility of patient level criteria and facility level criteria by studying differences between patients treated in LTCHs and other hospitals. As stated in the February 3, 2005 proposed rule, the contractor will examine the present role of QIOs in the Medicare program, focusing on their responsibilities regarding the LTCH PPS. The goals of this research is to document current practices related to the MedPAC recommendations, both in terms of provider certification, quality reviews, and hospital practice patterns.

The project itself will be completed in two phases. Phase I, which is near completion, focuses on an analysis of LTCHs within the current Medicare system, their history as participating providers, their case-mix, the criteria used by QIOs to determine the appropriateness of treatment in LTCHs, and determining where similar patients are being treated in areas that lack LTCHs. Prior analyses of these issues by other contractors will be utilized as well as preliminary discussions with MedPAC, other researchers, and the QIOs.

Building on the work of Phase I, Phase II will continue to carry out the analysis of the feasibility of MedPAC's criteria and making recommendations for revising the policies affecting LTCHs. Medicare claims data will be

utilized for comparisons of LTCH patients and long-stay patients who are treated in acute care hospitals that have attained high-cost outlier status. A separate analysis will be made for a subset of LTCH patients with diagnoses that are typically treated in IRFs. The contractor is then planning site visits, discussions with LTCH professionals, physicians, and therapists, and interviews with QIOs. These visits and interviews will be useful for understanding the differences between the types of admissions treated at LTCHs as compared to other providers and whether they vary clinically or are a function of varying availability of substitute providers in a geographic area. The contractor then plans to evaluate the outcomes of its research in the context of MedPAC's recommendation for the development of facility-level criteria, using claims, interviews, and document reviews. To the extent the analyses suggest that changes should be made that may affect LTCH payments, LTCH discharges, or the definition of LTCH, such proposed changes may necessitate either statutory or regulatory changes, or both.

In response to the commenters who expressed concern that MedPAC did not address the role of nursing facilities in the continuum of post-acute care, the level of service that these facilities deliver, and whether they deliver the same level of care and quality delivered by LTCHs, we are not in a position to comment on the subjects which MedPAC chooses to evaluate. We would note, however, that the June 2003 MedPAC report did include a discussion of the use of SNFs following a beneficiary's acute care hospital stay as an alternative to hospitalization at a LTCH. (p. 81–84) MedPAC's June 2004 report also compared Medicare payments to SNFs, IRFs, and LTCHs for specific principal diagnoses and noted, among other findings, that ''The sharp decrease in probability of use of skilled nursing facilities by long-term care hospital users suggests that SFNs and LTCHs are substitutes.'' The report also stated that ''Long term care hospital clinicians, however, are adamant that treatment provided in SNFs is not as intensive as care provided in LTCHs.'' (p. 126.) We would additionally assert that despite the fact that we have tasked RTI to focus on evaluating the development of facility and patient-level criteria for LTCHs and QIO review, we expect that the final report will also include some discussion of the distinctions between hospital-level care provided at LTCHs and the SNF-level care.

XI. Collection of Information Requirements

The collection requirements associated with this final rule are exempt from the PRA as stipulated under Pub. L. 100–203, Section 4201.

XII. Regulatory Impact Analysis

A. Introduction

We have examined the impact of this final rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Act, the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4), and Executive Order 13132.

1. Executive Order 12866

Executive Order 12866 (as amended by Executive Order 13258, which merely assigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). In this final rule, we are using the most recent estimate of the LTCH PPS market basket, updated claims data, and updated wage index values to estimate payments for the 2006 LTCH PPS rate year. Based on the best available data for 259 LTCHs, we estimate that the 3.4 percent increase to the standard Federal rate for the 2006 LTCH PPS rate year, in conjunction with the decrease in fixed-loss amount (discussed in section V.C.3. of this final rule) and the decrease in the transition period budget neutrality offset (discussed in section V.C.7. of this final rule), will result in an increase in payments from the 2005 LTCH PPS rate year of $169 million. (Section V.C.7. of this final rule includes an estimate of Medicare program payments for LTCH services.) Because the combined distributional effects and costs to the Medicare program are estimated to be greater than $100 million, this final rule is considered a major economic rule, as defined above.

2. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $26 million or less in any 1 year. For purposes of the RFA, all hospitals are considered small entities according to the Small Business Administration's latest size standards with total revenues of $26 million or less in any 1 year (for further information, see the Small Business Administration's regulation at 65 FR 69432, November 17, 2000). Because we lack data on individual hospital receipts, we cannot determine the number of small proprietary LTCHs. Therefore, we assume that all LTCHs are considered small entities for the purpose of the analysis that follows. Medicare fiscal intermediaries are not considered to be small entities. Individuals and States are not included in the definition of a small entity.

Currently, our database of 259 LTCHs includes the data for 62 non-profit (voluntary ownership control) LTCHs and 189 proprietary LTCHs. The remaining 8 LTCHs are Government owned and operated. (See Table II.) The impact of the changes for the 2006 LTCH PPS rate year are discussed below in section XII.B.4.c of this final rule. The provisions of this final rule represent a 5.7 percent increase in estimated payments in the 2006 LTCH PPS rate year for all LTCHs (as shown in Table II below). We do not expect the incremental increase of 5.7 percent to the LTCH PPS Medicare payment rates, including the 0.1 percent incremental decrease due to the wage index changes (discussed in section V.C.1. of this final rule), to have a significant adverse effect on the overall revenues of most LTCHs. In addition, LTCHs also provide services to (and generate revenue from) patients other than Medicare beneficiaries. Accordingly, we certify that this final rule will not have a significant impact on a substantial number of small entities, in accordance with RFA.

3. Impact on Rural Hospitals

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis if a proposed or final rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. As discussed in detail below, the rates and policies set forth in this final rule will not have an adverse impact on

rural hospitals based on the data of the 16 rural hospitals in our database of the 259 LTCHs for which data were available.

4. Unfunded Mandates

Section 202 of the UMRA requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million or more. This final rule will not mandate any requirements for State, local, or tribal governments, nor will it result in expenditures by the private sector of $110 million or more in any one year.

5. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications.

We have examined this final rule under the criteria set forth in Executive Order 13132 and have determined that this final rule will not have any significant impact on the rights, roles, and responsibilities of State, local, or tribal governments or preempt State law, based on the 8 State and local LTCHs in our database of 259 LTCHs for which data were available.

B. Anticipated Effects of Payment Rate Changes

We discuss the impact of the payment rate changes in this final rule below in terms of their fiscal impact on the Medicare budget and on LTCHs.

1. Budgetary Impact

Section 123(a)(1) of Medicare, Medicaid and State Child Health Insurance Program (SCHIP) Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113) requires that the PPS developed for LTCHs ''maintain budget neutrality.'' Therefore, in calculating the standard Federal rate under § 412.523(d)(2), we set total payments for FY 2003 under the LTCH PPS so that aggregate payments under the LTCH PPS are estimated to equal to the amount that would have been paid if this PPS had not been implemented. However, as discussed in greater detail in the August 30, 2002 final rule (67 FR 56033–56036), the FY 2003 LTCH PPS standard Federal rate ($34,956.15) was calculated as though all LTCHs would be paid based on 100 percent of the standard Federal rate in FY 2003. As discussed in section V.C.7. of this final rule, we apply a budget neutrality offset to payments to account for the monetary effect of the 5-year transition to full prospective payment under the LTCH PPS and the policy to permit LTCHs to elect, during the transition, to be paid based on 100 percent of the standard Federal rate rather than a blend of Federal prospective payments and reasonable cost-based payments. The amount of the offset is equal to 1 minus the ratio of the estimated payments based on 100 percent of the LTCH PPS Federal rate to the projected total Medicare program payments that will be made under the transition methodology and the option to elect payment based on 100 percent of the Federal prospective payment rate.

2. Impact on Providers

The basic methodology for determining a LTCH PPS payment is set forth in the regulations at § 412.515 through § 412.525. In addition to the basic LTC–DRG payment (standard Federal rate × LTC–DRG relative weight), we make adjustments for differences in area wage levels, cost-of-living adjustment for Alaska and Hawaii, and short-stay outliers. Furthermore, LTCHs may also receive high-cost outlier payments for those cases that qualify based on the threshold established each rate year. Section 412.533 provides for a 5-year transition to payments based on 100 percent of the Federal prospective payment rate. During the 5-year transition period, payments to LTCHs are based on an increasing percentage of the LTCH PPS Federal rate and a decreasing percentage of payment based on reasonable cost-based methodology. Section 412.533(c) provides for a one-time opportunity for LTCHs to elect payments based on 100 percent of the LTCH PPS Federal rate.

In order to understand the impact of the changes to the LTCH PPS discussed in this final rule on different categories of LTCHs for the 2006 LTCH PPS rate year, it is necessary to estimate payments per discharge under the LTCH PPS rates and factors for the 2005 LTCH PPS rate year (see the May 7, 2005 final rule; 68 FR 25674) and to estimate payments per discharge that will be made under the LTCH PPS rates and factors for the 2006 LTCH PPS rate year, as discussed in the preamble of this final rule. To this end, we determined the percent change in payments per discharge of estimated 2005 LTCH PPS rate year payments to estimated 2006 LTCH PPS rate year payments for each category of LTCHs. In addition, for each category of LTCHs, we have included the estimated percent change in payments per discharge resulting from the LTCH PPS wage index changes (described in section V.C.1. of this final rule). The wage index changes for the 2006 LTCH PPS rate year include the change in the labor market area definitions, the update in the wage index data, and the established phase-in of the LTCH PPS wage index adjustment from the 2005 LTCH PPS rate year (LTCHs' FYs 2004 and 2005 cost reporting periods) to the 2006 LTCH PPS rate year (LTCHs' FYs 2005 and 2006 LTCH cost reporting periods).

Hospital groups were based on characteristics provided in the Online Survey Certification and Reporting (System) (OSCAR) data, FYs 2000 through 2003 cost report data, and Provider Specific File data. Hospitals with incomplete characteristics were grouped into the ''unknown'' category. Hospital groups include:

—Location: Large Urban/Other Urban/ Rural.
—Participation Date.
—Ownership Control.
—Census Region.
—Bed Size.

To estimate the impacts among the various categories of providers during the LTCH PPS transition period, it is imperative that reasonable cost-based methodology payments and prospective payments contain similar inputs. More specifically, in the impact analysis showing the impact reflecting the applicable transition blend percentages of prospective payments and reasonable cost-based methodology payments and the option to elect payment based on 100 percent of the Federal rate (Table III below), we estimated payments only for those providers for whom we are able to calculate payments based on reasonable cost-based methodology. For example, if we did not have at least 2 years of historical cost data for a LTCH, we were unable to determine an update to the LTCH's target amount to estimate payment under reasonable cost-based methodology.

Using LTCH cases from the FY 2004 MedPAR file and cost data from FYs 1999 through 2002 to estimate payments under the current reasonable cost-based principles, we have obtained both case-mix and cost data for 259 LTCHs. Thus, for the impact analyses reflecting the applicable transition blend percentages and the option to elect payment based on 100 percent of the Federal rate (see Table II below), we used data from 259 LTCHs. While currently there are more than 300 LTCHs, the most recent growth is predominantly in for-profit LTCHs that provide respiratory and ventilator-dependent patient care. We believe that the discharges from the FY 2004

MedPAR data for the 259 LTCHs in our database provide sufficient representation in the LTC–DRGs containing discharges for patients who received respiratory and ventilator-dependent care based on the relatively large number of LTCH cases in LTC–DRGs for these diagnoses. However, using cases from the FY 2004 MedPAR file we had case-mix data for 335 LTCHs. Cost data to determine current payments under reasonable cost-based methodology payments are not needed to simulate payments based on 100 percent of the Federal rate. Therefore, for the impact analyses reflecting fully phased-in prospective payments (see Table III below), we used data from 335 LTCHs.

These impacts reflect the estimated ''losses'' or ''gains'' among the various classifications of LTCHs for the 2005 LTCH PPS rate year (July 1, 2004 through June 30, 2005) compared to the 2006 LTCH PPS rate year (July 1, 2005 through June 30, 2006). Prospective payments for the 2005 LTCH rate year were based on the standard Federal rate of $36,833.69 and the hospitals' estimated case-mix based on FY 2004 LTCH claims data. Estimated prospective payments for the 2006 LTCH PPS rate year are based on the standard Federal rate of $38,086.04 and the same FY 2004 LTCH claims data.

3. Calculation of Prospective Payments

To estimate payments under the LTCH PPS, we simulated payments on a case-by-case basis by applying the payment policy for short-stay outliers (as described in section V.C.4.b. of this final rule) and the adjustments for area wage differences (as described in section V.C.1. of this final rule) and for the cost-of-living for Alaska and Hawaii (as described in section V.C.2. of this final rule). Additional payments would also be made for high-cost outlier cases (as described in section V.C.3. of this final rule). As noted in section V.C.6. of this final rule, we are not making adjustments for rural location, geographic reclassification, indirect medical education costs, or a disproportionate share of low-income patients because sufficient new data have not been generated that would enable us to conduct a comprehensive reevaluation of these payment adjustments.

For estimated 2005 LTCH PPS rate year payments, we used the applicable LTCH wage index values effective for discharges occurring on or after July 1, 2004 through June 30, 2005 based on the existing MSA-based labor market area designations (see May 7, 2004 (69 FR 25685)). We adjusted for area wage differences for estimated 2005 LTCH PPS rate year payments by computing a weighted average of a LTCH's applicable wage index during the period from July 1, 2004, through June 30, 2005, because some providers may experience a change in the wage index phase-in percentage during that period. For cost reporting periods beginning on or after October 1, 2003 and before September 30, 2004 (FY 2004), the labor portion of the Federal rate was adjusted by two-fifths of the applicable ''LTCH PPS wage index'' (that is, the FY 2004 IPPS wage index data without taking into account geographic reclassification, under sections 1886(d)(8) and (d)(10)) of the Act). For cost reporting periods beginning on or after October 1, 2004 and before September 30, 2005 (FY 2005), the labor portion of the Federal rate was adjusted by three-fifths of the applicable LTCH PPS wage index. Therefore, during the 2005 LTCH PPS rate year (July 1, 2004 through June 30, 2005), a provider with a cost reporting period that began October 1, 2003, had 3 months of payments under the two-fifths wage index value and 9 months of payment under the three-fifths wage index value. For this provider, for the purposes of estimating payments for the impact analyses, we computed a blended wage index of 25 percent (3 months/12 months) of the two-fifths wage index value and 75 percent (9 months/12 months) of the three-fifths wage index value. The applicable LTCH PPS wage index values for the 2005 LTCH PPS rate year are shown in Tables 1 and 2 of the Addendum to the May 7, 2004 final rule (69 FR 25722–25741).

For estimated 2006 LTCH PPS rate year payments, we used the applicable LTCH wage index values effective for discharges occurring on or after July 1, 2005 through June 30, 2006 (as shown in Tables 1 and 2 of the Addendum to this final rule) based on the CBSA-based labor market area designations (described in section V.C.1.c.1. of this final rule). Because some providers may experience a change in the wage index phase-in percentage during that period, we adjusted for area wage differences for estimated 2006 LTCH PPS rate year payments by computing a weighted average of a LTCH's applicable wage index during the period from July 1, 2005, through June 30, 2006. For cost reporting periods that began on or after October 1, 2004 and before September 30, 2005, the labor portion of the Federal rate is adjusted by three-fifths of the applicable LTCH PPS wage index (that is, as discussed in section V.C.1. of this final rule, the FY 2005 IPPS acute care hospital wage index data without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act). For cost reporting periods beginning on or after October 1, 2005 and before September 30, 2006, the labor portion of the Federal rate will be adjusted by four-fifths of the applicable LTCH PPS wage index. The applicable LTCH PPS wage index values for the 2006 LTCH PPS rate year are shown in Tables 1 and 2 of the Addendum to this final rule.

For estimated 2005 LTCH PPS rate year payments, for those LTCHs projected to receive payment under the transition blend methodology, we also calculated payments using the applicable transition blend percentages. During the 2005 LTCH PPS rate year, based on the transition blend percentages set forth in § 412.533(a), some providers may experience a change in the transition blend percentage during the period from July 1, 2004 through June 30, 2005. For example, during the period from July 1, 2004 through June 30, 2005, a provider with a cost reporting period beginning on October 1, 2003 (which is paid under the 60/40 transition blend (60 percent of payments based on reasonable cost-based methodology and 40 percent of payments under the LTCH PPS) beginning October 1, 2003) has 3 months (July 1, 2004 through September 30, 2004) under the 60/40 blend and 9 months (October 1, 2004 through June 30, 2005) of payment under the 40/60-transition blend (40 percent of payments based on reasonable cost-based methodology and 60 percent of payments under the LTCH PPS for cost reporting periods beginning during FY 2005). (The 40 percent/60 percent blend will continue until the provider's cost reporting period beginning on October 1, 2005 (FY 2006).)

Similarly, during the 2006 LTCH PPS rate year, based on the transition blend percentages set forth in § 412.533(a), some of the providers paid under the transition blend methodology may experience a change in the transition blend percentage during the period from July 1, 2005 through June 30, 2006. For example, during the period from July 1, 2005 through June 30, 2006, a provider with a cost reporting period beginning on October 1, 2004 (which is paid under the 40/60 transition blend would have 3 months (July 1, 2005 through September 30, 2005) under the 40/60 blend and 9 months (October 1, 2005 through June 30, 2006) of payment under the 20/80-transition blend (20 percent of payments based on reasonable cost-based methodology and 80 percent of payments under the LTCH PPS for cost reporting periods beginning

during FY 2006). (The 20 percent/80 percent blend will continue until the provider's cost reporting period beginning on October 1, 2006 (FY 2007).)

In estimating blended transition payments, we estimated payments based on the reasonable cost-based methodology, in accordance with the requirements at section 1886(b) of the Act. For those providers who have not already made the election (as determined from PSF data) to be paid based on 100 percent of the Federal rate, we compared the estimated blended transition payment to the LTCH's estimated payment if it would elect payment based on 100 percent of the Federal rate. If we estimated that the LTCH would be paid more based on 100 percent of the Federal rate, we assumed that it would elect to bypass the transition methodology and to receive payments based on 100 percent of prospective payment.

Then we applied the budget neutrality offset to payments to account for the effect of the 5-year transition methodology and election of payment based on 100 percent of the Federal rate on Medicare program payments (established in the August 30, 2002 final rule (67 FR 56034)). In estimating 2005 LTCH PPS rate year payments, we applied the 0.5 percent (0.995) budget neutrality offset to payments to account for the effect of the 5-year transition methodology and election of payment based on 100 percent of the Federal rate on Medicare program payments (See the May 7, 2004 final rule (68 FR 25674)) to each LTCH's estimated payments under the LTCH PPS for the 2005 LTCH PPS rate year. Similarly, in estimating 2006 LTCH PPS rate year payments, we applied the 0.0 percent (1.000) budget neutrality offset to payments to account for the effect of the 5-year transition methodology and election of payment based on 100 percent of the Federal rate on Medicare program payments (see section V.C.7 of this final rule) to each LTCH's estimated payments under the LTCH PPS for the 2006 LTCH PPS rate year. The impact shown below in Table II is based on our projection of using the best available data for 259 LTCHs that approximately 2 percent of LTCHs will be paid based on the transition blend methodology and 98 percent of LTCHs will elect payment based on 100 percent of the Federal rate.

In Table III below, we also show the impact if the LTCH PPS were fully implemented; that is, as if there were an immediate transition to fully Federal prospective payments under the LTCH PPS for the 2005 LTCH PPS rate year and the 2006 LTCH PPS rate year. Accordingly, in the impact analysis shown in Table III., the respective budget neutrality adjustments to account for the 5-year transition methodology on LTCHs' Medicare program payments for the 2005 and 2006 LTCH PPS rate years (0.5 percent and the 0.0 percent, respectively) were not applied to LTCHs' estimated payments under the LTCH PPS.

Tables II and III below illustrate the aggregate impact of the payment system among various classifications of LTCHs.

- The first column, LTCH Classification, identifies the type of LTCH.
- The second column lists the number of LTCHs of each classification type.
- The third column identifies the number of long-term care cases.
- The fourth column shows the estimated payment per discharge for the 2005 LTCH PPS rate year.
- The fifth column shows the estimated payment per discharge for the 2006 LTCH PPS rate year.
- The sixth column shows the percent change in estimated LTCH PPS payments based on the wage index changes from the 2005 LTCH PPS rate year to the 2006 LTCH PPS rate year (as discussed in section V.C.1. of this final rule).
- The seventh column shows the percent change of 2005 LTCH PPS rate year estimated payments compared to the 2006 LTCH PPS rate year estimated payments for all changes (as discussed in the preamble of this final rule).

Table II.--Projected Impact Reflecting Applicable Transition Blend Percentages of Prospective Payments and Reasonable Cost-Based (TEFRA) Payments and Option to Elect Payment Based on 100 Percent of the Federal Rate[1] (Estimated 2005 LTCH PPS Rate Year Payments Compared to Estimated 2006 LTCH PPS Rate Year Payments)

LTCH Classification	Number of LTCHs	Number of LTCH Cases	Average 2005 LTCH PPS Rate Year Payment Per Case[2]	Average 2006 LTCH PPS Rate Year Payment Per Case[3]	Percent Change from RY 2005 to RY 2006 for Wage Index Changes[4]	Percent Change from RY 2005 to RY 2006 for All Changes[5]
All Providers	259	101,189	$32,020	$33,855	-0.1	5.7
BY LOCATION:						
Rural	16	4,496	$28,438	$29,474	-2.3	3.6
Urban	243	96,693	$32,187	$34,059	0.0	5.8
Large	105	33,362	$30,551	$32,010	-0.7	4.8
Other	138	63,331	$33,048	$35,138	0.3	6.3
BY PARTICIPATION DATE:						
Before October 1983	15	7,674	$25,441	$27,211	1.1	7.0
October 1983 - September 1993	45	21,996	$34,025	$36,176	0.2	6.3
October 1993 - September 2002	199	71,519	$32,109	$33,854	-0.3	5.4
BY OWNERSHIP CONTROL:						
Voluntary	62	22,987	$30,321	$32,172	0.1	6.1
Proprietary	189	76,018	$32,706	$34,540	-0.2	5.6
Government	8	2,184	$26,032	$27,732	-0.5	6.5
BY CENSUS REGION:						
New England	13	9,236	$25,719	$27,645	1.4	7.5
Middle Atlantic	18	6,050	$32,266	$33,728	-1.0	4.5
South Atlantic	25	9,201	$34,927	$36,929	-0.3	5.7
East North Central	50	15,069	$35,079	$36,977	0.0	5.4
East South Central	15	4,675	$33,635	$35,483	-0.7	5.5
West North Central	17	4,732	$35,621	$37,572	-0.4	5.5
West South Central	88	40,114	$29,604	$31,153	-0.5	5.2
Mountain	20	5,611	$33,391	$35,490	0.4	6.3
Pacific	13	6,501	$39,484	$42,592	1.5	7.9
BY BED SIZE:						
Beds: 0 - 24	23	3,816	$32,826	$34,737	-0.9	5.8
Beds: 25 - 49	127	34,131	$31,983	$33,585	-0.6	5.0
Beds: 50 - 74	37	13,489	$34,190	$36,190	0.0	5.8
Beds: 75 - 124	36	16,787	$32,919	$34,922	0.1	6.1
Beds: 125 - 199	24	20,998	$30,255	$32,022	0.0	5.8
Beds: 200+	12	11,968	$31,258	$33,431	1.0	7.0

[1] These calculations take into account that some providers may experience a change in the LTCH PPS blend percentage changes during the 2005 and 2006 LTCH PPS rate years. For example, during the period of July 1, 2005 through June 30, 2006, a provider with a cost reporting period beginning October 1, 2006 would have 3 months (July 1, 2005 through September 30, 2005) of payments under the 40/60 blend (3/5ths wage index) and 9 months (October 1, 2005 through June 30, 2006) of payment under the 20/80 blend (4/5ths wage index).

[2] Estimated average payment per case for the 12-month period of July 1, 2004 through June 30, 2005.

[3] Estimated average payment per case for the 12-month period of July 1, 2005 through June 30, 2006.

[4] Percent change in estimated payments per discharge based on the 2005 LTCH PPS rate year wage index (as established in the May 7, 2004 final rule) compared to the 2006 LTCH PPS rate year wage index (as discussed in section V.C.1. this final rule), including the change in the labor market area definitions, the update in the wage index data and the progression of the phase-in of the LTCH PPS wage index adjustment from 2005 LTCH PPS rate year (FYs 2004 and 2005 LTCHs' cost reporting periods) to the 2006 LTCH PPS rate year (as described in section V.C.1.a. of this final rule).

[5] Percent change in estimated payments per discharge from the 2005 LTCH PPS rate year (as established in the May 7, 2004 final rule) to the 2006 LTCH PPS rate year (as discussed in this final rule).

Table III.--Projected Impact Reflecting the Fully Phased-In LTCH PPS Prospective Payments (Estimated 2005 LTCH PPS Rate Year Payments Compared to Estimated 2006 LTCH PPS Rate Year Payments)

LTCH Classification	Number of LTCHs	Number of LTCH Cases	Average 2005 LTCH PPS Rate Year Payment Per Case[2]	Average 2006 LTCH PPS Rate Year Payment Per Case[3]	Percent Change from RY 2005 to RY 2006 for Wage Index Changes[4]	Percent Change from RY 2005 to RY 2006 for All Changes[5]
All Providers	335	117,651	$32,183	$33,874	-0.2	5.3
BY LOCATION:						
Rural	27	6,245	$29,976	$31,178	-2.4	4.0
Urban	308	111,406	$32,306	$34,025	-0.1	5.3
Large	140	40,209	$31,092	$32,497	-0.9	4.5
Other	168	71,197	$32,992	$34,888	0.3	5.7
BY PARTICIPATION DATE:						
Before October 1983	17	7,727	$25,473	$27,108	1.1	6.4
October 1983 - September 1993	45	21,996	$34,173	$36,169	0.2	5.8
October 1993 - September 2002	207	74,050	$32,173	$33,769	-0.4	5.0
After October 2002	66	13,878	$32,818	$34,563	-0.6	5.3
BY OWNERSHIP CONTROL:						
Voluntary	69	25,140	$30,500	$32,297	-0.1	5.9
Proprietary	219	85,425	$33,016	$34,705	-0.2	5.1
Government	9	2,212	$25,951	$27,510	-0.5	6.0
Unknown	38	4,874	$29,089	$30,331	-1.0	4.3
BY CENSUS REGION:						
New England	15	9,289	$25,766	$27,557	1.4	7.0
Middle Atlantic	22	6,989	$32,079	$33,307	-1.1	3.8
South Atlantic	41	12,042	$35,732	$37,684	-0.3	5.5
East North Central	61	17,235	$35,108	$36,877	-0.1	5.0
East South Central	21	5,751	$34,653	$36,486	-0.9	5.3
West North Central	17	4,732	$35,800	$37,590	-0.3	5.0
West South Central	121	49,128	$29,635	$31,044	-0.6	4.8
Mountain	22	5,960	$34,278	$36,375	0.3	6.1
Pacific	15	6,525	$39,621	$42,533	1.5	7.4
BY BED SIZE:						
Beds: 0 - 24	35	5,938	$32,542	$34,243	-1.4	5.2
BY BED SIZE:						
Beds: 25 - 49	172	41,705	$32,592	$34,100	-0.6	4.6
Beds: 50 - 74	42	14,712	$33,736	$35,612	-0.2	5.6
Beds: 75 - 124	42	20,340	$32,904	$34,738	0.1	5.6
Beds: 125 - 199	25	22,131	$30,339	$31,978	0.0	5.4
Beds: 200+	14	12,021	$31,328	$33,338	1.0	6.4
Unknown	5	804	$25,148	$25,970	-1.1	3.3

[1] Estimated average payment per case for the 12-month period of July 1, 2004 through June 30, 2005.
[2] Estimated average payment per case for the 12-month period of July 1, 2005 through June 30, 2006.
[3] Percent change in estimated payments per discharge based on the 2005 LTCH PPS rate year wage index (as established in the May 7, 2004 final rule) compared to the 2006 LTCH PPS rate year wage index (as discussed in section V.C.1. this final rule), including the change in the labor market area definitions, the update in the wage index data and the progression of the phase-in of the LTCH PPS wage index adjustment from 2005 LTCH PPS rate year to the 2006 LTCH PPS rate year (as described in section V.C.1.a. of the preamble of this final rule).
[4] Percent change in estimated payments per discharge from the 2005 LTCH PPS rate year (as established in the May 7, 2004 final rule) to the 2006 LTCH PPS rate year (as finalized in this final rule).
[5] Percent change in estimated payments per discharge from the 2005 LTCH PPS rate year (as established in the May 7, 2004 final rule) to the 2006 LTCH PPS rate year (as discussed in this final rule).

4. Results

Based on the most recent available data (as described above for 259 LTCHs), we have prepared the following summary of the impact (as shown in Table II) of the LTCH PPS set forth in this final rule.

a. Location

We evaluated each LTCH's location (urban or rural) based on the CBSA-based labor market area definitions described in section V.C.1.c.1. of this final rule. Based on the most recent available data, the vast majority of LTCHs are in urban areas. Approximately 6 percent of the LTCHs are identified as being located in a rural area, and approximately 4.4 percent of all LTCH cases are treated in these rural hospitals. Impact analysis in Table II shows that for rural LTCHs the percent change in estimated payments per discharge for the 2006 LTCH PPS rate year will increase 3.6 percent in comparison to the 2005 LTCH PPS rate year from all of the established changes, which reflects the estimated 2.3 percent decrease in payments per discharge from the wage index changes. The primary reason for the projected increase in payments per discharge for all changes for rural LTCHs is a combination of the 3.4 percent increase in the standard Federal rate, the decrease in the transition budget neutrality offset (discussed in section V.C.7. of this final rule), and a projected increase in outlier payments as a result of the decrease in outlier fixed-loss amount (discussed in section V.C.3. of this final rule), which results in more cases qualifying as outlier cases and receiving additional outlier payments. This projected increase in estimated payments per discharge for rural LTCHs is partially offset by a projected decrease in payments per discharge as a result of the changes in the wage index.

Rural LTCHs are projected to experience a relatively large decrease in payments due to the wage index changes primarily because of the progression of the 5-year phase-in of the wage index adjustment. That is, because the wage index of most rural areas is less than 1.0, as rural LTCHs progress through the 5-year phase-in of the wage index adjustment (for example, the two-fifths wage index for cost reporting periods beginning during FY 2004 to the three-fifths wage index for cost reporting periods beginning during FY 2005), their wage index decreases, which results in a decrease in their payments. This would occur even if we had not revised the labor market area definitions based on OMB's CBSA designations. For example (as shown in Table 2 of the Addendum to this final rule), the three-fifths wage index for rural Arizona of 0.9362 is less than the two-fifths wage index for rural Arizona of 0.9574. In addition, we identified three LTCHs that are currently urban under the existing MSA-based labor market area designations that will become rural under the new CBSA-based labor market designations, and as a result, are projected to experience a relatively larger decrease in payments per discharge due to the changes in the wage index. (See Table II.)

For urban LTCHs, the percent change in estimated payments per discharge for the 2006 LTCH PPS rate year are projected to increase 5.0 percent in comparison to the 2005 LTCH PPS rate year from all changes, which reflects an estimated 0.0 percent change resulting from the wage index changes. Payments per discharge for the 2006 LTCH PPS rate year are projected to increase 4.8 percent for large urban LTCHs in comparison to the 2005 LTCH PPS rate year from all of the changes, including a projected 0.7 percent decrease from the wage index changes. We project that 2006 LTCH PPS rate year payments per discharge will increase 6.3 percent in comparison to the 2005 LTCH PPS rate year for other urban LTCHs, including a projected 0.3 percent increase for the wage index changes.

As noted above and discussed in greater detail below, the projected increase in payments per discharge for all changes for both large and other urban LTCHs is largely due to the 3.4 percent increase to the standard Federal rate, the decrease in the transition budget neutrality offset, and a projected increase in outlier payments as a result of the decrease in the outlier fixed amount. These projected increases in payments per discharge reflecting all changes for LTCHs that are located in large urban areas are partially offset by a projected decrease in payments per discharge for the wage index changes. The projected decrease in payments per discharge based solely on the wage index changes are largely due to the progression of the 5-year phase-in of the wage index adjustment, as explained above, since the majority of LTCHs are in large urban areas with wage index values that are slightly less than 1.0. Large urban LTCHs are projected to experience a decrease in payments per discharge for the wage index changes because, in addition to the effect of the progression of the 5-year phase-in of the wage index adjustment, as explained above, the wage index for a few large urban areas, such as Houston, Texas, will be slightly lower under the new CBSA-based labor market area designations than they would be under the MSA-based labor market area designations. (See Table II.)

As noted above, in addition to the update to the standard Federal rate, the estimated percent increase in payments per discharge for all changes from the 2005 LTCH PPS rate year to the 2006 LTCH PPS rate year is largely attributable to the decrease in the outlier fixed-loss amount (discussed in section V.C.3. of this final rule). For the 2005 LTCH PPS rate year, the outlier fixed-loss amount is $17,864 (as established in the May 7, 2004 final rule). Therefore, currently a case qualifies for an additional LTCH PPS outlier payment if the estimated cost of the case exceeds the outlier threshold (the sum of the adjusted Federal LTCH payment for the LTC–DRG and the fixed-loss amount of $17,864). For the 2006 LTCH PPS rate year, the outlier fixed loss-amount is $10,501. Therefore, a case would qualify for an additional LTCH PPS outlier payment if the estimated cost of the case exceeds the outlier threshold (the sum of the adjusted Federal LTCH payment for the LTC–DRG and the fixed-loss amount of $10,501). Therefore, we estimate that more cases will qualify as outlier cases (the estimated cost of the case exceeds the proposed outlier threshold) and will receive outlier payments, thereby increasing total estimated payments per discharge. In the aggregate, LTCHs are not expected to experience a significant impact as a result of the changes to the wage index. As discussed throughout this impact section, certain groups of hospitals are projected to benefit from the changes to the wage index while other groups of LTCHs are projected to be negatively impacted by the changes to the wage index. However, as a result of the aggregate effect of the update to the standard Federal rate combined with the decrease in the outlier fixed-loss amount, we estimate that all LTCH categories would experience an increase in payments.

b. Participation Date

LTCHs are grouped by participation date into three categories: (1) Before October 1983; (2) between October 1983 and September 1993; and (3) between October 1993 and September 2002. At this time, we do not have sufficient cost report data for any of the LTCHs that began participating in the Medicare program after October 2002 (the implementation of the LTCH PPS), and, therefore, they are not included in the impact analysis shown below in Table II.

Based on the most recent available data, the majority, approximately 70 percent, of the LTCH discharges are in LTCHs hospitals that began participating between October 1993 and September 2002, and we estimate that 2006 LTCH PPS rate year payments per discharge will increase 5.4 percent in comparison to the 2005 LTCH PPS rate year due to all changes, which includes the estimated 0.3 percent decrease in payments per discharge due to the wage index changes.

Approximately 22 percent of the discharges are in LTCHs that began participating in Medicare between October 1983 and September 1993, and 2006 LTCH PPS rate year payments per discharge are projected to increase 6.3 percent in comparison to the 2005 LTCH PPS rate year from all changes, which includes the estimated 0.2 percent increase in payments per discharge from the wage index changes. Payments per discharge for the 2006 LTCH PPS rate year are estimated to increase 7.0 percent in comparison to the 2005 LTCH PPS rate year for LTCHs that began participating before October 1983 from all changes, including the estimated 1.1 percent increase in payments per discharge from the wage index changes. This increase in projected payments per discharge from the changes in the wage index for LTCHs that began participating before October 1983 is largely due to a combination of the change to the CBSA-based labor market area definitions and the increase in the percentage of the wage index adjustment as required by the 5-year phase-in of the wage index adjustment (for example, two-fifths of the wage index adjustment for cost reporting periods beginning during FY 2004 increasing to three-fifths of the wage index adjustment for cost reporting periods beginning during FY 2005.). (See Table II.)

In addition, as discussed above, these increases in payments for the 2006 LTCH PPS rate year are also due to the decrease in the outlier fixed-loss amount (as discussed in section V.C.3. of this final rule). As a result, more cases would qualify as outlier cases (the estimated cost of the case exceeds the outlier threshold) and, therefore, will receive outlier payments, thereby increasing total estimated payments per discharge. As also noted above, in the aggregate LTCHs are not expected to experience a significant impact as a result of the changes to the wage index. While certain groups of LTCHs are projected to benefit from the changes to the wage index, other groups of LTCHs are projected to be negatively impacted by the changes to the wage index.

c. Ownership Control

LTCHs are grouped into three categories based on ownership control type—(1) voluntary; (2) proprietary; and (3) government.

Based on the most recent available data, approximately 3 percent of LTCHs are government owned and operated. We project that for these government owned and operated LTCHs, 2006 LTCH PPS rate year payments per discharge will increase 6.5 percent in comparison to the 2005 LTCH PPS rate year from all changes, including the estimated 0.5 percent decrease in payments per discharge from the wage index changes. This estimated decrease in estimated payments per discharge for the wage index changes is largely due to the current applicable percentage of the 5-year phase-in of the wage index adjustment, as explained above, since the majority of government run LTCHs are located in areas with wage index values that are less than 1.0. The majority (approximately 73 percent) of LTCHs are proprietary. We project that 2006 LTCH PPS rate year payments per discharge for these proprietary LTCHs will increase 5.6 percent in comparison to the 2005 LTCH PPS rate year for all changes, including the estimated 0.2 percent decrease in payments per discharge from the wage index changes. Similarly, we project that 2006 LTCH PPS rate year payments per discharge for voluntary LTCHs will increase 6.1 percent in comparison to the 2005 LTCH PPS rate year for all changes, including the estimated 0.1 percent increase in payments per discharge from the wage index changes. As noted above, in addition to the update to the standard Federal rate and the decrease in the budget neutrality offset, the estimated percent increase in payments per discharge for all changes from the 2005 LTCH PPS rate year to the 2006 LTCH PPS rate year is largely attributable to the decrease in outlier fixed-loss amount (discussed in section IV.C.3. of this final rule), which will result in more cases qualifying as outlier cases (the estimated cost of the case exceeds the outlier threshold) and, therefore, will receive additional outlier payments, thereby increasing total estimated payments per discharge. (See Table II.)

d. Census Region

Payments per discharge for the 2006 LTCH PPS rate year are estimated to increase for LTCHs located in all regions in comparison to the 2005 LTCH PPS rate year from all changes. Of the nine census regions, we project that the increase in 2006 LTCH PPS rate year payments per discharge in comparison to the 2005 LTCH PPS rate year will be the largest for LTCHs in the Pacific and New England regions. Specifically, 2006 LTCH rate year payments per discharge for LTCHs in the Pacific and New England regions are projected to increase 7.9 percent and 7.5 percent, respectively, in comparison to the 2005 LTCH PPS rate year, which includes the estimated 1.5 percent and 1.4 percent increase, respectively, from the wage index changes for both areas. As explained above, these relatively large increases in payments from all changes for the 2006 LTCH PPS rate year for LTCHs in the New England and Pacific regions are mostly attributable to the decrease in the outlier fixed-loss amount (discussed in section V.C.3. of this final rule), which results in more cases qualifying as outlier cases (the estimated cost of the case exceeds the outlier threshold) and, therefore, will receive additional outlier payments, thereby increasing total estimated payments per discharge. Furthermore, in addition to the update to the standard Federal rate, we believe that many LTCHs in the New England and Pacific regions will experience an increase in payments because of an the annual percentage increase of the phase-in of the wage index adjustment, (two-fifths of the applicable LTCH PPS wage index for cost reporting periods beginning on or after October 1, 2003; three-fifths of the applicable wage index for cost reporting periods beginning on or after October 1, 2004; and four-fifths of the applicable wage index for cost reporting periods beginning on or after October 1, 2005) since most of the LTCHs in these regions are located in areas that have a wage index value of greater than 1.0. (See Table II.).

We project that 2006 LTCH PPS rate year payments per discharge will increase the least for LTCHs in the Middle Atlantic region in comparison to the 2005 LTCH PPS rate year for all changes (4.5 percent). We project that, for LTCHs located in the Middle Atlantic region, 2006 LTCH PPS payments per discharge will decrease slightly in comparison to the 2005 LTCH PPS rate year from the wage index changes (1.0 percent). We are projecting a slight decrease in payments per discharge from the wage index changes, which results in a slightly lower percent increase in payments per discharge from all changes, for LTCHs located in this region because of the progression of the 5-year phase-in of the wage index adjustment. Specifically, many LTCHs located in this area will

have a wage index value of less than 1.0. (See Table II.)

e. Bed Size

LTCHs were grouped into six categories based on bed size—0–24 beds, 25–49 beds, 50–74 beds, 75–124 beds, 125–199 beds, and 200+ beds.

For all bed size categories, we are projecting an increase in 2006 LTCH PPS rate year payments per discharge in comparison to the 2005 LTCH PPS rate year from all changes. Most LTCHs are in bed size categories where 2006 LTCH PPS rate year payments per discharge are projected to increase at least 5 percent in comparison to the 2005 LTCH PPS rate year from all changes.

We project that LTCHs with greater than 200 beds will have the largest increase in estimated 2006 LTCH PPS rate year payments per discharge in comparison to the 2005 LTCH PPS rate year from all changes (7.0 percent), including the estimated increase from the wage index changes of 1.0 percent. This increase in projected payments per discharge for all changes for LTCHs with greater than 200 beds is largely due to a combination of the 3.4 percent increase in the standard Federal rate, a decrease in the budget neutrality offset, a projected increase in outlier payments resulting from the decrease in outlier fixed-loss amount, as explained above, and the increase in projected payment per discharge from the wage index changes. This increase in projected payments per discharge from the changes in the wage index for LTCHs with greater than 200 beds is largely due to a combination of the change to the CBSA-based labor market area definitions and the increase in the percentage of the wage index adjustment as required by the 5-year phase-in of the wage index adjustment because most LTCHs with greater than 200 beds are located in an area with a wage index value of greater than 1.0. (See Table II.)

Payments per discharge for the 2006 LTCH PPS rate year for LTCHs with 24–49 beds are projected to increase the least in comparison to the 2005 LTCH PPS rate year from all changes (5.0 percent), which includes the estimated decrease in payments per discharge from the wage indexes changes (−0.6 percent). This slight decrease in estimated payments per discharge from the wage index changes is largely due to the progression of the 5-year phase-in of the wage index adjustment (as explained above) since the majority of LTCHs with 25–49 beds are located in areas with a wage index value of less than 1.0. (See Table II.)

5. Effect on the Medicare Program

Based on actuarial projections, we estimate that Medicare spending (total Medicare program payments) for LTCH services over the next 5 years will be as follows:

LTCH PPS rate year	Estimated payments ($ in billions)
2006	$3.32
2007	3.38
2008	3.48
2009	3.63
2010	3.79

These estimates are based on the current estimate of the increase in the excluded hospital with capital market basket of 3.4 percent for the 2006 LTCH PPS rate year, 3.0 percent for the 2007, 2.8 for the 2008 LTCH PPS rate year, 2.9 percent for the 2009 and 2010 LTCH PPS rate years. We estimate that there will be a change in Medicare fee-for service beneficiary enrollment of −1.0 percent in the 2006 LTCH PPS rate year, −2.1 percent in the 2007 LTCH PPS rate year, −1.0 percent in 2008 LTCH PPS rate year, 0.3 percent in the 2009 and 2010 LTCH PPS rate years, and an estimated increase in the total number of LTCHs. (We note that, based on the most recent available data, our Office of the Actuary is projecting a decrease in Medicare fee-for-service Part A enrollment, in part, because of a projected increase in Medicare managed care enrollment as a result of the implementation of several provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.)

Consistent with the statutory requirement for budget neutrality, as we discussed in the August 30, 2002 final rule that implemented the LTCH PPS, in developing the LTCH PPS, we intended for estimated aggregate payments under the LTCH PPS in FY 2003 would equal the estimated aggregate payments that would have been made if the LTCH PPS were not implemented. Our methodology for estimating payments for purposes of the budget neutrality calculations used the best available data and necessarily reflected assumptions. As we collect data from LTCHs, we continue to monitor payments and evaluate the ultimate accuracy of the assumptions used to calculate the budget neutrality calculations (that is, inflation factors, intensity of services provided, or behavioral response to the implementation of the LTCH PPS). As discussed above in section V.C.7. of the preamble of this final rule, because the LTCH PPS has only been implemented for about 2.5 years, due to the lag time in the availability of data, at this time, we still do not have sufficient new cost report and claims data generated under the LTCH PPS to enable us to conduct a comprehensive reevaluation of our FY 2003 budget neutrality calculations.

Section 123 of BBRA and section 307 of BIPA provide the Secretary with extremely broad authority in developing the LTCH PPS, including the authority for appropriate adjustments. In accordance with this broad authority, we may discuss in a future proposed rule a possible one-time prospective adjustment to the LTCH PPS rates to maintain budget neutrality so that the effect of the difference between actual payments and estimated payments for the first year of LTCH PPS is not perpetuated in the PPS rates for future years. As discussed above in section V.C.7. of this final rule, because the LTCH PPS was only recently implemented, we do not yet have sufficient complete data to determine whether such an adjustment is warranted.

6. Effect on Medicare Beneficiaries

Under the LTCH PPS, hospitals receive payment based on the average resources consumed by patients for each diagnosis. We do not expect any changes in the quality of care or access to services for Medicare beneficiaries under the LTCH PPS, but we expect that paying prospectively for LTCH services will enhance the efficiency of the Medicare program.

C. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf),* in Table IV below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this final rule. This table provides our best estimate of the increase in Medicare payments under the LTCH PPS as a result of the changes presented in this final rule based on the data for 259 LTCHs in our database. All expenditures are classified as transfers to Medicare providers (that is, LTCHs).

TABLE IV.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM THE 2005 LTCH PPS RATE YEAR TO THE 2006 LTCH PPS RATE YEAR

[In millions]

Category	Transfers
Annualized Monetized Transfers.	$169.

TABLE IV.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM THE 2005 LTCH PPS RATE YEAR TO THE 2006 LTCH PPS RATE YEAR—Continued

[In millions]

Category	Transfers
From Whom To Whom?	Federal Government To LTCH Medicare Providers.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 412

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

■ In accordance with the discussion in this preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV, part 412 as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

■ 1. The authority citation for part 412 continues to read as follows:

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

■ 2. Section 412.22 is amended by revising paragraphs (e)(3) and (h)(5) to read as follows:

§ 412.22 Excluded hospitals and hospital units: General rules.

* * * * *

(e) * * *

* * * * *

(3) *Notification of co-located status.* A long-term care hospital that occupies space in a building used by another hospital, or in one or more entire buildings located on the same campus as buildings used by another hospital and that meets the criteria of paragraphs (e)(1) or (e)(2) of this section must notify its fiscal intermediary and CMS in writing of its co-location and identify by name, address, and Medicare provider number those hospital(s) with which it is co-located.

* * * * *

(h) * * *

* * * * *

(5) *Notification of co-located status.* A satellite of a long-term care hospital that occupies space in a building used by another hospital, or in one or more entire buildings located on the same campus as buildings used by another hospital and that meets the criteria of paragraphs (h)(1) through (h)(4) of this section must notify its fiscal intermediary and CMS in writing of its co-location and identify by name, address, and Medicare provider number, those hospital(s) with which it is co-located.

* * * * *

■ 3. Section 412.525 is amended by revising paragraph (c) to read as follows:

§ 412.525 Adjustments to the Federal prospective payments.

* * * * *

(c) *Adjustments for area levels.* The labor portion of a long-term care hospital's Federal prospective payment is adjusted to account for geographical differences in the area wage levels using an appropriate wage index (established by CMS), which reflects the relative level of hospital wages and wage-related costs in the geographic area (that is, urban or rural area as determined in accordance with paragraph (c)(1) or (c)(2) of this section) of the hospital compared to the national average level of hospital wages and wage-related costs. The appropriate wage index (established by CMS) is updated annually.

(1) For cost reporting periods beginning on or after October 1, 2002, with respect to discharges occurring during the period covered by such cost reports but before July 1, 2005, the application of the wage index under the long-term care hospital prospective payment system is made on the basis of the location of the facility in an urban or rural area as defined in § 412.62(f)(1)(ii) and (f)(1)(iii), respectively.

(2) For discharges occurring on or after July 1, 2005, the application of the wage index under the long-term care hospital prospective payment system is made on the basis of the location of the facility in an urban or rural area as defined in § 412.64(b)(1)(ii)(A) through (C).

* * * * *

■ 4. Section 412.531 is amended by revising paragraphs (b)(1)(i)(C) and (b)(1)(ii)(A)(*1*) to read as follows:

§ 412.531 Special payment provisions when an interruption of a stay occurs in a long-term care hospital.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(C) The number of days that a beneficiary spends away from a long-term care hospital during a 3-day or less interruption of stay under paragraph (a)(1) of this section during which the beneficiary receives a procedure that is grouped to a surgical DRG under the inpatient prospective payment system in an acute care hospital during the 2005 and 2006 long-term care hospital prospective payment system rate year is not included in determining the length of stay of the patient at the long-term care hospital.

* * * * *

(ii) * * *

(A) * * *

(*1*) For a 3-day or less interruption of stay under paragraph (a)(1) of this section in which a long-term care hospital discharges a patient to an acute care hospital and the patient's treatment during the interruption is grouped into a surgical DRG under the acute care inpatient hospital prospective payment system, for the LTCH 2005 and 2006 rate years, CMS also makes a separate payment to the acute care hospital for the surgical DRG discharge in accordance with paragraph (b)(1)(i)(C) of this section.

* * * * *

■ 5. Section 412.532 is amended by revising paragraph (i) to read as follows:

§ 412.532 Special payment provisions for patients who are transferred to onsite providers and readmitted to a long-term care hospital.

* * * * *

(i)(1) A long-term care hospital or a satellite of a long-term care hospital that meets the criteria of § 412.22(e)(1) or (e)(2) or § 412.22(h)(1) through (h)(4) that occupies space in a building used by another hospital or in one or more entire buildings located on the same campus as buildings used by another hospital and must notify its fiscal intermediary and CMS in writing of its co-location and identify by name(s), address(es), and Medicare provider number(s) the onsite acute care hospital, onsite IRF, or onsite psychiatric facility or unit with which it is co-located.

(2) A long term care hospital or satellite of a long term care hospital that occupies space in a building used by a SNF or in one or more entire buildings located on the same campus as buildings used by a SNF must notify its fiscal intermediary and CMS in writing of its co-located status and identify by name, address and Medicare provider number the SNF with which it is co-located.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: April 21, 2005.

Mark McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Dated: April 29, 2005.

Michael O. Leavitt,

Secretary.

The following addendum will not appear in the Code of Federal Regulations.

Addendum

This addendum contains the tables referred to throughout the preamble to this final rule. The tables presented below are as follows:

Table 1.—Long-Term Care Hospital Wage Index for Urban Areas (based on CBSA-based Labor Market Area Designations) for Discharges Occurring from July 1, 2005 through June 30, 2006

Table 2.—Long-Term Care Hospital Wage Index for Rural Areas (based on CBSA-based Labor Market Area Designations) for Discharges Occurring from July 1, 2005 through June 30, 2006

Table 3.—FY 2005 LTC-DRG Relative Weights, Geometric Mean Length of Stay, and Short-Stay Five-Sixths Average Length of Stay for Discharges Occurring from July 1, 2005 through September 30, 2006. (**Note:** This is the same information provided in Table 11 of the August 11, 2004 IPPS final rule (69 FR 49738–49754, as revised in the October 7, 2004 IPPS correction notice, 69 FR 60266–60271), which has been reprinted here for convenience.)

Table 4.—A Listing of Long-Term Care Hospitals' State and County Location; Current Labor Market Area Designation; and New CBSA-based Labor Market Area Designation

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
10180	Abilene, TX	0.7850	0.9140	0.8710	0.8280
	Callahan County, TX.				
	Jones County, TX.				
	Taylor County, TX.				
10380	Aguadilla-Isabela-San Sebastián, PR	0.4280	0.7712	0.6568	0.5424
	Aguada Municipio, PR.				
	Aguadilla Municipio, PR.				
	Añasco Municipio, PR.				
	Isabela Municipio, PR.				
	Lares Municipio, PR.				
	Moca Municipio, PR.				
	Rincón Municipio, PR.				
	San Sebastián Municipio, PR.				
10420	Akron, OH	0.9055	0.9622	0.9433	0.9244
	Portage County, OH.				
	Summit County, OH.				
10500	Albany, GA	1.1266	1.0506	1.0760	1.1013
	Baker County, GA.				
	Dougherty County, GA.				
	Lee County, GA.				
	Terrell County, GA.				
	Worth County, GA.				
10580	Albany-Schenectady-Troy, NY	0.8650	0.9460	0.9190	0.8920
	Albany County, NY.				
	Rensselaer County, NY.				
	Saratoga County, NY.				
	Schenectady County, NY.				
	Schoharie County, NY.				
10740	Albuquerque, NM	1.0485	1.0194	1.0291	1.0388
	Bernalillo County, NM.				
	Sandoval County, NM.				
	Torrance County, NM.				
	Valencia County, NM.				
10780	Alexandria, LA	0.8171	0.9268	0.8903	0.8537
	Grant Parish, LA.				
	Rapides Parish, LA.				
10900	Allentown-Bethlehem-Easton, PA-NJ	0.9501	0.9800	0.9701	0.9601
	Warren County, NJ.				
	Carbon County, PA.				
	Lehigh County, PA.				
	Northampton County, PA.				
11020	Altoona, PA	0.8462	0.9385	0.9077	0.8770
	Blair County, PA.				
11100	Amarillo, TX	0.9178	0.9671	0.9507	0.9342
	Armstrong County, TX.				
	Carson County, TX.				
	Potter County, TX.				
	Randall County, TX.				
11180	Ames, IA	0.9479	0.9792	0.9687	0.9583
	Story County, IA.				
11260	Anchorage, AK	1.2165	1.0866	1.1299	1.1732
	Anchorage Municipality, AK.				
	Matanuska-Susitna Borough, AK.				
11300	Anderson, IN	0.8713	0.9485	0.9228	0.8970

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Madison County, IN.				
11340	Anderson, SC	0.8670	0.9468	0.9202	0.8936
	Anderson County, SC.				
11460	Ann Arbor, MI	1.1022	1.0409	1.0613	1.0818
	Washtenaw County, MI.				
11500	Anniston-Oxford, AL	0.7881	0.9152	0.8729	0.8305
	Calhoun County, AL.				
11540	Appleton, WI	0.9131	0.9652	0.9479	0.9305
	Calumet County, WI.				
	Outagamie County, WI.				
11700	Asheville, NC	0.9191	0.9676	0.9515	0.9353
	Buncombe County, NC.				
	Haywood County, NC.				
	Henderson County, NC.				
	Madison County, NC.				
12020	Athens-Clarke County, GA	1.0202	1.0081	1.0121	1.0162
	Clarke County, GA.				
	Madison County, GA.				
	Oconee County, GA.				
	Oglethorpe County, GA.				
12060	Atlanta-Sandy Springs-Marietta, GA	0.9971	0.9988	0.9983	0.9977
	Barrow County, GA.				
	Bartow County, GA.				
	Butts County, GA.				
	Carroll County, GA.				
	Cherokee County, GA.				
	Clayton County, GA.				
	Cobb County, GA.				
	Coweta County, GA.				
	Dawson County, GA.				
	DeKalb County, GA.				
	Douglas County, GA.				
	Fayette County, GA.				
	Forsyth County, GA.				
	Fulton County, GA.				
	Gwinnett County, GA.				
	Haralson County, GA.				
	Heard County, GA.				
	Henry County, GA.				
	Jasper County, GA.				
	Lamar County, GA.				
	Meriwether County, GA.				
	Newton County, GA.				
	Paulding County, GA.				
	Pickens County, GA.				
	Pike County, GA.				
	Rockdale County, GA.				
	Spalding County, GA.				
	Walton County, GA.				
12100	Atlantic City, NJ	1.0931	1.0372	1.0559	1.0745
	Atlantic County, NJ.				
12220	Auburn-Opelika, AL	0.8215	0.9286	0.8929	0.8572
	Lee County, AL.				
12260	Augusta-Richmond County, GA-SC	0.9154	0.9662	0.9492	0.9323
	Burke County, GA.				
	Columbia County, GA.				
	McDuffie County, GA.				
	Richmond County, GA.				
	Aiken County, SC.				
	Edgefield County, SC.				
12420	Austin-Round Rock, TX	0.9595	0.9838	0.9757	0.9676
	Bastrop County, TX.				
	Caldwell County, TX.				
	Hays County, TX.				
	Travis County, TX.				
	Williamson County, TX.				
12540	Bakersfield, CA	1.0036	1.0014	1.0022	1.0029
	Kern County, CA.				
12580	Baltimore-Towson, MD	0.9907	0.9963	0.9944	0.9926

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Anne Arundel County, MD.				
	Baltimore County, MD.				
	Carroll County, MD.				
	Harford County, MD.				
	Howard County, MD.				
	Queen Anne's County, MD.				
	Baltimore City, MD.				
12620	Bangor, ME	0.9955	0.9982	0.9973	0.9964
	Penobscot County, ME.				
12700	Barnstable Town, MA	1.2335	1.0934	1.1401	1.1868
	Barnstable County, MA.				
12940	Baton Rouge, LA	0.8319	0.9328	0.8991	0.8655
	Ascension Parish, LA.				
	East Baton Rouge Parish, LA.				
	East Feliciana Parish, LA.				
	Iberville Parish, LA.				
	Livingston Parish, LA.				
	Pointe Coupee Parish, LA.				
	St. Helena Parish, LA.				
	West Baton Rouge Parish, LA.				
	West Feliciana Parish, LA.				
12980	Battle Creek, MI	0.9366	0.9746	0.9620	0.9493
	Calhoun County, MI.				
13020	Bay City, MI	0.9574	0.9830	0.9744	0.9659
	Bay County, MI.				
13140	Beaumont-Port Arthur, TX	0.8616	0.9446	0.9170	0.8893
	Hardin County, TX.				
	Jefferson County, TX.				
	Orange County, TX.				
13380	Bellingham, WA	1.1642	1.0657	1.0985	1.1314
	Whatcom County, WA.				
13460	Bend, OR	1.0603	1.0241	1.0362	1.0482
	Deschutes County, OR.				
13644	Bethesda-Frederick-Gaithersburg, MD	1.0956	1.0382	1.0574	1.0765
	Frederick County, MD.				
	Montgomery County, MD.				
13740	Billings, MT	0.8961	0.9584	0.9377	0.9169
	Carbon County, MT.				
	Yellowstone County, MT.				
13780	Binghamton, NY	0.8447	0.9379	0.9068	0.8758
	Broome County, NY.				
	Tioga County, NY.				
13820	Birmingham-Hoover, AL	0.9157	0.9663	0.9494	0.9326
	Bibb County, AL.				
	Blount County, AL.				
	Chilton County, AL.				
	Jefferson County, AL.				
	St. Clair County, AL.				
	Shelby County, AL.				
	Walker County, AL.				
13900	Bismarck, ND	0.7505	0.9002	0.8503	0.8004
	Burleigh County, ND.				
	Morton County, ND.				
13980	Blacksburg-Christiansburg-Radford, VA	0.7951	0.9180	0.8771	0.8361
	Giles County, VA.				
	Montgomery County, VA.				
	Pulaski County, VA.				
	Radford City, VA.				
14020	Bloomington, IN	0.8587	0.9435	0.9152	0.8870
	Greene County, IN.				
	Monroe County, IN.				
	Owen County, IN.				
14060	Bloomington-Normal, IL	0.9111	0.9644	0.9467	0.9289
	McLean County, IL.				
14260	Boise City-Nampa, ID	0.9352	0.9741	0.9611	0.9482
	Ada County, ID.				
	Boise County, ID.				
	Canyon County, ID.				
	Gem County, ID.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Owyhee County, ID.				
14484	Boston-Quincy, MA	1.1771	1.0708	1.1063	1.1417
	Norfolk County, MA.				
	Plymouth County, MA.				
	Suffolk County, MA.				
14500	Boulder, CO	1.0046	1.0018	1.0028	1.0037
	Boulder County, CO.				
14540	Bowling Green, KY	0.8140	0.9256	0.8884	0.8512
	Edmonson County, KY.				
	Warren County, KY.				
14740	Bremerton-Silverdale, WA	1.0614	1.0246	1.0368	1.0491
	Kitsap County, WA.				
14860	Bridgeport-Stamford-Norwalk, CT	1.2835	1.1134	1.1701	1.2268
	Fairfield County, CT.				
15180	Brownsville-Harlingen, TX	1.0125	1.0050	1.0075	1.0100
	Cameron County, TX.				
15260	Brunswick, GA	1.1933	1.0773	1.1160	1.1546
	Brantley County, GA.				
	Glynn County, GA.				
	McIntosh County, GA.				
15380	Buffalo-Niagara Falls, NY	0.9339	0.9736	0.9603	0.9471
	Erie County, NY.				
	Niagara County, NY.				
15500	Burlington, NC	0.8967	0.9587	0.9380	0.9174
	Alamance County, NC.				
15540	Burlington-South Burlington, VT	0.9322	0.9729	0.9593	0.9458
	Chittenden County, VT.				
	Franklin County, VT.				
	Grand Isle County, VT.				
15764	Cambridge-Newton-Framingham, MA	1.1189	1.0476	1.0713	1.0951
	Middlesex County, MA.				
15804	Camden, NJ	1.0675	1.0270	1.0405	1.0540
	Burlington County, NJ.				
	Camden County, NJ.				
	Gloucester County, NJ.				
15940	Canton-Massillon, OH	0.8895	0.9558	0.9337	0.9116
	Carroll County, OH.				
	Stark County, OH.				
15980	Cape Coral-Fort Myers, FL	0.9371	0.9748	0.9623	0.9497
	Lee County, FL.				
16180	Carson City, NV	1.0352	1.0141	1.0211	1.0282
	Carson City, NV.				
16220	Casper, WY	0.9243	0.9697	0.9546	0.9394
	Natrona County, WY.				
16300	Cedar Rapids, IA	0.8975	0.9590	0.9385	0.9180
	Benton County, IA.				
	Jones County, IA.				
	Linn County, IA.				
16580	Champaign-Urbana, IL	0.9527	0.9811	0.9716	0.9622
	Champaign County, IL.				
	Ford County, IL.				
	Piatt County, IL.				
16620	Charleston, WV	0.8876	0.9550	0.9326	0.9101
	Boone County, WV.				
	Clay County, WV.				
	Kanawha County, WV.				
	Lincoln County, WV.				
	Putnam County, WV.				
16700	Charleston-North Charleston, SC	0.9420	0.9768	0.9652	0.9536
	Berkeley County, SC.				
	Charleston County, SC.				
	Dorchester County, SC.				
16740	Charlotte-Gastonia-Concord, NC-SC	0.9743	0.9897	0.9846	0.9794
	Anson County, NC.				
	Cabarrus County, NC.				
	Gaston County, NC.				
	Mecklenburg County, NC.				
	Union County, NC.				
	York County, SC.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
16820	Charlottesville, VA	1.0294	1.0118	1.0176	1.0235
	Albemarle County, VA.				
	Fluvanna County, VA.				
	Greene County, VA.				
	Nelson County, VA.				
	Charlottesville City, VA.				
16860	Chattanooga, TN-GA	0.9207	0.9683	0.9524	0.9366
	Catoosa County, GA.				
	Dade County, GA.				
	Walker County, GA.				
	Hamilton County, TN.				
	Marion County, TN.				
	Sequatchie County, TN.				
16940	Cheyenne, WY	0.8980	0.9592	0.9388	0.9184
	Laramie County, WY.				
16974	Chicago-Naperville-Joliet, IL	1.0868	1.0347	1.0521	1.0694
	Cook County, IL.				
	DeKalb County, IL.				
	DuPage County, IL.				
	Grundy County, IL.				
	Kane County, IL.				
	Kendall County, IL.				
	McHenry County, IL.				
	Will County, IL.				
17020	Chico, CA	1.0542	1.0217	1.0325	1.0434
	Butte County, CA.				
17140	Cincinnati-Middletown, OH-KY-IN	0.9516	0.9806	0.9710	0.9613
	Dearborn County, IN.				
	Franklin County, IN.				
	Ohio County, IN.				
	Boone County, KY.				
	Bracken County, KY.				
	Campbell County, KY.				
	Gallatin County, KY.				
	Grant County, KY.				
	Kenton County, KY.				
	Pendleton County, KY.				
	Brown County, OH.				
	Butler County, OH.				
	Clermont County, OH.				
	Hamilton County, OH.				
	Warren County, OH.				
17300	Clarksville, TN-KY	0.8022	0.9209	0.8813	0.8418
	Christian County, KY.				
	Trigg County, KY.				
	Montgomery County, TN.				
	Stewart County, TN.				
17420	Cleveland, TN	0.7844	0.9138	0.8706	0.8275
	Bradley County, TN.				
	Polk County, TN.				
17460	Cleveland-Elyria-Mentor, OH	0.9650	0.9860	0.9790	0.9720
	Cuyahoga County, OH.				
	Geauga County, OH.				
	Lake County, OH.				
	Lorain County, OH.				
	Medina County, OH.				
17660	Coeur d'Alene, ID	0.9339	0.9736	0.9603	0.9471
	Kootenai County, ID.				
17780	College Station-Bryan, TX	0.9243	0.9697	0.9546	0.9394
	Brazos County, TX.				
	Burleson County, TX.				
	Robertson County, TX.				
17820	Colorado Springs, CO	0.9792	0.9917	0.9875	0.9834
	El Paso County, CO.				
	Teller County, CO.				
17860	Columbia, MO	0.8396	0.9358	0.9038	0.8717
	Boone County, MO.				
	Howard County, MO.				
17900	Columbia, SC	0.9392	0.9757	0.9635	0.9514

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Calhoun County, SC. Fairfield County, SC. Kershaw County, SC. Lexington County, SC. Richland County, SC. Saluda County, SC.				
17980	Columbus, GA-AL Russell County, AL. Chattahoochee County, GA. Harris County, GA. Marion County, GA. Muscogee County, GA.	0.8690	0.9476	0.9214	0.8952
18020	Columbus, IN Bartholomew County, IN.	0.9388	0.9755	0.9633	0.9510
18140	Columbus, OH Delaware County, OH. Fairfield County, OH. Franklin County, OH. Licking County, OH. Madison County, OH. Morrow County, OH. Pickaway County, OH. Union County, OH.	0.9737	0.9895	0.9842	0.9790
18580	Corpus Christi, TX Aransas County, TX. Nueces County, TX. San Patricio County, TX.	0.8647	0.9459	0.9188	0.8918
18700	Corvallis, OR Benton County, OR.	1.0545	1.0218	1.0327	1.0436
19060	Cumberland, MD-WV Allegany County, MD. Mineral County, WV.	0.8662	0.9465	0.9197	0.8930
19124	Dallas-Plano-Irving, TX Collin County, TX. Dallas County, TX. Delta County, TX. Denton County, TX. Ellis County, TX. Hunt County, TX. Kaufman County, TX. Rockwall County, TX.	1.0074	1.0030	1.0044	1.0059
19140	Dalton, GA Murray County, GA. Whitfield County, GA.	0.9558	0.9823	0.9735	0.9646
19180	Danville, IL Vermilion County, IL.	0.8392	0.9357	0.9035	0.8714
19260	Danville, VA Pittsylvania County, VA. Danville City, VA.	0.8643	0.9457	0.9186	0.8914
19340	Davenport-Moline-Rock Island, IA-IL Henry County, IL. Mercer County, IL. Rock Island County, IL. Scott County, IA.	0.8773	0.9509	0.9264	0.9018
19380	Dayton, OH Greene County, OH. Miami County, OH. Montgomery County, OH. Preble County, OH.	0.9303	0.9721	0.9582	0.9442
19460	Decatur, AL Lawrence County, AL. Morgan County, AL.	0.8894	0.9558	0.9336	0.9115
19500	Decatur, IL Macon County, IL.	0.8122	0.9249	0.8873	0.8498
19660	Deltona-Daytona Beach-Ormond Beach, FL Volusia County, FL.	0.8898	0.9559	0.9339	0.9118
19740	Denver-Aurora, CO Adams County, CO. Arapahoe County, CO.	1.0904	1.0362	1.0542	1.0723

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Broomfield County, CO.				
	Clear Creek County, CO.				
	Denver County, CO.				
	Douglas County, CO.				
	Elbert County, CO.				
	Gilpin County, CO.				
	Jefferson County, CO.				
	Park County, CO.				
19780	Des Moines, IA	0.9266	0.9706	0.9560	0.9413
	Dallas County, IA.				
	Guthrie County, IA.				
	Madison County, IA.				
	Polk County, IA.				
	Warren County, IA.				
19804	Detroit-Livonia-Dearborn, MI	1.0349	1.0140	1.0209	1.0279
	Wayne County, MI.				
20020	Dothan, AL	0.7537	0.9015	0.8522	0.8030
	Geneva County, AL.				
	Henry County, AL.				
	Houston County, AL.				
20100	Dover, DE	0.9825	0.9930	0.9895	0.9860
	Kent County, DE.				
20220	Dubuque, IA	0.8748	0.9499	0.9249	0.8998
	Dubuque County, IA.				
20260	Duluth, MN-WI	1.0340	1.0136	1.0204	1.0272
	Carlton County, MN.				
	St. Louis County, MN.				
	Douglas County, WI.				
20500	Durham, NC	1.0363	1.0145	1.0218	1.0290
	Chatham County, NC.				
	Durham County, NC.				
	Orange County, NC.				
	Person County, NC.				
20740	Eau Claire, WI	0.9139	0.9656	0.9483	0.9311
	Chippewa County, WI.				
	Eau Claire County, WI.				
20764	Edison, NJ	1.1136	1.0454	1.0682	1.0909
	Middlesex County, NJ.				
	Monmouth County, NJ.				
	Ocean County, NJ.				
	Somerset County, NJ.				
20940	El Centro, CA	0.8856	0.9542	0.9314	0.9085
	Imperial County, CA.				
21060	Elizabethtown, KY	0.8684	0.9474	0.9210	0.8947
	Hardin County, KY.				
	Larue County, KY.				
21140	Elkhart-Goshen, IN	0.9278	0.9711	0.9567	0.9422
	Elkhart County, IN.				
21300	Elmira, NY	0.8445	0.9378	0.9067	0.8756
	Chemung County, NY.				
21340	El Paso, TX	0.9181	0.9672	0.9509	0.9345
	El Paso County, TX.				
21500	Erie, PA	0.8699	0.9480	0.9219	0.8959
	Erie County, PA.				
21604	Essex County, MA	1.0662	1.0265	1.0397	1.0530
	Essex County, MA.				
21660	Eugene-Springfield, OR	1.0940	1.0376	1.0564	1.0752
	Lane County, OR.				
21780	Evansville, IN-KY	0.8372	0.9349	0.9023	0.8698
	Gibson County, IN.				
	Posey County, IN.				
	Vanderburgh County, IN.				
	Warrick County, IN.				
	Henderson County, KY.				
	Webster County, KY.				
21820	Fairbanks, AK	1.1146	1.0458	1.0688	1.0917
	Fairbanks North Star Borough, AK.				
21940	Fajardo, PR	0.3939	0.7576	0.6363	0.5151
	Ceiba Municipio, PR.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Fajardo Municipio, PR.				
	Luquillo Municipio, PR.				
22020	Fargo, ND-MN	0.9114	0.9646	0.9468	0.9291
	Cass County, ND.				
	Clay County, MN.				
22140	Farmington, NM	0.8049	0.9220	0.8829	0.8439
	San Juan County, NM.				
22180	Fayetteville, NC	0.9363	0.9745	0.9618	0.9490
	Cumberland County, NC.				
	Hoke County, NC.				
22220	Fayetteville-Springdale-Rogers, AR-MO	0.8636	0.9454	0.9182	0.8909
	Benton County, AR.				
	Madison County, AR.				
	Washington County, AR.				
	McDonald County, MO.				
22380	Flagstaff, AZ	1.0787	1.0315	1.0472	1.0630
	Coconino County, AZ.				
22420	Flint, MI	1.1178	1.0471	1.0707	1.0942
	Genesee County, MI.				
22500	Florence, SC	0.8833	0.9533	0.9300	0.9066
	Darlington County, SC.				
	Florence County, SC.				
22520	Florence-Muscle Shoals, AL	0.7883	0.9153	0.8730	0.8306
	Colbert County, AL.				
	Lauderdale County, AL.				
22540	Fond du Lac, WI	0.9897	0.9959	0.9938	0.9918
	Fond du Lac County, WI.				
22660	Fort Collins-Loveland, CO	1.0218	1.0087	1.0131	1.0174
	Larimer County, CO.				
22744	Fort Lauderdale-Pompano Beach-Deerfield Beach, FL	1.0165	1.0066	1.0099	1.0132
	Broward County, FL.				
22900	Fort Smith, AR-OK	0.8283	0.9313	0.8970	0.8626
	Crawford County, AR.				
	Franklin County, AR.				
	Sebastian County, AR.				
	Le Flore County, OK.				
	Sequoyah County, OK.				
23020	Fort Walton Beach-Crestview-Destin, FL	0.8786	0.9514	0.9272	0.9029
	Okaloosa County, FL.				
23060	Fort Wayne, IN	0.9807	0.9923	0.9884	0.9846
	Allen County, IN.				
	Wells County, IN.				
	Whitley County, IN.				
23104	Fort Worth-Arlington, TX	0.9472	0.9789	0.9683	0.9578
	Johnson County, TX.				
	Parker County, TX.				
	Tarrant County, TX.				
	Wise County, TX.				
23420	Fresno, CA	1.0536	1.0214	1.0322	1.0429
	Fresno County, CA.				
23460	Gadsden, AL	0.8049	0.9220	0.8829	0.8439
	Etowah County, AL.				
23540	Gainesville, FL	0.9459	0.9784	0.9675	0.9567
	Alachua County, FL.				
	Gilchrist County, FL.				
23580	Gainesville, GA	0.9557	0.9823	0.9734	0.9646
	Hall County, GA.				
23844	Gary, IN	0.9310	0.9724	0.9586	0.9448
	Jasper County, IN.				
	Lake County, IN.				
	Newton County, IN.				
	Porter County, IN.				
24020	Glens Falls, NY	0.8467	0.9387	0.9080	0.8774
	Warren County, NY.				
	Washington County, NY.				
24140	Goldsboro, NC	0.8778	0.9511	0.9267	0.9022
	Wayne County, NC.				
24220	Grand Forks, ND-MN	0.9091	0.9636	0.9455	0.9273
	Polk County, MN.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Grand Forks County, ND.				
24300	Grand Junction, CO	0.9900	0.9960	0.9940	0.9920
	Mesa County, CO.				
24340	Grand Rapids-Wyoming, MI	0.9420	0.9768	0.9652	0.9536
	Barry County, MI.				
	Ionia County, MI.				
	Kent County, MI.				
	Newaygo County, MI.				
24500	Great Falls, MT	0.8810	0.9524	0.9286	0.9048
	Cascade County, MT.				
24540	Greeley, CO	0.9444	0.9778	0.9666	0.9555
	Weld County, CO.				
24580	Green Bay, WI	0.9590	0.9836	0.9754	0.9672
	Brown County, WI.				
	Kewaunee County, WI.				
	Oconto County, WI.				
24660	Greensboro-High Point, NC	0.9190	0.9676	0.9514	0.9352
	Guilford County, NC.				
	Randolph County, NC.				
	Rockingham County, NC.				
24780	Greenville, NC	0.9183	0.9673	0.9510	0.9346
	Greene County, NC.				
	Pitt County, NC.				
24860	Greenville, SC	0.9557	0.9823	0.9734	0.9646
	Greenville County, SC.				
	Laurens County, SC.				
	Pickens County, SC.				
25020	Guayama, PR	0.4005	0.7602	0.6403	0.5204
	Arroyo Municipio, PR.				
	Guayama Municipio, PR.				
	Patillas Municipio, PR.				
25060	Gulfport-Biloxi, MS	0.8950	0.9580	0.9370	0.9160
	Hancock County, MS.				
	Harrison County, MS.				
	Stone County, MS.				
25180	Hagerstown-Martinsburg, MD-WV	0.9715	0.9886	0.9829	0.9772
	Washington County, MD.				
	Berkeley County, WV.				
	Morgan County, WV.				
25260	Hanford-Corcoran, CA	0.9296	0.9718	0.9578	0.9437
	Kings County, CA.				
25420	Harrisburg-Carlisle, PA	0.9359	0.9744	0.9615	0.9487
	Cumberland County, PA.				
	Dauphin County, PA.				
	Perry County, PA.				
25500	Harrisonburg, VA	0.9275	0.9710	0.9565	0.9420
	Rockingham County, VA.				
	Harrisonburg City, VA.				
25540	Hartford-West Hartford-East Hartford, CT	1.1054	1.0422	1.0632	1.0843
	Hartford County, CT.				
	Litchfield County, CT.				
	Middlesex County, CT.				
	Tolland County, CT.				
25620	Hattiesburg, MS	0.7362	0.8945	0.8417	0.7890
	Forrest County, MS.				
	Lamar County, MS.				
	Perry County, MS.				
25860	Hickory-Lenoir-Morganton, NC	0.9502	0.9801	0.9701	0.9602
	Alexander County, NC.				
	Burke County, NC.				
	Caldwell County, NC.				
	Catawba County, NC.				
25980	Hinesville-Fort Stewart, GA	0.7715	0.9086	0.8629	0.8172
	Liberty County, GA.				
	Long County, GA.				
26100	Holland-Grand Haven, MI	0.9388	0.9755	0.9633	0.9510
	Ottawa County, MI.				
26180	Honolulu, HI	1.1013	1.0405	1.0608	1.0810
	Honolulu County, HI.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
26300	Hot Springs, AR	0.9249	0.9700	0.9549	0.9399
	Garland County, AR.				
26380	Houma-Bayou Cane-Thibodaux, LA	0.7721	0.9088	0.8633	0.8177
	Lafourche Parish, LA.				
	Terrebonne Parish, LA.				
26420	Houston-Baytown-Sugar Land, TX	0.9973	0.9989	0.9984	0.9978
	Austin County, TX.				
	Brazoria County, TX.				
	Chambers County, TX.				
	Fort Bend County, TX.				
	Galveston County, TX.				
	Harris County, TX.				
	Liberty County, TX.				
	Montgomery County, TX.				
	San Jacinto County, TX.				
	Waller County, TX.				
26580	Huntington-Ashland, WV-KY-OH	0.9564	0.9826	0.9738	0.9651
	Boyd County, KY.				
	Greenup County, KY.				
	Lawrence County, OH.				
	Cabell County, WV.				
	Wayne County, WV.				
26620	Huntsville, AL	0.8851	0.9540	0.9311	0.9081
	Limestone County, AL.				
	Madison County, AL.				
26820	Idaho Falls, ID	0.9059	0.9624	0.9435	0.9247
	Bonneville County, ID.				
	Jefferson County, ID.				
26900	Indianapolis, IN	1.0113	1.0045	1.0068	1.0090
	Boone County, IN.				
	Brown County, IN.				
	Hamilton County, IN.				
	Hancock County, IN.				
	Hendricks County, IN.				
	Johnson County, IN.				
	Marion County, IN.				
	Morgan County, IN.				
	Putnam County, IN.				
	Shelby County, IN.				
26980	Iowa City, IA	0.9654	0.9862	0.9792	0.9723
	Johnson County, IA.				
	Washington County, IA.				
27060	Ithaca, NY	0.9589	0.9836	0.9753	0.9671
	Tompkins County, NY.				
27100	Jackson, MI	0.9146	0.9658	0.9488	0.9317
	Jackson County, MI.				
27140	Jackson, MS	0.8291	0.9316	0.8975	0.8633
	Copiah County, MS.				
	Hinds County, MS.				
	Madison County, MS.				
	Rankin County, MS.				
	Simpson County, MS.				
27180	Jackson, TN	0.8900	0.9560	0.9340	0.9120
	Chester County, TN.				
	Madison County, TN.				
27260	Jacksonville, FL	0.9537	0.9815	0.9722	0.9630
	Baker County, FL.				
	Clay County, FL.				
	Duval County, FL.				
	Nassau County, FL.				
	St. Johns County, FL.				
27340	Jacksonville, NC	0.8401	0.9360	0.9041	0.8721
	Onslow County, NC.				
27500	Janesville, WI	0.9583	0.9833	0.9750	0.9666
	Rock County, WI.				
27620	Jefferson City, MO	0.8338	0.9335	0.9003	0.8670
	Callaway County, MO.				
	Cole County, MO.				
	Moniteau County, MO.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Osage County, MO.				
27740	Johnson City, TN	0.8146	0.9258	0.8888	0.8517
	Carter County, TN.				
	Unicoi County, TN.				
	Washington County, TN.				
27780	Johnstown, PA	0.8380	0.9352	0.9028	0.8704
	Cambria County, PA.				
27860	Jonesboro, AR	0.8144	0.9258	0.8886	0.8515
	Craighead County, AR.				
	Poinsett County, AR.				
27900	Joplin, MO	0.8721	0.9488	0.9233	0.8977
	Jasper County, MO.				
	Newton County, MO.				
28020	Kalamazoo-Portage, MI	1.0676	1.0270	1.0406	1.0541
	Kalamazoo County, MI.				
	Van Buren County, MI.				
28100	Kankakee-Bradley, IL	1.0603	1.0241	1.0362	1.0482
	Kankakee County, IL.				
28140	Kansas City, MO-KS	0.9629	0.9852	0.9777	0.9703
	Franklin County, KS.				
	Johnson County, KS.				
	Leavenworth County, KS.				
	Linn County, KS.				
	Miami County, KS.				
	Wyandotte County, KS.				
	Bates County, MO.				
	Caldwell County, MO.				
	Cass County, MO.				
	Clay County, MO.				
	Clinton County, MO.				
	Jackson County, MO.				
	Lafayette County, MO.				
	Platte County, MO.				
	Ray County, MO.				
28420	Kennewick-Richland-Pasco, WA	1.0520	1.0208	1.0312	1.0416
	Benton County, WA.				
	Franklin County, WA.				
28660	Killeen-Temple-Fort Hood, TX	0.9242	0.9697	0.9545	0.9394
	Bell County, TX.				
	Coryell County, TX.				
	Lampasas County, TX.				
28700	Kingsport-Bristol-Bristol, TN-VA	0.8240	0.9296	0.8944	0.8592
	Hawkins County, TN.				
	Sullivan County, TN.				
	Bristol City, VA.				
	Scott County, VA.				
	Washington County, VA.				
28740	Kingston, NY	0.9000	0.9600	0.9400	0.9200
	Ulster County, NY.				
28940	Knoxville, TN	0.8548	0.9419	0.9129	0.8838
	Anderson County, TN.				
	Blount County, TN.				
	Knox County, TN.				
	Loudon County, TN.				
	Union County, TN.				
29020	Kokomo, IN	0.8986	0.9594	0.9392	0.9189
	Howard County, IN.				
	Tipton County, IN.				
29100	La Crosse, WI-MN	0.9289	0.9716	0.9573	0.9431
	Houston County, MN.				
	La Crosse County, WI.				
29140	Lafayette, IN	0.9067	0.9627	0.9440	0.9254
	Benton County, IN.				
	Carroll County, IN.				
	Tippecanoe County, IN.				
29180	Lafayette, LA	0.8306	0.9322	0.8984	0.8645
	Lafayette Parish, LA.				
	St. Martin Parish, LA.				
29340	Lake Charles, LA	0.7935	0.9174	0.8761	0.8348

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Calcasieu Parish, LA.				
	Cameron Parish, LA.				
29404	Lake County-Kenosha County, IL-WI	1.0342	1.0137	1.0205	1.0274
	Lake County, IL.				
	Kenosha County, WI.				
29460	Lakeland, FL	0.8930	0.9572	0.9358	0.9144
	Polk County, FL.				
29540	Lancaster, PA	0.9883	0.9953	0.9930	0.9906
	Lancaster County, PA.				
29620	Lansing-East Lansing, MI	0.9658	0.9863	0.9795	0.9726
	Clinton County, MI.				
	Eaton County, MI.				
	Ingham County, MI.				
29700	Laredo, TX	0.8747	0.9499	0.9248	0.8998
	Webb County, TX.				
29740	Las Cruces, NM	0.8784	0.9514	0.9270	0.9027
	Dona Ana County, NM.				
29820	Las Vegas-Paradise, NV	1.1378	1.0551	1.0827	1.1102
	Clark County, NV.				
29940	Lawrence, KS	0.8644	0.9458	0.9186	0.8915
	Douglas County, KS.				
30020	Lawton, OK	0.8212	0.9285	0.8927	0.8570
	Comanche County, OK.				
30140	Lebanon, PA	0.8570	0.9428	0.9142	0.8856
	Lebanon County, PA.				
30300	Lewiston, ID-WA	0.9314	0.9726	0.9588	0.9451
	Nez Perce County, ID.				
	Asotin County, WA.				
30340	Lewiston-Auburn, ME	0.9562	0.9825	0.9737	0.9650
	Androscoggin County, ME.				
30460	Lexington-Fayette, KY	0.9359	0.9744	0.9615	0.9487
	Bourbon County, KY.				
	Clark County, KY.				
	Fayette County, KY.				
	Jessamine County, KY.				
	Scott County, KY.				
	Woodford County, KY.				
30620	Lima, OH	0.9330	0.9732	0.9598	0.9464
	Allen County, OH.				
30700	Lincoln, NE	1.0208	1.0083	1.0125	1.0166
	Lancaster County, NE.				
	Seward County, NE.				
30780	Little Rock-North Little Rock, AR	0.8826	0.9530	0.9296	0.9061
	Faulkner County, AR.				
	Grant County, AR.				
	Lonoke County, AR.				
	Perry County, AR.				
	Pulaski County, AR.				
	Saline County, AR.				
30860	Logan, UT-ID	0.9094	0.9638	0.9456	0.9275
	Franklin County, ID.				
	Cache County, UT.				
30980	Longview, TX	0.8801	0.9520	0.9281	0.9041
	Gregg County, TX.				
	Rusk County, TX.				
	Upshur County, TX.				
31020	Longview, WA	1.0224	1.0090	1.0134	1.0179
	Cowlitz County, WA.				
31084	Los Angeles-Long Beach-Glendale, CA	1.1732	1.0693	1.1039	1.1386
	Los Angeles County, CA.				
31140	Louisville, KY-IN	0.9122	0.9649	0.9473	0.9298
	Clark County, IN.				
	Floyd County, IN.				
	Harrison County, IN.				
	Washington County, IN.				
	Bullitt County, KY.				
	Henry County, KY.				
	Jefferson County, KY.				
	Meade County, KY.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Nelson County, KY.				
	Oldham County, KY.				
	Shelby County, KY.				
	Spencer County, KY.				
	Trimble County, KY.				
31180	Lubbock, TX	0.8777	0.9511	0.9266	0.9022
	Crosby County, TX.				
	Lubbock County, TX.				
31340	Lynchburg, VA	0.9017	0.9607	0.9410	0.9214
	Amherst County, VA.				
	Appomattox County, VA.				
	Bedford County, VA.				
	Campbell County, VA.				
	Bedford City, VA.				
	Lynchburg City, VA.				
31420	Macon, GA	0.9887	0.9955	0.9932	0.9910
	Bibb County, GA.				
	Crawford County, GA.				
	Jones County, GA.				
	Monroe County, GA.				
	Twiggs County, GA.				
31460	Madera, CA	0.8521	0.9408	0.9113	0.8817
	Madera County, CA.				
31540	Madison, WI	1.0306	1.0122	1.0184	1.0245
	Columbia County, WI.				
	Dane County, WI.				
	Iowa County, WI.				
31700	Manchester-Nashua, NH	1.0642	1.0257	1.0385	1.0514
	Hillsborough County, NH.				
	Merrimack County, NH.				
31900	Mansfield, OH	0.9189	0.9676	0.9513	0.9351
	Richland County, OH.				
32420	Mayagüez, PR	0.4493	0.7797	0.6696	0.5594
	Hormigueros Municipio, PR.				
	Mayagüez Municipio, PR.				
32580	McAllen-Edinburg-Pharr, TX	0.8602	0.9441	0.9161	0.8882
	Hidalgo County, TX.				
32780	Medford, OR	1.0534	1.0214	1.0320	1.0427
	Jackson County, OR.				
32820	Memphis, TN-MS-AR	0.9217	0.9687	0.9530	0.9374
	Crittenden County, AR.				
	DeSoto County, MS.				
	Marshall County, MS.				
	Tate County, MS.				
	Tunica County, MS.				
	Fayette County, TN.				
	Shelby County, TN.				
	Tipton County, TN.				
32900	Merced, CA	1.0575	1.0230	1.0345	1.0460
	Merced County, CA.				
33124	Miami-Miami Beach-Kendall, FL	0.9870	0.9948	0.9922	0.9896
	Miami-Dade County, FL.				
33140	Michigan City-La Porte, IN	0.9332	0.9733	0.9599	0.9466
	LaPorte County, IN.				
33260	Midland, TX	0.9384	0.9754	0.9630	0.9507
	Midland County, TX.				
33340	Milwaukee-Waukesha-West Allis, WI	1.0076	1.0030	1.0046	1.0061
	Milwaukee County, WI.				
	Ozaukee County, WI.				
	Washington County, WI.				
	Waukesha County, WI.				
33460	Minneapolis-St. Paul-Bloomington, MN-WI	1.1066	1.0426	1.0640	1.0853
	Anoka County, MN.				
	Carver County, MN.				
	Chisago County, MN.				
	Dakota County, MN.				
	Hennepin County, MN.				
	Isanti County, MN.				
	Ramsey County, MN.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Scott County, MN. Sherburne County, MN. Washington County, MN. Wright County, MN. Pierce County, WI. St. Croix County, WI.				
33540	Missoula, MT Missoula County, MT.	0.9618	0.9847	0.9771	0.9694
33660	Mobile, AL Mobile County, AL.	0.7995	0.9198	0.8797	0.8396
33700	Modesto, CA Stanislaus County, CA.	1.1966	1.0786	1.1180	1.1573
33740	Monroe, LA Ouachita Parish, LA. Union Parish, LA.	0.7903	0.9161	0.8742	0.8322
33780	Monroe, MI Monroe County, MI.	0.9506	0.9802	0.9704	0.9605
33860	Montgomery, AL Autauga County, AL. Elmore County, AL. Lowndes County, AL. Montgomery County, AL.	0.8300	0.9320	0.8980	0.8640
34060	Morgantown, WV Monongalia County, WV. Preston County, WV.	0.8730	0.9492	0.9238	0.8984
34100	Morristown, TN Grainger County, TN. Hamblen County, TN. Jefferson County, TN.	0.7790	0.9116	0.8674	0.8232
34580	Mount Vernon-Anacortes, WA Skagit County, WA.	1.0576	1.0230	1.0346	1.0461
34620	Muncie, IN Delaware County, IN.	0.8580	0.9432	0.9148	0.8864
34740	Muskegon-Norton Shores, MI Muskegon County, MI.	0.9741	0.9896	0.9845	0.9793
34820	Myrtle Beach-Conway-North Myrtle Beach, SC Horry County, SC.	0.9022	0.9609	0.9413	0.9218
34900	Napa, CA Napa County, CA.	1.2531	1.1012	1.1519	1.2025
34940	Naples-Marco Island, FL Collier County, FL.	1.0558	1.0223	1.0335	1.0446
34980	Nashville-Davidson-Murfreesboro, TN Cannon County, TN. Cheatham County, TN. Davidson County, TN. Dickson County, TN. Hickman County, TN. Macon County, TN. Robertson County, TN. Rutherford County, TN. Smith County, TN. Sumner County, TN. Trousdale County, TN. Williamson County, TN. Wilson County, TN.	1.0086	1.0034	1.0052	1.0069
35004	Nassau-Suffolk, NY Nassau County, NY. Suffolk County, NY.	1.2907	1.1163	1.1744	1.2326
35084	Newark-Union, NJ-PA Essex County, NJ. Hunterdon County, NJ. Morris County, NJ. Sussex County, NJ. Union County, NJ. Pike County, PA.	1.1687	1.0675	1.1012	1.1350
35300	New Haven-Milford, CT New Haven County, CT.	1.1807	1.0723	1.1084	1.1446
35380	New Orleans-Metairie-Kenner, LA Jefferson Parish, LA.	0.9103	0.9641	0.9462	0.9282

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Orleans Parish, LA.				
	Plaquemines Parish, LA.				
	St. Bernard Parish, LA.				
	St. Charles Parish, LA.				
	St. John the Baptist Parish, LA.				
	St. Tammany Parish, LA.				
35644	New York-Wayne-White Plains, NY-NJ	1.3311	1.1324	1.1987	1.2649
	Bergen County, NJ.				
	Hudson County, NJ.				
	Passaic County, NJ.				
	Bronx County, NY.				
	Kings County, NY.				
	New York County, NY.				
	Putnam County, NY.				
	Queens County, NY.				
	Richmond County, NY.				
	Rockland County, NY.				
	Westchester County, NY.				
35660	Niles-Benton Harbor, MI	0.8847	0.9539	0.9308	0.9078
	Berrien County, MI.				
35980	Norwich-New London, CT	1.1596	1.0638	1.0958	1.1277
	New London County, CT.				
36084	Oakland-Fremont-Hayward, CA	1.5220	1.2088	1.3132	1.4176
	Alameda County, CA.				
	Contra Costa County, CA.				
36100	Ocala, FL	0.9153	0.9661	0.9492	0.9322
	Marion County, FL.				
36140	Ocean City, NJ	1.0810	1.0324	1.0486	1.0648
	Cape May County, NJ.				
36220	Odessa, TX	0.9798	0.9919	0.9879	0.9838
	Ector County, TX.				
36260	Ogden-Clearfield, UT	0.9216	0.9686	0.9530	0.9373
	Davis County, UT.				
	Morgan County, UT.				
	Weber County, UT.				
36420	Oklahoma City, OK	0.8982	0.9593	0.9389	0.9186
	Canadian County, OK.				
	Cleveland County, OK.				
	Grady County, OK.				
	Lincoln County, OK.				
	Logan County, OK.				
	McClain County, OK.				
	Oklahoma County, OK.				
36500	Olympia, WA	1.1006	1.0402	1.0604	1.0805
	Thurston County, WA.				
36540	Omaha-Council Bluffs, NE-IA	0.9754	0.9902	0.9852	0.9803
	Harrison County, IA.				
	Mills County, IA.				
	Pottawattamie County, IA.				
	Cass County, NE.				
	Douglas County, NE.				
	Sarpy County, NE.				
	Saunders County, NE.				
	Washington County, NE.				
36740	Orlando, FL	0.9742	0.9897	0.9845	0.9794
	Lake County, FL.				
	Orange County, FL.				
	Osceola County, FL.				
	Seminole County, FL.				
36780	Oshkosh-Neenah, WI	0.9099	0.9640	0.9459	0.9279
	Winnebago County, WI.				
36980	Owensboro, KY	0.8434	0.9374	0.9060	0.8747
	Daviess County, KY.				
	Hancock County, KY.				
	McLean County, KY.				
37100	Oxnard-Thousand Oaks-Ventura, CA	1.1105	1.0442	1.0663	1.0884
	Ventura County, CA.				
37340	Palm Bay-Melbourne-Titusville, FL	0.9633	0.9853	0.9780	0.9706
	Brevard County, FL.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
37460	Panama City-Lynn Haven, FL Bay County, FL.	0.8124	0.9250	0.8874	0.8499
37620	Parkersburg-Marietta, WV-OH Washington County, OH. Pleasants County, WV. Wirt County, WV. Wood County, WV.	0.8288	0.9315	0.8973	0.8630
37700	Pascagoula, MS George County, MS. Jackson County, MS.	0.7974	0.9190	0.8784	0.8379
37860	Pensacola-Ferry Pass-Brent, FL Escambia County, FL. Santa Rosa County, FL.	0.8306	0.9322	0.8984	0.8645
37900	Peoria, IL Marshall County, IL. Peoria County, IL. Stark County, IL. Tazewell County, IL. Woodford County, IL.	0.8886	0.9554	0.9332	0.9109
37964	Philadelphia, PA Bucks County, PA. Chester County, PA. Delaware County, PA. Montgomery County, PA. Philadelphia County, PA.	1.0865	1.0346	1.0519	1.0692
38060	Phoenix-Mesa-Scottsdale, AZ Maricopa County, AZ. Pinal County, AZ.	0.9982	0.9993	0.9989	0.9986
38220	Pine Bluff, AR Cleveland County, AR. Jefferson County, AR. Lincoln County, AR.	0.8673	0.9469	0.9204	0.8938
38300	Pittsburgh, PA Allegheny County, PA. Armstrong County, PA. Beaver County, PA. Butler County, PA. Fayette County, PA. Washington County, PA. Westmoreland County, PA.	0.8736	0.9494	0.9242	0.8989
38340	Pittsfield, MA Berkshire County, MA.	1.0439	1.0176	1.0263	1.0351
38540	Pocatello, ID Bannock County, ID. Power County, ID.	0.9601	0.9840	0.9761	0.9681
38660	Ponce, PR Juana Díaz Municipio, PR. Ponce Municipio, PR. Villalba Municipio, PR.	0.5006	0.8002	0.7004	0.6005
38860	Portland-South Portland-Biddeford, ME Cumberland County, ME. Sagadahoc County, ME. York County, ME.	1.0112	1.0045	1.0067	1.0090
38900	Portland-Vancouver-Beaverton, OR-WA Clackamas County, OR. Columbia County, OR. Multnomah County, OR. Washington County, OR. Yamhill County, OR. Clark County, WA. Skamania County, WA.	1.1403	1.0561	1.0842	1.1122
38940	Port St. Lucie-Fort Pierce, FL Martin County, FL. St. Lucie County, FL.	1.0046	1.0018	1.0028	1.0037
39100	Poughkeepsie-Newburgh-Middletown, NY Dutchess County, NY. Orange County, NY.	1.1363	1.0545	1.0818	1.1090
39140	Prescott, AZ Yavapai County, AZ.	0.9892	0.9957	0.9935	0.9914

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
39300	Providence-New Bedford-Fall River, RI-MA	1.0929	1.0372	1.0557	1.0743
	Bristol County, MA.				
	Bristol County, RI.				
	Kent County, RI.				
	Newport County, RI.				
	Providence County, RI.				
	Washington County, RI.				
39340	Provo-Orem, UT	0.9588	0.9835	0.9753	0.9670
	Juab County, UT.				
	Utah County, UT.				
39380	Pueblo, CO	0.8752	0.9501	0.9251	0.9002
	Pueblo County, CO.				
39460	Punta Gorda, FL	0.9441	0.9776	0.9665	0.9553
	Charlotte County, FL.				
39540	Racine, WI	0.9045	0.9618	0.9427	0.9236
	Racine County, WI.				
39580	Raleigh-Cary, NC	1.0057	1.0023	1.0034	1.0046
	Franklin County, NC.				
	Johnston County, NC.				
	Wake County, NC.				
39660	Rapid City, SD	0.8912	0.9565	0.9347	0.9130
	Meade County, SD.				
	Pennington County, SD.				
39740	Reading, PA	0.9215	0.9686	0.9529	0.9372
	Berks County, PA.				
39820	Redding, CA	1.1835	1.0734	1.1101	1.1468
	Shasta County, CA.				
39900	Reno-Sparks, NV	1.0456	1.0182	1.0274	1.0365
	Storey County, NV.				
	Washoe County, NV.				
40060	Richmond, VA	0.9397	0.9759	0.9638	0.9518
	Amelia County, VA.				
	Caroline County, VA.				
	Charles City County, VA.				
	Chesterfield County, VA.				
	Cumberland County, VA.				
	Dinwiddie County, VA.				
	Goochland County, VA.				
	Hanover County, VA.				
	Henrico County, VA.				
	King and Queen County, VA.				
	King William County, VA.				
	Louisa County, VA.				
	New Kent County, VA.				
	Powhatan County, VA.				
	Prince George County, VA.				
	Sussex County, VA.				
	Colonial Heights City, VA.				
	Hopewell City, VA.				
	Petersburg City, VA.				
	Richmond City, VA.				
40140	Riverside-San Bernardino-Ontario, CA	1.0970	1.0388	1.0582	1.0776
	Riverside County, CA.				
	San Bernardino County, CA.				
40220	Roanoke, VA	0.8415	0.9366	0.9049	0.8732
	Botetourt County, VA.				
	Craig County, VA.				
	Franklin County, VA.				
	Roanoke County, VA.				
	Roanoke City, VA.				
	Salem City, VA.				
40340	Rochester, MN	1.1504	1.0602	1.0902	1.1203
	Dodge County, MN.				
	Olmsted County, MN.				
	Wabasha County, MN.				
40380	Rochester, NY	0.9281	0.9712	0.9569	0.9425
	Livingston County, NY.				
	Monroe County, NY.				
	Ontario County, NY.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Orleans County, NY.				
	Wayne County, NY.				
40420	Rockford, IL	0.9626	0.9850	0.9776	0.9701
	Boone County, IL.				
	Winnebago County, IL.				
40484	Rockingham County-Strafford County, NH	1.0221	1.0088	1.0133	1.0177
	Rockingham County, NH.				
	Strafford County, NH.				
40580	Rocky Mount, NC	0.8998	0.9599	0.9399	0.9198
	Edgecombe County, NC.				
	Nash County, NC.				
40660	Rome, GA	0.8878	0.9551	0.9327	0.9102
	Floyd County, GA.				
40900	Sacramento--Arden-Arcade--Roseville, CA	1.1700	1.0680	1.1020	1.1360
	El Dorado County, CA.				
	Placer County, CA.				
	Sacramento County, CA.				
	Yolo County, CA.				
40980	Saginaw-Saginaw Township North, MI	0.9814	0.9926	0.9888	0.9851
	Saginaw County, MI.				
41060	St. Cloud, MN	1.0215	1.0086	1.0129	1.0172
	Benton County, MN.				
	Stearns County, MN.				
41100	St. George, UT	0.9458	0.9783	0.9675	0.9566
	Washington County, UT.				
41140	St. Joseph, MO-KS	1.0013	1.0005	1.0008	1.0010
	Doniphan County, KS.				
	Andrew County, MO.				
	Buchanan County, MO.				
	DeKalb County, MO.				
41180	St. Louis, MO-IL	0.9076	0.9630	0.9446	0.9261
	Bond County, IL.				
	Calhoun County, IL.				
	Clinton County, IL.				
	Jersey County, IL.				
	Macoupin County, IL.				
	Madison County, IL.				
	Monroe County, IL.				
	St. Clair County, IL.				
	Crawford County, MO.				
	Franklin County, MO.				
	Jefferson County, MO.				
	Lincoln County, MO.				
	St. Charles County, MO.				
	St. Louis County, MO.				
	Warren County, MO.				
	Washington County, MO.				
	St. Louis City, MO.				
41420	Salem, OR	1.0556	1.0222	1.0334	1.0445
	Marion County, OR.				
	Polk County, OR.				
41500	Salinas, CA	1.3823	1.1529	1.2294	1.3058
	Monterey County, CA.				
41540	Salisbury, MD	0.9123	0.9649	0.9474	0.9298
	Somerset County, MD.				
	Wicomico County, MD.				
41620	Salt Lake City, UT	0.9561	0.9824	0.9737	0.9649
	Salt Lake County, UT.				
	Summit County, UT.				
	Tooele County, UT.				
41660	San Angelo, TX	0.8167	0.9267	0.8900	0.8534
	Irion County, TX.				
	Tom Green County, TX.				
41700	San Antonio, TX	0.9003	0.9601	0.9402	0.9202
	Atascosa County, TX.				
	Bandera County, TX.				
	Bexar County, TX.				
	Comal County, TX.				
	Guadalupe County, TX.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Kendall County, TX.				
	Medina County, TX.				
	Wilson County, TX.				
41740	San Diego-Carlsbad-San Marcos, CA	1.1267	1.0507	1.0760	1.1014
	San Diego County, CA.				
41780	Sandusky, OH	0.9017	0.9607	0.9410	0.9214
	Erie County, OH.				
41884	San Francisco-San Mateo-Redwood City, CA	1.4712	1.1885	1.2827	1.3770
	Marin County, CA.				
	San Francisco County, CA.				
	San Mateo County, CA.				
41900	San Germán-Cabo Rojo, PR	0.5240	0.8096	0.7144	0.6192
	Cabo Rojo Municipio, PR.				
	Lajas Municipio, PR.				
	Sabana Grande Municipio, PR.				
	San Germán Municipio, PR.				
41940	San Jose-Sunnyvale-Santa Clara, CA	1.4722	1.1889	1.2833	1.3778
	San Benito County, CA.				
	Santa Clara County, CA.				
41980	San Juan-Caguas-Guaynabo, PR	0.4645	0.7858	0.6787	0.5716
	Aguas Buenas Municipio, PR.				
	Aibonito Municipio, PR.				
	Arecibo Municipio, PR.				
	Barceloneta Municipio, PR.				
	Barranquitas Municipio, PR.				
	Bayamón Municipio, PR.				
	Caguas Municipio, PR.				
	Camuy Municipio, PR.				
	Canóvanas Municipio, PR.				
	Carolina Municipio, PR.				
	Cataño Municipio, PR.				
	Cayey Municipio, PR.				
	Ciales Municipio, PR.				
	Cidra Municipio, PR.				
	Comerío Municipio, PR.				
	Corozal Municipio, PR.				
	Dorado Municipio, PR.				
	Florida Municipio, PR.				
	Guaynabo Municipio, PR.				
	Gurabo Municipio, PR.				
	Hatillo Municipio, PR.				
	Humacao Municipio, PR.				
	Juncos Municipio, PR.				
	Las Piedras Municipio, PR.				
	Loíza Municipio, PR.				
	Manatí Municipio, PR.				
	Maunabo Municipio, PR.				
	Morovis Municipio, PR.				
	Naguabo Municipio, PR.				
	Naranjito Municipio, PR.				
	Orocovis Municipio, PR.				
	Quebradillas Municipio, PR.				
	Río Grande Municipio, PR.				
	San Juan Municipio, PR.				
	San Lorenzo Municipio, PR.				
	Toa Alta Municipio, PR.				
	Toa Baja Municipio, PR.				
	Trujillo Alto Municipio, PR.				
	Vega Alta Municipio, PR.				
	Vega Baja Municipio, PR.				
	Yabucoa Municipio, PR.				
42020	San Luis Obispo-Paso Robles, CA	1.1118	1.0447	1.0671	1.0894
	San Luis Obispo County, CA.				
42044	Santa Ana-Anaheim-Irvine, CA	1.1611	1.0644	1.0967	1.1289
	Orange County, CA.				
42060	Santa Barbara-Santa Maria-Goleta, CA	1.0771	1.0308	1.0463	1.0617
	Santa Barbara County, CA.				
42100	Santa Cruz-Watsonville, CA	1.4779	1.1912	1.2867	1.3823
	Santa Cruz County, CA.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
42140	Santa Fe, NM Santa Fe County, NM.	1.0909	1.0364	1.0545	1.0727
42220	Santa Rosa-Petaluma, CA Sonoma County, CA.	1.2961	1.1184	1.1777	1.2369
42260	Sarasota-Bradenton-Venice, FL Manatee County, FL. Sarasota County, FL.	0.9629	0.9852	0.9777	0.9703
42340	Savannah, GA Bryan County, GA. Chatham County, GA. Effingham County, GA.	0.9460	0.9784	0.9676	0.9568
42540	Scranton--Wilkes-Barre, PA Lackawanna County, PA. Luzerne County, PA. Wyoming County, PA.	0.8543	0.9417	0.9126	0.8834
42644	Seattle-Bellevue-Everett, WA King County, WA. Snohomish County, WA.	1.1492	1.0597	1.0895	1.1194
43100	Sheboygan, WI Sheboygan County, WI.	0.8948	0.9579	0.9369	0.9158
43300	Sherman-Denison, TX Grayson County, TX.	0.9617	0.9847	0.9770	0.9694
43340	Shreveport-Bossier City, LA Bossier Parish, LA. Caddo Parish, LA. De Soto Parish, LA.	0.9132	0.9653	0.9479	0.9306
43580	Sioux City, IA-NE-SD Woodbury County, IA. Dakota County, NE. Dixon County, NE. Union County, SD.	0.9070	0.9628	0.9442	0.9256
43620	Sioux Falls, SD Lincoln County, SD. McCook County, SD. Minnehaha County, SD. Turner County, SD.	0.9441	0.9776	0.9665	0.9553
43780	South Bend-Mishawaka, IN-MI St. Joseph County, IN. Cass County, MI.	0.9447	0.9779	0.9668	0.9558
43900	Spartanburg, SC Spartanburg County, SC.	0.9519	0.9808	0.9711	0.9615
44060	Spokane, WA Spokane County, WA.	1.0660	1.0264	1.0396	1.0528
44100	Springfield, IL Menard County, IL. Sangamon County, IL.	0.8738	0.9495	0.9243	0.8990
44140	Springfield, MA Franklin County, MA. Hampden County, MA. Hampshire County, MA.	1.0176	1.0070	1.0106	1.0141
44180	Springfield, MO Christian County, MO. Dallas County, MO. Greene County, MO. Polk County, MO. Webster County, MO.	0.8557	0.9423	0.9134	0.8846
44220	Springfield, OH Clark County, OH.	0.8748	0.9499	0.9249	0.8998
44300	State College, PA Centre County, PA.	0.8461	0.9384	0.9077	0.8769
44700	Stockton, CA San Joaquin County, CA.	1.0564	1.0226	1.0338	1.0451
44940	Sumter, SC Sumter County, SC.	0.8520	0.9408	0.9112	0.8816
45060	Syracuse, NY Madison County, NY. Onondaga County, NY. Oswego County, NY.	0.9468	0.9787	0.9681	0.9574
45104	Tacoma, WA	1.1078	1.0431	1.0647	1.0862

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Pierce County, WA.				
45220	Tallahassee, FL	0.8655	0.9462	0.9193	0.8924
	Gadsden County, FL.				
	Jefferson County, FL.				
	Leon County, FL.				
	Wakulla County, FL.				
45300	Tampa-St. Petersburg-Clearwater, FL	0.9024	0.9610	0.9414	0.9219
	Hernando County, FL.				
	Hillsborough County, FL.				
	Pasco County, FL.				
	Pinellas County, FL.				
45460	Terre Haute, IN	0.8517	0.9407	0.9110	0.8814
	Clay County, IN.				
	Sullivan County, IN.				
	Vermillion County, IN.				
	Vigo County, IN.				
45500	Texarkana, TX-Texarkana, AR	0.8413	0.9365	0.9048	0.8730
	Miller County, AR.				
	Bowie County, TX.				
45780	Toledo, OH	0.9524	0.9810	0.9714	0.9619
	Fulton County, OH.				
	Lucas County, OH.				
	Ottawa County, OH.				
	Wood County, OH.				
45820	Topeka, KS	0.8904	0.9562	0.9342	0.9123
	Jackson County, KS.				
	Jefferson County, KS.				
	Osage County, KS.				
	Shawnee County, KS.				
	Wabaunsee County, KS.				
45940	Trenton-Ewing, NJ	1.0276	1.0110	1.0166	1.0221
	Mercer County, NJ.				
46060	Tucson, AZ	0.8926	0.9570	0.9356	0.9141
	Pima County, AZ.				
46140	Tulsa, OK	0.8690	0.9476	0.9214	0.8952
	Creek County, OK.				
	Okmulgee County, OK.				
	Osage County, OK.				
	Pawnee County, OK.				
	Rogers County, OK.				
	Tulsa County, OK.				
	Wagoner County, OK.				
46220	Tuscaloosa, AL	0.8336	0.9334	0.9002	0.8669
	Greene County, AL.				
	Hale County, AL.				
	Tuscaloosa County, AL.				
46340	Tyler, TX	0.9502	0.9801	0.9701	0.9602
	Smith County, TX.				
46540	Utica-Rome, NY	0.8295	0.9318	0.8977	0.8636
	Herkimer County, NY.				
	Oneida County, NY.				
46660	Valdosta, GA	0.8341	0.9336	0.9005	0.8673
	Brooks County, GA.				
	Echols County, GA.				
	Lanier County, GA.				
	Lowndes County, GA.				
46700	Vallejo-Fairfield, CA	1.4279	1.1712	1.2567	1.3423
	Solano County, CA.				
46940	Vero Beach, FL	0.9477	0.9791	0.9686	0.9582
	Indian River County, FL.				
47020	Victoria, TX	0.8470	0.9388	0.9082	0.8776
	Calhoun County, TX.				
	Goliad County, TX.				
	Victoria County, TX.				
47220	Vineland-Millville-Bridgeton, NJ	1.0573	1.0229	1.0344	1.0458
	Cumberland County, NJ.				
47260	Virginia Beach-Norfolk-Newport News, VA-NC	0.8894	0.9558	0.9336	0.9115
	Currituck County, NC.				
	Gloucester County, VA.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Isle of Wight County, VA.				
	James City County, VA.				
	Mathews County, VA.				
	Surry County, VA.				
	York County, VA.				
	Chesapeake City, VA.				
	Hampton City, VA.				
	Newport News City, VA.				
	Norfolk City, VA.				
	Poquoson City, VA.				
	Portsmouth City, VA.				
	Suffolk City, VA.				
	Virginia Beach City, VA.				
	Williamsburg City, VA.				
47300	Visalia-Porterville, CA	0.9975	0.9990	0.9985	0.9980
	Tulare County, CA.				
47380	Waco, TX	0.8146	0.9258	0.8888	0.8517
	McLennan County, TX.				
47580	Warner Robins, GA	0.8489	0.9396	0.9093	0.8791
	Houston County, GA.				
47644	Warren-Farmington Hills-Troy, MI	1.0112	1.0045	1.0067	1.0090
	Lapeer County, MI.				
	Livingston County, MI.				
	Macomb County, MI.				
	Oakland County, MI.				
	St. Clair County, MI.				
47894	Washington-Arlington-Alexandria, DC-VA-MD-WV	1.1023	1.0409	1.0614	1.0818
	District of Columbia, DC.				
	Calvert County, MD.				
	Charles County, MD.				
	Prince George's County, MD.				
	Arlington County, VA.				
	Clarke County, VA.				
	Fairfax County, VA.				
	Fauquier County, VA.				
	Loudoun County, VA.				
	Prince William County, VA.				
	Spotsylvania County, VA.				
	Stafford County, VA.				
	Warren County, VA.				
	Alexandria City, VA.				
	Fairfax City, VA.				
	Falls Church City, VA.				
	Fredericksburg City, VA.				
	Manassas City, VA.				
	Manassas Park City, VA.				
	Jefferson County, WV.				
47940	Waterloo-Cedar Falls, IA	0.8633	0.9453	0.9180	0.8906
	Black Hawk County, IA.				
	Bremer County, IA.				
	Grundy County, IA.				
48140	Wausau, WI	0.9570	0.9828	0.9742	0.9656
	Marathon County, WI.				
48260	Weirton-Steubenville, WV-OH	0.8280	0.9312	0.8968	0.8624
	Jefferson County, OH.				
	Brooke County, WV.				
	Hancock County, WV.				
48300	Wenatchee, WA	0.9427	0.9771	0.9656	0.9542
	Chelan County, WA.				
	Douglas County, WA.				
48424	West Palm Beach-Boca Raton-Boynton Beach, FL	1.0362	1.0145	1.0217	1.0290
	Palm Beach County, FL.				
48540	Wheeling, WV-OH	0.7449	0.8980	0.8469	0.7959
	Belmont County, OH.				
	Marshall County, WV.				
	Ohio County, WV.				
48620	Wichita, KS	0.9457	0.9783	0.9674	0.9566
	Butler County, KS.				
	Harvey County, KS.				

TABLE 1.—LONG-TERM CARE HOSPITAL WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]—Continued

CBSA code	Urban area (constituent counties)	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
	Sedgwick County, KS.				
	Sumner County, KS.				
48660	Wichita Falls, TX	0.8332	0.9333	0.8999	0.8666
	Archer County, TX.				
	Clay County, TX.				
	Wichita County, TX.				
48700	Williamsport, PA	0.8485	0.9394	0.9091	0.8788
	Lycoming County, PA.				
48864	Wilmington, DE-MD-NJ	1.1049	1.0420	1.0629	1.0839
	New Castle County, DE.				
	Cecil County, MD.				
	Salem County, NJ.				
48900	Wilmington, NC	0.9237	0.9695	0.9542	0.9390
	Brunswick County, NC.				
	New Hanover County, NC.				
	Pender County, NC.				
49020	Winchester, VA-WV	1.0496	1.0198	1.0298	1.0397
	Frederick County, VA.				
	Winchester City, VA.				
	Hampshire County, WV.				
49180	Winston-Salem, NC	0.9401	0.9760	0.9641	0.9521
	Davie County, NC.				
	Forsyth County, NC.				
	Stokes County, NC.				
	Yadkin County, NC.				
49340	Worcester, MA	1.0996	1.0398	1.0598	1.0797
	Worcester County, MA.				
49420	Yakima, WA	1.0322	1.0129	1.0193	1.0258
	Yakima County, WA.				
49500	Yauco, PR	0.4493	0.7797	0.6696	0.5594
	Guánica Municipio, PR.				
	Guayanilla Municipio, PR.				
	Peñuelas Municipio, PR.				
	Yauco Municipio, PR.				
49620	York-Hanover, PA	0.9150	0.9660	0.9490	0.9320
	York County, PA.				
49660	Youngstown-Warren-Boardman, OH-PA	0.9237	0.9695	0.9542	0.9390
	Mahoning County, OH.				
	Trumbull County, OH.				
	Mercer County, PA.				
49700	Yuba City, CA	1.0363	1.0145	1.0218	1.0290
	Sutter County, CA.				
	Yuba County, CA.				
49740	Yuma, AZ	0.8871	0.9548	0.9323	0.9097
	Yuma County, AZ.				

[1] As discussed in section V.C.1.d. of the preamble of this final rule, because there are no longer any LTCHs in their cost reporting period that began during FY 2003 (the first year of the 5-year wage index phase-in), we are no longer showing the 1/5th wage index value. For further details on the 5-year phase-in of the wage index, see section V.C.1.of this final rule.

[2] Wage index calculated using the same wage data used to compute the wage index used by acute care hospitals under the IPPS for Federal FY 2005 (that is, fiscal year 2001 audited acute care hospital inpatient wage data) without regard to reclassification under section 1886(d)(8) or section 1886(d)(10) of the Act.

[3] Two-fifths of the full wage index value, applicable for a LTCH's cost reporting period beginning on or after October 1, 2003 through September 30, 2004 (Federal FY 2004). That is, for a LTCH's cost reporting period that begins during Federal FY 2004 and located in Chicago, Illinois (CBSA 16974), the 2/5ths wage index value is computed as ((2*1.0868) + 3))/5 = 1.0347. For further details on the 5-year phase-in of the wage index, see section V.C.1. of this final rule.

[4] Three-fifths of the full wage index value, applicable for a LTCH's cost reporting period beginning on or after October 1, 2005 through September 30, 2006 (Federal FY 2005). That is, for a LTCH's cost reporting period that begins during Federal FY 2005 and located in Chicago, Illinois (CBSA 16974), the 3/5ths wage index value is computed as ((3*1.0868) + 2))/5 = 1.0521. For further details on the 5-year phase-in of the wage index, see section V.C.1. of this final rule.

[5] Four-fifths of the full wage index value, applicable for a LTCH's cost reporting period beginning on or after October 1, 2006 through September 30, 2007 (Federal FY 2006). That is, for a LTCH's cost reporting period that begins during Federal FY 2006 and located in Chicago, Illinois (CBSA 16974), the 4/5ths wage index value is computed as ((4*1.0868) + 1))/5 = 1.0694. For further details on the 5-year phase-in of the wage index, see section V.C.1. of this final rule.

TABLE 2.—LONG-TERM CARE HOSPITAL WAGE INDEX (BASED ON CBSA LABOR MARKET AREAS) FOR RURAL AREAS FOR DISCHARGES OCCURRING FROM JULY 1, 2005 THROUGH JUNE 30, 2006 [1]

CBSA code	Nonurban area	Full wage index [2]	2/5ths wage index [3]	3/5ths wage index [4]	4/5ths wage index [5]
01	Alabama	0.7628	0.9051	0.8577	0.8102
02	Alaska	1.1746	1.0698	1.1048	1.1397
03	Arizona	0.8936	0.9574	0.9362	0.9149
04	Arkansas	0.7406	0.8962	0.8444	0.7925
05	California	1.0524	1.0210	1.0314	1.0419
06	Colorado	0.9368	0.9747	0.9621	0.9494
07	Connecticut	1.1917	1.0767	1.1150	1.1534
08	Delaware	0.9503	0.9801	0.9702	0.9602
10	Florida	0.8574	0.9430	0.9144	0.8859
11	Georgia	0.7733	0.9093	0.8640	0.8186
12	Hawaii	1.0522	1.0209	1.0313	1.0418
13	Idaho	0.8227	0.9291	0.8936	0.8582
14	Illinois	0.8339	0.9336	0.9003	0.8671
15	Indiana	0.8653	0.9461	0.9192	0.8922
16	Iowa	0.8475	0.9390	0.9085	0.8780
17	Kansas	0.8079	0.9232	0.8847	0.8463
18	Kentucky	0.7755	0.9102	0.8653	0.8204
19	Louisiana	0.7345	0.8938	0.8407	0.7876
20	Maine	0.9039	0.9616	0.9423	0.9231
21	Maryland	0.9220	0.9688	0.9532	0.9376
22	Massachusetts [6]	.....	.....	.....	.....
23	Michigan	0.8786	0.9514	0.9272	0.9029
24	Minnesota	0.9330	0.9732	0.9598	0.9464
25	Mississippi	0.7635	0.9054	0.8581	0.8108
26	Missouri	0.7762	0.9105	0.8657	0.8210
27	Montana	0.8701	0.9480	0.9221	0.8961
28	Nebraska	0.9035	0.9614	0.9421	0.9228
29	Nevada	0.9280	0.9712	0.9568	0.9424
30	New Hampshire	0.9940	0.9976	0.9964	0.9952
31	New Jersey [6]	.....	.....	.....	.....
32	New Mexico	0.8680	0.9472	0.9208	0.8944
33	New York	0.8151	0.9260	0.8891	0.8521
34	North Carolina	0.8563	0.9425	0.9138	0.8850
35	North Dakota	0.7743	0.9097	0.8646	0.8194
36	Ohio	0.8693	0.9477	0.9216	0.8954
37	Oklahoma	0.7686	0.9074	0.8612	0.8149
38	Oregon	0.9914	0.9966	0.9948	0.9931
39	Pennsylvania	0.8310	0.9324	0.8986	0.8648
40	Puerto Rico [6]	.....	.....	.....	.....
41	Rhode Island [6]	.....	.....	.....	.....
42	South Carolina	0.8683	0.9473	0.9210	0.8946
43	South Dakota	0.8398	0.9359	0.9039	0.8718
44	Tennessee	0.7869	0.9148	0.8721	0.8295
45	Texas	0.7966	0.9186	0.8780	0.8373
46	Utah	0.8287	0.9315	0.8972	0.8630
47	Vermont	0.9375	0.9750	0.9625	0.9500
49	Virginia	0.8049	0.9220	0.8829	0.8439
50	Washington	1.0312	1.0125	1.0187	1.0250
51	West Virginia	0.7865	0.9146	0.8719	0.8292
52	Wisconsin	0.9492	0.9797	0.9695	0.9594
53	Wyoming	0.9182	0.9673	0.9509	0.9346

[1] As discussed in section V.C.1.d. of the preamble of this final rule, because there are no longer any LTCHs in their cost reporting period that began during FY 2003 (the first year of the 5-year wage index phase-in), we are no longer showing the 1/5th wage index value. For further details on the 5-year phase-in of the wage index, see section V.C.1.of this final rule.

[2] Wage index calculated using the same wage data used to compute the wage index used by acute care hospitals under the IPPS for Federal FY 2005 (that is, fiscal year 2001 audited acute care hospital inpatient wage data) without regard to reclassification under section 1886(d)(8) or section 1886(d)(10) of the Act.

[3] Two-fifths of the full wage index value, applicable for a LTCH's cost reporting period beginning on or after October 1, 2003 through September 30, 2004 (Federal FY 2004). That is, for a LTCH's cost reporting period that begins during Federal FY 2004 and located in rural Illinois, the proposed 2/5ths wage index value is computed as ((2*0.8339) + 3))/5 = 0.9336. For further details on the 5-year phase-in of the wage index, see section V.C.1. of this final rule.

[4] Three-fifths of the full wage index value, applicable for a LTCH's cost reporting period beginning on or after October 1, 2005 through September 30, 2006 (Federal FY 2005). That is, for a LTCH's cost reporting period that begins during Federal FY 2005 and located in rural Illinois, the 3/5ths wage index value is computed as ((3*0.8339) + 2))/5 = 0.9003. For further details on the 5-year phase-in of the wage index, see section V.C.1. of this final rule.

[5] Four-fifths of the full wage index value, applicable for a LTCH's cost reporting period beginning on or after October 1, 2006 through September 30, 2007 (Federal FY 2006). That is, for a LTCH's cost reporting period that begins during Federal FY 2006 and located in rural Illinois, the 4/5ths wage index value is computed as ((3*0.8339) + 2))/5 = 0.8671. For further details on the 5-year phase-in of the wage index, see section V.C.1. of this final rule.

[6] All counties within the State are classified as urban.

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
1	[4] CRANIOTOMY AGE >17 W CC	1.1899	28.5	23.8
2	[8] CRANIOTOMY AGE >17 W/O CC	1.1899	28.5	23.8
3	[8] CRANIOTOMY AGE 0-17	1.1899	28.5	23.8
6	[8] CARPAL TUNNEL RELEASE	0.6064	21.1	17.6
7	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	1.4458	36.7	30.6
8	[2] PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	0.6064	21.1	17.6
9	SPINAL DISORDERS & INJURIES	1.0950	31.3	26.1
10	NERVOUS SYSTEM NEOPLASMS W CC	0.9022	25.0	20.8
11	[1] NERVOUS SYSTEM NEOPLASMS W/O CC	0.4586	16.9	14.1
12	DEGENERATIVE NERVOUS SYSTEM DISORDERS	0.7416	25.6	21.3
13	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	0.7820	24.6	20.5
14	INTRACRANIAL HEMORRHAGE OR STROKE W INFARCT	0.8189	25.9	21.6
15	NONSPECIFIC CVA & PRECEREBRAL OCCLUSION W/O INFARCT	0.7868	27.2	22.7
16	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	0.8358	24.7	20.6
17	[2] NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	0.6064	21.1	17.6
18	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	0.7755	24.8	20.7
19	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	0.6583	21.1	17.6
20	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	1.0558	27.0	22.5
21	[4] VIRAL MENINGITIS	1.1899	28.5	23.8
22	[2] HYPERTENSIVE ENCEPHALOPATHY	0.6064	21.1	17.6
23	NONTRAUMATIC STUPOR & COMA	1.1225	26.6	22.2
24	SEIZURE & HEADACHE AGE >17 W CC	0.6740	22.4	18.7
25	[2] SEIZURE & HEADACHE AGE >17 W/O CC	0.6064	21.1	17.6
26	[8] SEIZURE & HEADACHE AGE 0-17	0.6064	21.1	17.6
27	TRAUMATIC STUPOR & COMA, COMA >1 HR	1.1418	28.3	23.6
28	TRAUMATIC STUPOR & COMA, COMA 1 HR AGE 17 W CC	0.9250	29.8	24.8
29	[3] TRAUMATIC STUPOR & COMA, COMA 1 HR AGE 17 W/O CC	0.8508	24.3	20.3
30	[8] TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	0.8508	24.3	20.3
31	[2] CONCUSSION AGE >17 W CC	0.6064	21.1	17.6
32	[8] CONCUSSION AGE >17 W/O CC	0.6064	21.1	17.6
33	[8] CONCUSSION AGE 0-17	0.6064	21.1	17.6
34	OTHER DISORDERS OF NERVOUS SYSTEM W CC	0.8418	24.2	20.2
35	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	0.6976	22.6	18.8
36	[8] RETINAL PROCEDURES	0.4586	16.9	14.1
37	[8] ORBITAL PROCEDURES	0.4586	16.9	14.1
38	[8] PRIMARY IRIS PROCEDURES	0.4586	16.9	14.1
39	[8] LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	0.4586	16.9	14.1
40	[8] EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	0.4586	16.9	14.1
41	[8] EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	0.4586	16.9	14.1
42	[8] INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	0.4586	16.9	14.1
43	[1] HYPHEMA	0.4586	16.9	14.1
44	[3] ACUTE MAJOR EYE INFECTIONS	0.8508	24.3	20.3
45	[1] NEUROLOGICAL EYE DISORDERS	0.4586	16.9	14.1
46	[2] OTHER DISORDERS OF THE EYE AGE >17 W CC	0.6064	21.1	17.6
47	[1] OTHER DISORDERS OF THE EYE AGE >17 W/O CC	0.4586	16.9	14.1
48	[8] OTHER DISORDERS OF THE EYE AGE 0-17	0.4586	16.9	14.1
49	[8] MAJOR HEAD & NECK PROCEDURES	1.1899	28.5	23.8
50	[8] SIALOADENECTOMY	1.1899	28.5	23.8
51	[8] SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	1.1899	28.5	23.8
52	[8] CLEFT LIP & PALATE REPAIR	1.1899	28.5	23.8
53	[8] SINUS & MASTOID PROCEDURES AGE >17	1.1899	28.5	23.8
54	[8] SINUS & MASTOID PROCEDURES AGE 0-17	1.1899	28.5	23.8
55	[5] MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES	1.8658	38.6	32.2
56	[8] RHINOPLASTY	1.1899	28.5	23.8
57	[8] T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.6064	21.1	17.6
58	[8] T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17.	0.6064	21.1	17.6
59	[8] TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.6064	21.1	17.6
60	[8] TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.6064	21.1	17.6
61	[8] MYRINGOTOMY W TUBE INSERTION AGE >17	0.6064	21.1	17.6
62	[8] MYRINGOTOMY W TUBE INSERTION AGE 0-17	0.6064	21.1	17.6
63	[4] OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.1899	28.5	23.8
64	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.2588	27.4	22.8
65	DYSEQUILIBRIUM	0.3858	16.2	13.5
66	[8] EPISTAXIS	0.6064	21.1	17.6
67	[8] EPIGLOTTITIS	1.1899	28.5	23.8

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
68	OTITIS MEDIA & URI AGE >17 W CC	0.6115	21.3	17.8
69	[2] OTITIS MEDIA & URI AGE >17 W/O CC	0.6064	21.1	17.6
70	[8] OTITIS MEDIA & URI AGE 0-17	0.6064	21.1	17.6
71	[8] LARYNGOTRACHEITIS	0.4586	16.9	14.1
72	[8] NASAL TRAUMA & DEFORMITY	0.8508	24.3	20.3
73	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	0.9341	23.5	19.6
74	[8] OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	0.6064	21.1	17.6
75	MAJOR CHEST PROCEDURES	2.0661	31.9	26.6
76	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.3823	41.6	34.7
77	[5] OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.8658	38.6	32.2
78	PULMONARY EMBOLISM	0.7424	22.0	18.3
79	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	0.9350	23.7	19.8
80	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	0.9215	26.7	22.3
81	[8] RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	0.6064	21.1	17.6
82	RESPIRATORY NEOPLASMS	0.7591	19.9	16.6
83	[2] MAJOR CHEST TRAUMA W CC	0.6064	21.1	17.6
84	[1] MAJOR CHEST TRAUMA W/O CC	0.4586	16.9	14.1
85	[7] PLEURAL EFFUSION W CC	0.7852	22.0	18.3
86	[7] PLEURAL EFFUSION W/O CC	0.7852	22.0	18.3
87	PULMONARY EDEMA & RESPIRATORY FAILURE	1.6797	30.4	25.3
88	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	0.7334	20.1	16.8
89	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	0.7762	21.2	17.7
90	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	0.7494	21.9	18.3
91	[8] SIMPLE PNEUMONIA & PLEURISY AGE 0-17	0.8508	24.3	20.3
92	INTERSTITIAL LUNG DISEASE W CC	0.7318	20.4	17.0
93	[1] INTERSTITIAL LUNG DISEASE W/O CC	0.4586	16.9	14.1
94	PNEUMOTHORAX W CC	0.8348	21.3	17.8
95	[1] PNEUMOTHORAX W/O CC	0.4586	16.9	14.1
96	BRONCHITIS & ASTHMA AGE >17 W CC	0.7575	20.2	16.8
97	BRONCHITIS & ASTHMA AGE >17 W/O CC	0.5305	16.6	13.8
98	[8] BRONCHITIS & ASTHMA AGE 0-17	0.4586	16.9	14.1
99	RESPIRATORY SIGNS & SYMPTOMS W CC	1.0648	25.8	21.5
100	RESPIRATORY SIGNS & SYMPTOMS W/O CC	0.9048	22.9	19.1
101	[7] OTHER RESPIRATORY SYSTEM DIAGNOSES W CC	0.8737	21.9	18.3
102	[7] OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	0.8737	21.9	18.3
103	[6] HEART TRANSPLANT OR IMPLANT OF HEART ASSIST SYSTEM	0.0000	0.0	0.0
104	[8] CARDIAC VALVE & OTH MAJOR CARDIOTHORACIC PROC W CARD CATH	0.4586	16.9	14.1
105	[8] CARDIAC VALVE & OTH MAJOR CARDIOTHORACIC PROC W/O CARD CATH	0.4586	16.9	14.1
106	[8] CORONARY BYPASS W PTCA	0.4586	16.9	14.1
107	[8] CORONARY BYPASS W CARDIAC CATH	0.4586	16.9	14.1
108	[4] OTHER CARDIOTHORACIC PROCEDURES	1.1899	28.5	23.8
109	[2] CORONARY BYPASS W/O PTCA OR CARDIAC CATH	0.6064	21.1	17.6
110	[1] MAJOR CARDIOVASCULAR PROCEDURES W CC	0.4586	16.9	14.1
111	[8] MAJOR CARDIOVASCULAR PROCEDURES W/O CC	0.4586	16.9	14.1
113	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	1.3298	36.2	30.2
114	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	1.1780	33.3	27.8
115	[4] PRM CARD PACEM IMPL W AMI/HR/SHOCK OR AICD LEAD OR GNRTR	1.1899	28.5	23.8
116	[5] OTHER PERMANENT CARDIAC PACEMAKER IMPLANT	1.8658	38.6	32.2
117	[2] CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	0.6064	21.1	17.6
118	[5] CARDIAC PACEMAKER DEVICE REPLACEMENT	1.8658	38.6	32.2
119	[1] VEIN LIGATION & STRIPPING	0.4586	16.9	14.1
120	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	1.2014	32.6	27.2
121	CIRCULATORY DISORDERS W AMI & MAJOR COMP, DISCHARGED ALIVE	0.8293	21.8	18.2
122	[3] CIRCULATORY DISORDERS W AMI W/O MAJOR COMP, DISCHARGED ALIVE	0.8508	24.3	20.3
123	CIRCULATORY DISORDERS W AMI, EXPIRED	0.9890	18.6	15.5
124	[3] CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG	0.8508	24.3	20.3
125	[5] CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG	1.8658	38.6	32.2
126	ACUTE & SUBACUTE ENDOCARDITIS	0.8439	24.6	20.5
127	HEART FAILURE & SHOCK	0.7597	21.6	18.0
128	[3] DEEP VEIN THROMBOPHLEBITIS	0.8508	24.3	20.3
129	[2] CARDIAC ARREST, UNEXPLAINED	0.6064	21.1	17.6
130	PERIPHERAL VASCULAR DISORDERS W CC	0.7072	22.7	18.9
131	PERIPHERAL VASCULAR DISORDERS W/O CC	0.5718	20.6	17.2
132	ATHEROSCLEROSIS W CC	0.7086	22.6	18.8
133	ATHEROSCLEROSIS W/O CC	0.5629	19.4	16.2
134	HYPERTENSION	0.6674	21.5	17.9

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
135	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC	0.8908	24.6	20.5
136	[3] CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC	0.8508	24.3	20.3
137	[8] CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17	0.8508	24.3	20.3
138	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC	0.7451	22.0	18.3
139	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	0.5488	19.3	16.1
140	[2] ANGINA PECTORIS	0.6064	21.1	17.6
141	[7] SYNCOPE & COLLAPSE W CC	0.5304	22.5	18.8
142	[7] SYNCOPE & COLLAPSE W/O CC	0.5304	22.5	18.8
143	[1] CHEST PAIN	0.4586	16.9	14.1
144	[7] OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	0.7913	21.8	18.2
145	[7] OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	0.7913	21.8	18.2
146	[8] RECTAL RESECTION W CC	1.8658	38.6	32.2
147	[8] RECTAL RESECTION W/O CC	1.8658	38.6	32.2
148	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	2.0460	35.1	29.3
149	[1] MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	0.4586	16.9	14.1
150	[5] PERITONEAL ADHESIOLYSIS W CC	1.8658	38.6	32.2
151	[8] PERITONEAL ADHESIOLYSIS W/O CC	1.8658	38.6	32.2
152	[5] MINOR SMALL & LARGE BOWEL PROCEDURES W CC	1.8658	38.6	32.2
153	[8] MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.8658	38.6	32.2
154	[5] STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC	1.8658	38.6	32.2
155	[8] STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC	1.8658	38.6	32.2
156	[8] STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17	1.8658	38.6	32.2
157	[4] ANAL & STOMAL PROCEDURES W CC	1.1899	28.5	23.8
158	[8] ANAL & STOMAL PROCEDURES W/O CC	1.1899	28.5	23.8
159	[3] HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC	0.8508	24.3	20.3
160	[8] HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC	0.8508	24.3	20.3
161	[5] INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC	1.8658	38.6	32.2
162	[8] INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	0.4586	16.9	14.1
163	[8] HERNIA PROCEDURES AGE 0-17	0.4586	16.9	14.1
164	[8] APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	1.8658	38.6	32.2
165	[8] APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.8658	38.6	32.2
166	[8] APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC	1.8658	38.6	32.2
167	[8] APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	1.8658	38.6	32.2
168	[4] MOUTH PROCEDURES W CC	1.1899	28.5	23.8
169	[8] MOUTH PROCEDURES W/O CC	0.8508	24.3	20.3
170	[7] OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	1.7448	33.3	27.8
171	[7] OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.7448	33.3	27.8
172	[7] DIGESTIVE MALIGNANCY W CC	0.8822	22.8	19.0
173	[7] DIGESTIVE MALIGNANCY W/O CC	0.8822	22.8	19.0
174	[7] G.I. HEMORRHAGE W CC	0.7067	21.9	18.3
175	[7] G.I. HEMORRHAGE W/O CC	0.7067	21.9	18.3
176	COMPLICATED PEPTIC ULCER	1.0124	23.3	19.4
177	[3] UNCOMPLICATED PEPTIC ULCER W CC	0.8508	24.3	20.3
178	[1] UNCOMPLICATED PEPTIC ULCER W/O CC	0.4586	16.9	14.1
179	INFLAMMATORY BOWEL DISEASE	0.8728	23.4	19.5
180	G.I. OBSTRUCTION W CC	0.9438	22.2	18.5
181	[2] G.I. OBSTRUCTION W/O CC	0.6064	21.1	17.6
182	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC	0.8373	23.1	19.3
183	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC	0.6992	20.7	17.3
184	[8] ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17	0.6064	21.1	17.6
185	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17	0.8447	24.2	20.2
186	[8] DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17	0.8508	24.3	20.3
187	[8] DENTAL EXTRACTIONS & RESTORATIONS	0.8508	24.3	20.3
188	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	0.9751	24.0	20.0
189	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	0.8839	22.9	19.1
190	[8] OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17	0.8508	24.3	20.3
191	[5] PANCREAS, LIVER & SHUNT PROCEDURES W CC	1.8658	38.6	32.2
192	[8] PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.8658	38.6	32.2
193	[1] BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC	0.4586	16.9	14.1
194	[8] BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC	0.4586	16.9	14.1
195	[8] CHOLECYSTECTOMY W C.D.E. W CC	1.8658	38.6	32.2
196	[8] CHOLECYSTECTOMY W C.D.E. W/O CC	1.8658	38.6	32.2
197	[5] CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W CC	1.8658	38.6	32.2
198	[8] CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W/O CC	1.8658	38.6	32.2
199	[8] HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	0.8508	24.3	20.3
200	[3] HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY	0.8508	24.3	20.3

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
201	[4] OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	1.1899	28.5	23.8
202	CIRRHOSIS & ALCOHOLIC HEPATITIS	0.7217	23.3	19.4
203	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	0.7867	20.9	17.4
204	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	0.8626	21.5	17.9
205	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC	0.7596	23.0	19.2
206	[2] DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	0.6064	21.1	17.6
207	DISORDERS OF THE BILIARY TRACT W CC	0.6492	19.3	16.1
208	[1] DISORDERS OF THE BILIARY TRACT W/O CC	0.4586	16.9	14.1
209	[5] MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY	1.8658	38.6	32.2
210	[5] HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC	1.8658	38.6	32.2
211	[8] HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC	1.8658	38.6	32.2
212	[8] HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	1.8658	38.6	32.2
213	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS	1.1696	33.9	28.3
216	[5] BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	1.8658	38.6	32.2
217	WND DEBRID & SKN GRFT EXCEPT HAND,FOR MUSCSKELET & CONN TISS DIS	1.3123	37.2	31.0
218	[4] LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W CC	1.1899	28.5	23.8
219	[8] LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W/O CC	1.1899	28.5	23.8
220	[8] LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE 0-17	1.1899	28.5	23.8
223	[8] MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC.	1.1899	28.5	23.8
224	[8] SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC	0.6064	21.1	17.6
225	FOOT PROCEDURES	1.0601	30.4	25.3
226	[5] SOFT TISSUE PROCEDURES W CC	1.8658	38.6	32.2
227	[2] SOFT TISSUE PROCEDURES W/O CC	0.6064	21.1	17.6
228	[3] MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC	0.8508	24.3	20.3
229	[1] HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	0.4586	16.9	14.1
230	[5] LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR	1.8658	38.6	32.2
232	[8] ARTHROSCOPY	0.8508	24.3	20.3
233	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	1.5135	34.5	28.8
234	[3] OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC	0.8508	24.3	20.3
235	FRACTURES OF FEMUR	0.7920	30.3	25.3
236	FRACTURES OF HIP & PELVIS	0.7348	26.9	22.4
237	[1] SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	0.4586	16.9	14.1
238	OSTEOMYELITIS	0.9329	28.9	24.1
239	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY.	0.6619	21.4	17.8
240	CONNECTIVE TISSUE DISORDERS W CC	0.7160	23.1	19.3
241	[1] CONNECTIVE TISSUE DISORDERS W/O CC	0.4586	16.9	14.1
242	SEPTIC ARTHRITIS	0.7943	26.2	21.8
243	MEDICAL BACK PROBLEMS	0.6072	22.3	18.6
244	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC	0.5705	22.3	18.6
245	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	0.5109	19.3	16.1
246	NON-SPECIFIC ARTHROPATHIES	0.5884	21.4	17.8
247	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE	0.5445	21.4	17.8
248	TENDONITIS, MYOSITIS & BURSITIS	0.7830	24.3	20.3
249	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	0.6907	23.9	19.9
250	[2] FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC	0.6064	21.1	17.6
251	[2] FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC	0.6064	21.1	17.6
252	[8] FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17	0.8508	24.3	20.3
253	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W CC	0.8368	28.5	23.8
254	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC	0.6956	27.1	22.6
255	[8] FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17	0.8508	24.3	20.3
256	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES	0.7491	23.3	19.4
257	[8] TOTAL MASTECTOMY FOR MALIGNANCY W CC	0.4586	16.9	14.1
258	[8] TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.4586	16.9	14.1
259	[8] SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC	0.4586	16.9	14.1
260	[1] SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.4586	16.9	14.1
261	[5] BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION	1.8658	38.6	32.2
262	[3] BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	0.8508	24.3	20.3
263	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC	1.3568	39.1	32.6
264	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC	1.0622	33.0	27.5
265	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC	1.4363	35.7	29.8
266	[3] SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O CC	0.8508	24.3	20.3
267	[5] PERIANAL & PILONIDAL PROCEDURES	1.8658	38.6	32.2
268	[5] SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES	1.8658	38.6	32.2
269	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.3904	38.4	32.0

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
270	[3] OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC	0.8508	24.3	20.3
271	SKIN ULCERS	0.9572	28.4	23.7
272	MAJOR SKIN DISORDERS W CC	0.7956	25.0	20.8
273	[1] MAJOR SKIN DISORDERS W/O CC	0.4586	16.9	14.1
274	MALIGNANT BREAST DISORDERS W CC	0.9535	27.7	23.1
275	[1] MALIGNANT BREAST DISORDERS W/O CC	0.4586	16.9	14.1
276	[2] NON-MALIGANT BREAST DISORDERS	0.6064	21.1	17.6
277	CELLULITIS AGE >17 W CC	0.6711	21.6	18.0
278	CELLULITIS AGE >17 W/O CC	0.5277	19.0	15.8
279	[8] CELLULITIS AGE 0-17	0.4586	16.9	14.1
280	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	0.8840	27.1	22.6
281	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC	0.8190	28.3	23.6
282	[8] TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17	0.8508	24.3	20.3
283	MINOR SKIN DISORDERS W CC	0.7712	22.9	19.1
284	[1] MINOR SKIN DISORDERS W/O CC	0.4586	16.9	14.1
285	AMPUTAT OF LOWER LIMB FOR ENDOCRINE,NUTRIT,& METABOL DISORDERS	1.2799	35.9	29.9
286	[8] ADRENAL & PITUITARY PROCEDURES	1.1899	28.5	23.8
287	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS	1.1090	32.4	27.0
288	[3] O.R. PROCEDURES FOR OBESITY	0.8508	24.3	20.3
289	[8] PARATHYROID PROCEDURES	1.1899	28.5	23.8
290	[8] THYROID PROCEDURES	1.1899	28.5	23.8
291	[8] THYROGLOSSAL PROCEDURES	1.1899	28.5	23.8
292	[4] OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	1.1899	28.5	23.8
293	[8] OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.1899	28.5	23.8
294	DIABETES AGE >35	0.7472	23.8	19.8
295	[2] DIABETES AGE 0-35	0.6064	21.1	17.6
296	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	0.7973	23.7	19.8
297	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC	0.6225	21.6	18.0
298	[8] NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17	0.6064	21.1	17.6
299	[4] INBORN ERRORS OF METABOLISM	1.1899	28.5	23.8
300	[7] ENDOCRINE DISORDERS W CC	0.7948	24.6	20.5
301	[7] ENDOCRINE DISORDERS W/O CC	0.7948	24.6	20.5
302	[6] KIDNEY TRANSPLANT	0.0000	0.0	0.0
303	[4] KIDNEY,URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM	1.1899	28.5	23.8
304	[4] KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC	1.1899	28.5	23.8
305	[2] KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC	0.6064	21.1	17.6
306	[4] PROSTATECTOMY W CC	1.1899	28.5	23.8
307	[3] PROSTATECTOMY W/O CC	0.8508	24.3	20.3
308	[4] MINOR BLADDER PROCEDURES W CC	1.1899	28.5	23.8
309	[8] MINOR BLADDER PROCEDURES W/O CC	1.1899	28.5	23.8
310	[3] TRANSURETHRAL PROCEDURES W CC	0.8508	24.3	20.3
311	[8] TRANSURETHRAL PROCEDURES W/O CC	0.8508	24.3	20.3
312	[4] URETHRAL PROCEDURES, AGE >17 W CC	1.1899	28.5	23.8
313	[8] URETHRAL PROCEDURES, AGE >17 W/O CC	1.1899	28.5	23.8
314	[8] URETHRAL PROCEDURES, AGE 0-17	0.6064	21.1	17.6
315	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	1.4618	34.2	28.5
316	RENAL FAILURE	0.9175	23.6	19.7
317	ADMIT FOR RENAL DIALYSIS	0.9238	22.1	18.4
318	[7] KIDNEY & URINARY TRACT NEOPLASMS W CC	0.7798	22.5	18.8
319	[7] KIDNEY & URINARY TRACT NEOPLASMS W/O CC	0.7798	22.5	18.8
320	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC	0.7798	22.5	18.8
321	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	0.5721	21.9	18.3
322	[8] KIDNEY & URINARY TRACT INFECTIONS AGE 0-17	0.4586	16.9	14.1
323	[2] URINARY STONES W CC, &/OR ESW LITHOTRIPSY	0.6064	21.1	17.6
324	[1] URINARY STONES W/O CC	0.4586	16.9	14.1
325	[3] KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC	0.8508	24.3	20.3
326	[1] KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC	0.4586	16.9	14.1
327	[8] KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17	0.4586	16.9	14.1
328	[2] URETHRAL STRICTURE AGE >17 W CC	0.6064	21.1	17.6
329	[8] URETHRAL STRICTURE AGE >17 W/O CC	0.6064	21.1	17.6
330	[8] URETHRAL STRICTURE AGE 0-17	0.6064	21.1	17.6
331	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	0.8240	22.9	19.1
332	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC	0.6263	22.3	18.6
333	[8] OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17	0.6064	21.1	17.6
334	[8] MAJOR MALE PELVIC PROCEDURES W CC	1.8658	38.6	32.2
335	[8] MAJOR MALE PELVIC PROCEDURES W/O CC	1.8658	38.6	32.2

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
336	[4] TRANSURETHRAL PROSTATECTOMY W CC	1.1899	28.5	23.8
337	[8] TRANSURETHRAL PROSTATECTOMY W/O CC	1.1899	28.5	23.8
338	[5] TESTES PROCEDURES, FOR MALIGNANCY	1.8658	38.6	32.2
339	[1] TESTES PROCEDURES, NON-MALIGNANCY AGE >17	0.4586	16.9	14.1
340	[8] TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17	0.4586	16.9	14.1
341	[5] PENIS PROCEDURES	1.8658	38.6	32.2
342	[8] CIRCUMCISION AGE >17	0.4586	16.9	14.1
343	[8] CIRCUMCISION AGE 0-17	0.4586	16.9	14.1
344	[5] OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY	1.8658	38.6	32.2
345	[5] OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY.	1.8658	38.6	32.2
346	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC	0.6556	20.8	17.3
347	[1] MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	0.4586	16.9	14.1
348	[2] BENIGN PROSTATIC HYPERTROPHY W CC	0.6064	21.1	17.6
349	[2] BENIGN PROSTATIC HYPERTROPHY W/O CC	0.6064	21.1	17.6
350	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	0.7789	22.6	18.8
351	[8] STERILIZATION, MALE	0.4586	16.9	14.1
352	[4] OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	1.1899	28.5	23.8
353	[8] PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY	1.8658	38.6	32.2
354	[8] UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC	1.8658	38.6	32.2
355	[8] UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC	1.8658	38.6	32.2
356	[8] FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	1.1899	28.5	23.8
357	[8] UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY	1.1899	28.5	23.8
358	[8] UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.1899	28.5	23.8
359	[8] UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	1.1899	28.5	23.8
360	[8] VAGINA, CERVIX & VULVA PROCEDURES	1.1899	28.5	23.8
361	[8] LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	0.4586	16.9	14.1
362	[8] ENDOSCOPIC TUBAL INTERRUPTION	0.4586	16.9	14.1
363	[8] D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	0.4586	16.9	14.1
364	[8] D&C, CONIZATION EXCEPT FOR MALIGNANCY	0.4586	16.9	14.1
365	[5] OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.8658	38.6	32.2
366	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	1.0345	23.9	19.9
367	[1] MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	0.4586	16.9	14.1
368	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	0.7168	22.5	18.8
369	[3] MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	0.8508	24.3	20.3
370	[8] CESAREAN SECTION W CC	0.8508	24.3	20.3
371	[8] CESAREAN SECTION W/O CC	0.4586	16.9	14.1
372	[8] VAGINAL DELIVERY W COMPLICATING DIAGNOSES	0.4586	16.9	14.1
373	[8] VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	0.4586	16.9	14.1
374	[8] VAGINAL DELIVERY W STERILIZATION &/OR D&C	0.4586	16.9	14.1
375	[8] VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	0.4586	16.9	14.1
376	[8] POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE	0.4586	16.9	14.1
377	[8] POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE	0.4586	16.9	14.1
378	[8] ECTOPIC PREGNANCY	0.8508	24.3	20.3
379	[8] THREATENED ABORTION	0.4586	16.9	14.1
380	[8] ABORTION W/O D&C	0.4586	16.9	14.1
381	[8] ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	0.4586	16.9	14.1
382	[8] FALSE LABOR	0.4586	16.9	14.1
383	[8] OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS	0.4586	16.9	14.1
384	[8] OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	0.4586	16.9	14.1
385	[8] NEONATES, DIED OR TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	0.4586	16.9	14.1
386	[8] EXTREME IMMATURITY OR RESPIRATORY DISTRESS SYNDROME, NEONATE	0.4586	16.9	14.1
387	[8] PREMATURITY W MAJOR PROBLEMS	0.4586	16.9	14.1
388	[8] PREMATURITY W/O MAJOR PROBLEMS	0.4586	16.9	14.1
389	[8] FULL TERM NEONATE W MAJOR PROBLEMS	0.4586	16.9	14.1
390	[8] NEONATE W OTHER SIGNIFICANT PROBLEMS	0.4586	16.9	14.1
391	[8] NORMAL NEWBORN	0.4586	16.9	14.1
392	[8] SPLENECTOMY AGE >17	1.8658	38.6	32.2
393	[8] SPLENECTOMY AGE 0-17	1.8658	38.6	32.2
394	[4] OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS	1.1899	28.5	23.8
395	RED BLOOD CELL DISORDERS AGE >17	0.7516	23.7	19.8
396	[8] RED BLOOD CELL DISORDERS AGE 0-17	0.6064	21.1	17.6
397	COAGULATION DISORDERS	0.7827	19.2	16.0
398	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	0.7520	21.4	17.8
399	[2] RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	0.6064	21.1	17.6
401	[4] LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	1.1899	28.5	23.8

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
402	[8] LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC	0.8508	24.3	20.3
403	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	0.8996	22.0	18.3
404	[1] LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	0.4586	16.9	14.1
405	[8] ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17	0.4586	16.9	14.1
406	[5] MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC	1.8658	38.6	32.2
407	[8] MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC	1.1899	28.5	23.8
408	[4] MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC	1.1899	28.5	23.8
409	RADIOTHERAPY	0.9104	22.6	18.8
410	[4] CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	1.1899	28.5	23.8
411	[8] HISTORY OF MALIGNANCY W/O ENDOSCOPY	0.4586	16.9	14.1
412	[8] HISTORY OF MALIGNANCY W ENDOSCOPY	0.4586	16.9	14.1
413	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC	0.8807	20.7	17.3
414	[2] OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	0.6064	21.1	17.6
415	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	1.5485	36.5	30.4
416	SEPTICEMIA AGE >17	0.8961	23.9	19.9
417	[8] SEPTICEMIA AGE 0-17	0.8508	24.3	20.3
418	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	0.8697	24.7	20.6
419	[4] FEVER OF UNKNOWN ORIGIN AGE >17 W CC	1.1899	28.5	23.8
420	[4] FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	1.1899	28.5	23.8
421	VIRAL ILLNESS AGE >17	1.0125	25.1	20.9
422	[8] VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17	0.6064	21.1	17.6
423	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	0.9425	22.8	19.0
424	[5] O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	1.8658	38.6	32.2
425	ACUTE ADJUSTMENT REACTION & PSYCHOSOCIAL DYSFUNCTION	0.5649	21.2	17.7
426	DEPRESSIVE NEUROSES	0.5777	26.6	22.2
427	[1] NEUROSES EXCEPT DEPRESSIVE	0.4586	16.9	14.1
428	DISORDERS OF PERSONALITY & IMPULSE CONTROL	0.6617	29.1	24.3
429	ORGANIC DISTURBANCES & MENTAL RETARDATION	0.5767	24.4	20.3
430	PSYCHOSES	0.4746	22.7	18.9
431	CHILDHOOD MENTAL DISORDERS	0.4875	22.0	18.3
432	[8] OTHER MENTAL DISORDER DIAGNOSES	0.4586	16.9	14.1
433	[1] ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	0.4586	16.9	14.1
439	SKIN GRAFTS FOR INJURIES	1.0808	35.0	29.2
440	WOUND DEBRIDEMENTS FOR INJURIES	1.2254	32.2	26.8
441	[2] HAND PROCEDURES FOR INJURIES	0.6064	21.1	17.6
442	[7] OTHER O.R. PROCEDURES FOR INJURIES W CC	1.4772	37.3	31.1
443	[7] OTHER O.R. PROCEDURES FOR INJURIES W/O CC	1.4772	37.3	31.1
444	[7] TRAUMATIC INJURY AGE >17 W CC	0.8051	24.4	20.3
445	[7] TRAUMATIC INJURY AGE >17 W/O CC	0.8051	24.4	20.3
446	[8] TRAUMATIC INJURY AGE 0-17	0.8508	24.3	20.3
447	[3] ALLERGIC REACTIONS AGE >17	0.8508	24.3	20.3
448	[8] ALLERGIC REACTIONS AGE 0-17	0.8508	24.3	20.3
449	[2] POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC	0.6064	21.1	17.6
450	[1] POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	0.4586	16.9	14.1
451	[8] POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17	0.6064	21.1	17.6
452	COMPLICATIONS OF TREATMENT W CC	0.9938	25.4	21.2
453	COMPLICATIONS OF TREATMENT W/O CC	0.7085	22.0	18.3
454	[3] OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC	0.8508	24.3	20.3
455	[2] OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC	0.6064	21.1	17.6
461	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES	1.2824	35.2	29.3
462	REHABILITATION	0.6569	23.2	19.3
463	SIGNS & SYMPTOMS W CC	0.6631	23.4	19.5
464	SIGNS & SYMPTOMS W/O CC	0.5561	22.7	18.9
465	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.6885	20.5	17.1
466	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.7286	22.2	18.5
467	[2] OTHER FACTORS INFLUENCING HEALTH STATUS	0.6064	21.1	17.6
468	EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	2.1286	41.7	34.8
469	[6] PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	0.0000	0.0	0.0
470	[6] UNGROUPABLE	0.0000	0.0	0.0
471	[8] BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY	0.8508	24.3	20.3
473	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	0.8622	20.7	17.3
475	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	2.1015	34.2	28.5
476	[3] PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	0.8508	24.3	20.3
477	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.5653	35.2	29.3
478	OTHER VASCULAR PROCEDURES W CC	1.4010	33.3	27.8
479	[2] OTHER VASCULAR PROCEDURES W/O CC	0.6064	21.1	17.6

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
480	[6] LIVER TRANSPLANT	0.0000	0.0	0.0
481	[8] BONE MARROW TRANSPLANT	1.1899	28.5	23.8
482	[8] TRACHEOSTOMY FOR FACE,MOUTH & NECK DIAGNOSES	1.1899	28.5	23.8
484	[8] CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	1.1899	28.5	23.8
485	[4] LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT TRA.	1.1899	28.5	23.8
486	[5] OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA	1.8658	38.6	32.2
487	OTHER MULTIPLE SIGNIFICANT TRAUMA	1.1431	24.7	20.6
488	[5] HIV W EXTENSIVE O.R. PROCEDURE	1.8658	38.6	32.2
489	HIV W MAJOR RELATED CONDITION	0.9854	23.7	19.8
490	HIV W OR W/O OTHER RELATED CONDITION	1.0495	23.3	19.4
491	[8] MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY	1.8658	38.6	32.2
492	[8] CHEMOTHERAPY W ACUTE LEUKEMIA OR W USE OF HI DOSE CHEMOAGENT	1.1899	28.5	23.8
493	[4] LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W CC	1.1899	28.5	23.8
494	[8] LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W/O CC	1.1899	28.5	23.8
495	[6] LUNG TRANSPLANT	0.0000	0.0	0.0
496	[3] COMBINED ANTERIOR/POSTERIOR SPINAL FUSION	0.8508	24.3	20.3
497	[3] SPINAL FUSION EXCEPT CERVICAL W CC	0.8508	24.3	20.3
498	[8] SPINAL FUSION EXCEPT CERVICAL W/O CC	0.8508	24.3	20.3
499	[4] BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W CC	1.1899	28.5	23.8
500	[1] BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W/O CC	0.4586	16.9	14.1
501	[4] KNEE PROCEDURES W PDX OF INFECTION W CC	1.1899	28.5	23.8
502	[4] KNEE PROCEDURES W PDX OF INFECTION W/O CC	1.1899	28.5	23.8
503	[4] KNEE PROCEDURES W/O PDX OF INFECTION	1.1899	28.5	23.8
504	[8] EXTENSIVE BURNS OF FULL THICKNESS BURNS WITH MECH VENT 96+HRS WITH SKIN GRAFT.	1.8658	38.6	32.2
505	[3] EXTENSIVE BURNS OF FULL THICKNESS BURNS WITH MECH VENT 96+HRS WITHOUT SKIN GRAFT.	0.8508	24.3	20.3
506	[4] FULL THICKNESS BURN W SKIN GRAFT OR INHAL INJ W CC OR SIG TRAUMA	1.1899	28.5	23.8
507	[8] FULL THICKNESS BURN W SKIN GRFT OR INHAL INJ W/O CC OR SIG TRAUMA	0.8508	24.3	20.3
508	FULL THICKNESS BURN W/O SKIN GRFT OR INHAL INJ W CC OR SIG TRAUMA	0.8303	26.0	21.7
509	[1] FULL THICKNESS BURN W/O SKIN GRFT OR INH INJ W/O CC OR SIG TRAUMA	0.4586	16.9	14.1
510	NON-EXTENSIVE BURNS W CC OR SIGNIFICANT TRAUMA	0.9301	26.8	22.3
511	[2] NON-EXTENSIVE BURNS W/O CC OR SIGNIFICANT TRAUMA	0.6064	21.1	17.6
512	[6] SIMULTANEOUS PANCREAS/KIDNEY TRANSPLANT	0.0000	0.0	0.0
513	[6] PANCREAS TRANSPLANT	0.0000	0.0	0.0
515	[5] CARDIAC DEFIBRILLATOR IMPLANT W/O CARDIAC CATH	1.8658	38.6	32.2
516	[8] PERCUTANEOUS CARDIOVASC PROC W AMI	0.6064	21.1	17.6
517	[3] PERC CARDIO PROC W NON-DRUG ELUTING STENT W/O AMI	0.8508	24.3	20.3
518	[2] PERC CARDIO PROC W/O CORONARY ARTERY STENT OR AMI	0.6064	21.1	17.6
519	[3] CERVICAL SPINAL FUSION W CC	0.8508	24.3	20.3
520	[8] CERVICAL SPINAL FUSION W/O CC	0.8508	24.3	20.3
521	[7] ALCOHOL/DRUG ABUSE OR DEPENDENCE W CC	0.6011	22.2	18.5
522	[7] ALC/DRUG ABUSE OR DEPEND W REHABILITATION THERAPY W/O CC	0.6011	22.2	18.5
523	[7] ALC/DRUG ABUSE OR DEPEND W/O REHABILITATION THERAPY W/O CC	0.6011	22.2	18.5
524	TRANSIENT ISCHEMIA	0.6247	22.0	18.3
525	[8] OTHER HEART ASSIST SYSTEM IMPLANT	1.8658	38.6	32.2
526	[8] PERCUTNEOUS CARDIOVASULAR PROC W DRUG ELUTING STENT W AMI	0.8508	24.3	20.3
527	[8] PERCUTNEOUS CARDIOVASULAR PROC W DRUG ELUTING STENT W/O AMI	0.8508	24.3	20.3
528	[8] INTRACRANIAL VASCULAR PROC W PDX HEMORRHAGE	1.1899	28.5	23.8
529	[4] VENTRICULAR SHUNT PROCEDURES W CC	1.1899	28.5	23.8
530	[8] VENTRICULAR SHUNT PROCEDURES W/O CC	1.1899	28.5	23.8
531	[4] SPINAL PROCEDURES W CC	1.1899	28.5	23.8
532	[1] SPINAL PROCEDURES W/O CC	0.4586	16.9	14.1
533	[5] EXTRACRANIAL PROCEDURES W CC	1.8658	38.6	32.2
534	[8] EXTRACRANIAL PROCEDURES W/O CC	0.4586	16.9	14.1
535	[3] CARDIAC DEFIB IMPLANT W CARDIAC CATH W AMI/HF/SHOCK	0.8508	24.3	20.3
536	[5] CARDIAC DEFIB IMPLANT W CARDIAC CATH W/O AMI/HF/SHOCK	1.8658	38.6	32.2
537	LOCAL EXCIS & REMOV OF INT FIX DEV EXCEPT HIP & FEMUR W CC	1.2686	35.2	29.3
538	[3] LOCAL EXCIS & REMOV OF INT FIX DEV EXCEPT HIP & FEMUR W/O CC	0.8508	24.3	20.3
539	[3] LYMPHOMA & LEUKEMIA W MAJOR OR PROCEDURE W CC	0.8508	24.3	20.3
540	[8] LYMPHOMA & LEUKEMIA W MAJOR OR PROCEDURE W/O CC	0.6064	21.1	17.6
541	TRAC W MECH VENT 96+HRS OR PDX EXCEPT FACE,MOUTH & NECK DX WITH MAJOR OR.	3.5184	56.2	46.8
542	TRAC W MECH VENT 96+HRS OR PDX EXCEPT FACE,MOUTH & NECK DX WITHOUT MAJOR OR.	2.9337	45.9	38.3

TABLE 3.—FY 2005 LTC-DRGS, RELATIVE WEIGHTS, GEOMETRIC AVERAGE LENGTH OF STAY, AND 5/6THS OF THE GEOMETRIC AVERAGE LENGTH OF STAY (EFFECTIVE FOR DISCHARGES OCCURRING ON OR AFTER OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005)—Continued

LTC-DRG	Description	Relative weight	Geometric average length of stay	5/6ths of the geometric average length of stay
543	[5] CRANIOTOMY W IMPLANT OF CHEMO AGENT OR ACUTE COMPLEX CNS PDX	1.8658	38.6	32.2

[1] Relative weights for these LTC-DRGs were determined by assigning these cases to low-volume quintile 1.
[2] Relative weights for these LTC-DRGs were determined by assigning these cases to low-volume quintile 2.
[3] Relative weights for these LTC-DRGs were determined by assigning these cases to low-volume quintile 3.
[4] Relative weights for these LTC-DRGs were determined by assigning these cases to low-volume quintile 4.
[5] Relative weights for these LTC-DRGs were determined by assigning these cases to low-volume quintile 5.
[6] Relative weights for these LTC-DRGs were assigned a value of 0.0000.
[7] Relative weights for these LTC-DRGs were determined after adjusting to account for nonmonotonicity (see step 5 above).
[8] Relative weights for these LTC-DRGs were determined by assigning these cases to the appropriate low volume quintile because they had no LTCH cases in the FY 2003 MedPAR file.

TABLE 4.—A LISTING OF LONG-TERM CARE HOSPITALS' STATE AND COUNTY LOCATION; MSA-BASED LABOR MARKET AREA DESIGNATION; AND NEW CBSA-BASED LABOR MARKET AREA DESIGNATION [1]

LTCH provider number	Name of LTCH	SSA state and county code [2]	MSA-based labor market area [3]	CBSA-based labor market area [4]
012006	USA KNOLLWOOD PARK LTC HOSPITAL	01480	5160	33660
012007	LONG TERM CARE HOSP OF JACKSON, THE	01500	5240	33860
012008	SELECT SPECIALTY HOSP-BIRMINGHAM	01360	1000	13820
012009	LONG TERM CARE HOSPITAL AT MEDICAL CENTER EAST,THE	01360	1000	13820
032000	KINDRED HOSPITAL ARIZONA PHOENIX	03060	6200	38060
032001	SELECT SPECIALTY HOSPITAL ARIZONA INC	03060	6200	38060
032002	KINDRED HOSPITAL-TUCSON	03090	8520	46060
032004	CORNERSTONE HOSPITAL OF SOUTHEAST AZ	03090	8520	46060
032005	SELECT SPECIALTY HOSPITAL ARIZONA INC	03060	6200	38060
042000	SELECT SPECIALTY HOSPITAL	04590	4400	30780
042004	ADVANCE CARE HOSPITAL	04250	04	26300
042005	SEMPERCARE HOSPITAL OF LITTLE ROCK	04590	4400	30780
042006	SELECT SPECIALITY HOSPITAL-FORT SMITH	04650	2720	22900
042007	SEMPERCARE HOSPITAL OF PINE BLUFF	04340	6240	38220
042008	ADVANCE CARE HOSPITAL OF FT SMITH	04650	2720	22900
042009	REGENCY HOSPITAL OF NORTHWEST ARKANSAS	04710	2580	22220
052031	BARLOW HOSPITAL	05200	4480	31084
052032	VENCOR HOSPITAL-LOS ANGELES	05200	4480	31084
052033	VENCOR HOSPITAL-SACRAMENTO	05440	6920	40900
052034	KINDRED HOSPITAL-SF BAY AREA	05000	5775	36084
052035	KINDRED HOSPITAL WESTMINSTER	05400	5945	42044
052036	KINDRED HOSPITAL-SAN DIEGO	05470	7320	41740
052037	VENCOR HOSPITAL-ONTARIO	05460	6780	40140
052038	KINDRED HOSPITAL-SAN GABRIEL VALLEY	05200	4480	31084
052039	KINDRED HOSPITAL BREA	05400	5945	42044
052043	KENTFIELD REHABILITATION HOSPITAL	05310	7360	41884
052044	CONTINENTAL REHABILITATION HOSPITAL	05470	7320	41740
052045	VISTA SPECIALTY HOSPITAL OF SAN GABRIEL VALLEY	05200	4480	31084
052046	PROMISE HOSPITAL OF EAST LOS ANGELES	05200	4480	31084
062008	CMHIP-GENERAL HOSPITAL	06500	6560	39380
062009	KINDRED HOSPITAL DENVER	06150	2080	19740
062011	CRAIG HOSPITAL	06020	2080	19740
062012	COLORADO ACUTE LONG TERM HOSPITAL	06150	2080	19740
062013	SCCI HOSPITAL-AURORA	06150	2080	19740
062014	NORTH VALLEY REHAB HOSPITAL-REHAB	06400	06	06
062015	SELECT SPECIALTY HOSPITAL	06150	2080	19740
062016	SEMPERCARE HOSPITAL OF COLO SPRINGS	06200	1720	17820
072003	GAYLORD HOSPITAL INC	07040	5483	35300
072004	HOSPITAL FOR SPECIAL CARE	07010	3283	25540
082000	SELECT SPECIALTY HOSPITAL WILMINGTON	08010	9160	48864
092002	MEDLINK HOSPITAL OF CAPITOL HILL	09000	8840	47894
092003	HADLEY MEMORIAL HOSPITAL	09000	8840	47894
102001	SELECT SPECIALTY HOSPITAL OF MIAMI	10120	5000	33124
102003	SEMPERCARE HOSPITAL OF ORLANDO	10470	5960	36740
102009	KINDRED HOSPITAL BAY AREA TAMPA	10280	8280	45300
102010	KINDRED HOSPITAL SOUTH FLORIDA	10050	2680	22744
102012	SPECIALITY HOSPITAL JACKSONVILLE	10150	3600	27260

TABLE 4.—A LISTING OF LONG-TERM CARE HOSPITALS' STATE AND COUNTY LOCATION; MSA-BASED LABOR MARKET AREA DESIGNATION; AND NEW CBSA-BASED LABOR MARKET AREA DESIGNATION [1]—Continued

LTCH provider number	Name of LTCH	SSA state and county code [2]	MSA-based labor market area [3]	CBSA-based labor market area [4]
102013	KINDRED HOSPITAL CENTRAL TAMPA	10280	8280	45300
102015	KINDRED HOSPITAL NORTH FLORIDA	10090	3600	27260
102016	SISTER EMMANUEL HOSPITAL FOR CONTINUING CARE	10120	5000	33124
102017	SEMPERCARE HOSPITAL OF PANAMA CITY	10020	6015	37460
112000	ROOSEVELT WARM SPRINGS INST FOR REHAB	11740	11	12060
112003	SHEPHERD SPINAL CENTER	11470	0520	12060
112004	KINDRED HOSPITAL - ATLANTA	11470	0520	12060
112005	WESLEY WOODS LTC	11370	0520	12060
112006	DECATUR HOSPITAL	11370	0520	12060
112007	WELLSTAR WINDY HILL HOSPITAL	11290	0520	12060
112008	SPECIALTY HOSPITAL-SELECT AUGUSTA	11840	0600	12260
112009	SELECT SPECIALTY HOSPITAL-ATLANTA	11470	0520	12060
112010	SPECIALTY HOSPITAL AT FLOYD MED CTR	11460	11	40660
112011	SEMPERCARE HOSPITAL OF SAVANNAH	11220	7520	42340
112012	COLUMBUS SPECIALTY HOSPITAL INC	11780	1800	17980
112013	SEMPERCARE HOSPITAL OF AUGUSTA	11840	0600	12260
112014	REGENCY HOSP OF SOUTH ATLANTA	11470	0520	12060
112015	SOUTHERN CRESCENT HOSPITAL FOR SPECIALTY CARE	11280	0520	12060
142006	THC CHICAGO INC DBA KINDRED HOSP	14170	1600	16974
142008	THC CHICAGO INC DBA KINDRED HOSP CHGO	14141	1600	16974
142009	THC CHICAGO INC DBA KINDRED CHICAGO	14141	1600	16974
142010	RML SPECIALTY HOSPITAL	14250	1600	16974
152007	KINDRED HOSPITAL INDIANAPOLIS	15480	3480	26900
152008	KINDRED HOSPITAL INDIANAPOLIS SOUTH	15400	3480	26900
152010	SELECT SPECIALTY HOSPITAL INDIANAPOLIS	15480	3480	26900
152011	ST ELIZABETH ANN SETON HOSPITAL INC	15260	15	15
152012	SELECT SPECIALTY HOSPITAL-NORTHWEST IN	15440	2960	23844
152013	SELECT SPECIALTY HOSPITAL-BEECH GROVE	15480	3480	26900
152014	SELECT SPECIALTY HOSPITAL-EVANSVILLE	15810	2440	21780
152015	ST ELIZABETH ANN SETON HOSPITAL OF CARMEL	15280	3480	26900
152016	SELECT SPECIALTY HOSPITAL-FT WAYNE	15010	2760	23060
152018	OUR LADY OF PEACE HOSPITAL	15700	7800	43780
152019	SELECT SPECIALTY HOSPITAL-BLOOMINGTON	15020	15	18020
152020	ST ELIZABETH ANN SETON HOSPITAL OF INDIANAPOLIS	15480	3480	26900
152021	ST ELIZABETH ANN SETON HOSPITAL OF KOKOMO	15330	3850	29020
152022	HEALTHSOUTH HOSPITAL OF TERRE HAUTE	15830	8320	45460
152024	REGENCY HOSPITAL OF NORTHWEST INDIANA	15440	2960	23844
172003	WICHITA SPECIALTY HOSPITAL	17860	9040	48620
172004	SPECIALTY HOSPITAL OF MID-AMERICA	17450	3760	28140
172005	SELECT SPECIALTY HOSPITAL OF KS CITY	17986	3760	28140
172006	SELECT SPECIALTY HOSPITAL OF TOPEKA	17880	8440	45820
172007	SELECT SPECIALTY HOSPITAL WICHITA	17860	9040	48620
182001	KINDRED HOSPITAL LOUISVILLE	18550	4520	31140
182002	CONTINUING CARE HOSP AT ST JOSEPH EAST	18330	4280	30460
182003	SELECT SPECIALTY HOSPITAL LEXINGTON	18330	4280	30460
182004	CARDINAL HILL SPECIALTY HOSPITAL	18180	1640	17140
192004	ASCENSION HOSPITAL	19020	0760	12940
192006	CORNERSTONE HOSPITAL OF BOSSIER CITY	19070	7680	43340
192007	ADVANCE CARE HOSPITAL	19250	5560	35380
192008	DIXON MEDICAL CENTER	19310	0760	12940
192009	KINDRED HOSPITAL NEW ORLEANS	19350	5560	35380
192010	LAGNIAPPE HOSPITAL	19080	7680	43340
192011	LIFECARE HOSPITAL INC	19080	7680	43340
192012	DUBUIS HOSPITAL OF ALEXANDRIA	19390	0220	10780
192013	CORNERSTONE HOSPITAL OF SOUTHWEST LA	19090	3960	29340
192014	GENESIS SPECIALTY HOSPITAL	19060	19	19
192015	LIFE CARE HOSPITAL OF NEW ORLEANS LLC	19430	5560	35380
192016	ST FRANCIS SPECIALTY HOSPITAL	19360	5200	33740
192019	EXTENDED CARE OF SOUTHWEST LOUISIANA	19090	3960	29340
192020	COMMUNITY REHABILITATION OF LAFAYETTE	19270	3880	29180
192022	HEALTHSOUTH NORTH REHAB HOSPITAL	19300	19	19
192023	SPECIALTY HOSPITAL OF NEW ORLEANS	19350	5560	35380
192024	DUBUIS HOSPITAL OF LAKE CHARLES	19090	3960	29340
192025	DUBUIS HOSPITAL OF SHREVEPORT	19080	7680	43340
192026	COMMUNITY SPECIALTY HOSPITAL OF NORTH LOUISIANA	19550	19	33740
192028	PROFESSIONAL REHABILITATION HOSPITAL	19140	19	19
192029	REHABILITATION HOSP OF ACADIANA	19270	3880	29180
192030	SELECT SPECIALTY HOSPITAL	19250	5560	35380

TABLE 4.—A LISTING OF LONG-TERM CARE HOSPITALS' STATE AND COUNTY LOCATION; MSA-BASED LABOR MARKET AREA DESIGNATION; AND NEW CBSA-BASED LABOR MARKET AREA DESIGNATION [1]—Continued

LTCH provider number	Name of LTCH	SSA state and county code [2]	MSA-based labor market area [3]	CBSA-based labor market area [4]
192031	CORNERSTONE HOSPITAL WEST MONROE	19070	7680	43340
192032	LOUISIANA EXTENDED CARE HOSPITAL LAFAYETTE	19270	3880	29180
192033	MEADOWBROOK SPECIALTY HOSPITAL OF LAFAYETTE	19270	3880	29180
192034	ST LANDRY EXTENDED CARE HOSPITAL LLC	19480	3880	19
192035	LOUISISANA EXTENDED CARE HOSPITAL OF NATCHITOCHES	19340	19	19
192036	GULF STATES LTAC OF HAMMOND	19520	19	19
192037	ST ANNE REHABILITATION HOSPITAL	19280	3350	26380
192038	LIFE CARE HOSPITAL OF NEW ORLEANS KENNER REGIONAL	19350	5560	35380
192039	OASIS LONG TERM ACUTE CARE HOSPITAL	19350	5560	35380
192040	SOUTHEAST REGIONAL MEDICAL CENTER	19520	19	19
192041	CLINTON REHABILITATION HOSPITAL	19180	19	12940
192042	LOUISIANA EXTENDED CARE HOSP	19060	19	19
192043	HEALTHSOUTH OF ALEXANDRIA INC	19390	0220	10780
192044	SEMPER CARE HOSPITAL OF BATON ROUGE	19160	0760	12940
192045	CYPRESS REHABILITAION HOSPITAL	19160	0760	12940
192046	BOGALUSA COMMUNITY REHAB HOSPITAL	19580	19	19
192047	HEALTHSOUTH SPECIALTY HOSPITAL OF NEW ORLEANS	19350	5560	35380
192048	DIXON MEDICAL CENTER AT COVINGTON	19510	5560	35380
192049	PROMISE SPECIALTY HOSPITAL OF BATON ROUGE	19160	0760	12940
222000	YOUVILLE REHAB CHRONIC DISEASE HOSP	22090	1123	15764
222002	NORTHEAST SPECIALTY HOSP BRAINTREE	22150	1123	14484
222006	LEMUEL SHATTUCK HOSP	22160	1123	14484
222007	HEBREW REHABILITATION CENTER FOR AGED	22160	1123	14484
222010	JEWISH MEMORIAL HOSPITAL	22160	1123	14484
222026	SHAUGHNESSY-KAPLAN REHAB HOSP HOSP	22040	1123	21604
222027	NEW ENGLAND SINIAI HOSP & REHAB CENTER	22130	1123	14484
222035	SPAULDING REHAB HOSP	22160	1123	14484
222043	SUNHEALTH SPECIALTY HOSPITAL OF SOE MA	22020	1123	39300
222044	VENCOR HOSPITAL NORTH SHORE	22040	1123	21604
222045	KINDRED HOSPITAL-BOSTON	22160	1123	14484
222046	PARK VIEW SPECIALTY HOSPITAL	22070	8003	44140
232012	SELECT SPECIALTY HOSPITAL-FLINT	23240	2640	22420
232019	KINDRED HOSPITAL-DETROIT	23810	2160	19804
232020	BAY SPECIAL CARE CENTER	23080	6960	13020
232021	SELECT SPECIALTY HOSPITAL-WESTERN MICH	23600	3000	34740
232023	SELECT SPECIALTY HOSP-MACOMB CTY INC	23490	2160	47644
232024	SELECT SPECIALTY HOSPITAL-ANN ARBOR	23800	0440	11460
232025	LAKELAND SPECIALTY HOSP AT BERRIEN CTR	23100	0870	35660
232026	LIFECARE HOSPITALS OF WESTERN MICHIGAN	23600	3000	34740
232027	SCCI HOSPITAL-DETROIT	23810	2160	19804
232028	SELECT SPECIALTY HOSPITAL-BATTLE CREEK	23120	3720	12980
232029	SPECTRUM HEALTH-KENT COMMUNITY CAMP	23400	3000	24340
232030	.....	.....	2160	47644
232031	SELECT SPECIALTY HOSPITAL-WYANDOTTE	23810	2160	19804
232032	SELECT SPECIALTY HOSPITAL-NW DETROIT	23810	2160	19804
232033	SELECT SPECIALTY HOSPITAL-SAGINAW	23720	6960	40980
232034	BORGESS-PIPP HEALTH CENTER	23020	3000	23
232035	SELECT SPECIALTY HOSPITAL-KALAMAZOO	23380	3720	28020
232036	CARELINK OF JACKSON, A COMMUNITY-OWNED SPECIALTY H	23370	3520	27100
242004	HEALTHEAST BETHESDA LUTHERAN HOME	24610	5120	33460
242005	KINDRED HOSPITAL-MINNESOTA	24260	5120	33460
252003	RESTORATIVE CARE HOSPITAL,THE	25240	3560	27140
252005	SELECT SPECIALTY HOSPITAL-BILOXI	25230	0920	25060
252006	.....	.....	25	25
252007	SELECT SPECIALTY HOSPITAL JACKSON	25240	3560	27140
252008	PROMISE SPECIALTY HOSPITAL OF VICKSBURG	25740	25	25
262001	MISSOURI REHABILITATION CTR	26540	26	26
262010	KINDRED HOSPITAL-ST LOUIS	26950	7040	41180
262011	KINDRED HOSPITAL-KANSAS CITY	26470	3760	28140
262012	ALL SAINTS SPECIAL CARE CENTER	26940	7040	41180
262013	SELECT SPECIALTY HOSPITAL	26940	7040	41180
282000	MADONNA REHABILITATION LTC HOSPITAL	28540	4360	30700
282001	SELECT SPECIALTY HOSPITAL-OMAHA	28760	5920	36540
292002	KINDRED HOSPITAL LAS VEGAS	29010	4120	29820
292003	HORIZON SPECIALTY HOSPITAL	29010	4120	29820
292004	TAHOE PACIFIC HOSPITAL- MEADOWS	29150	6720	39900
292006	HEALTHSOUTH HOSPITAL AT TENAYA	29010	4120	29820
292007	.....	.....	4120	29820

TABLE 4.—A LISTING OF LONG-TERM CARE HOSPITALS' STATE AND COUNTY LOCATION; MSA-BASED LABOR MARKET AREA DESIGNATION; AND NEW CBSA-BASED LABOR MARKET AREA DESIGNATION [1]—Continued

LTCH provider number	Name of LTCH	SSA state and county code [2]	MSA-based labor market area [3]	CBSA-based labor market area [4]
312014	MATHENY SCHOOL & HOSPITAL,THE	31350	5015	20764
322002	KINDRED HOSPITAL ALBUQUERQUE	32000	0200	10740
322003	INTEGRATED SPECIALTY HOSPITAL OF ALBUQ	32000	0200	10740
342012	KINDRED HOSPITAL GREENSBORO	34400	3120	24660
342013	LIFECARE HOSPITALS OF NC	34630	6895	40580
342014	HIGHSMITH RAINEY MEMORIAL HOSPITAL	34250	2560	22180
342015	CAROLINAS SPECIALTY HOSPITAL 7TH FLOOR SOUTH	34590	1520	16740
342016	SEMPERCARE HOSPITAL OF WINSTON-SALEM	34330	3120	49180
342017	ASHVILLE SPECIALTY HOSPITAL	34100	0480	11700
342018	SELECT SPECIALTY HOSPITAL DURHAM INC	34310	6640	20500
352004	SCCI HOSPITAL-FARGO	35080	2520	22020
352005	SCCI HOSPITAL-CENTRAL DAKOTA	35290	1010	13900
362004	DRAKE CENTER INC	36310	1640	17140
362007	ST FRANCIS HEALTH CARE CENTRE	36730	36	36
362014	REHABILITATION HOSPITAL AT HEATHER HIL	36280	1680	17460
362015	GRACE HOSPITAL	36170	1680	17460
362016	SELECT SPECIALTY HOSPITAL-NORTHEAST OHIO, INC	36780	0080	10420
362017	SELECT SPECIALTY HOSP-COLUMBUS	36250	1840	18140
362018	SELECT SPECIALTY HOSPITAL-COLUMBUS	36250	1840	18140
362019	SELECT SPECIALTY HOSPITAL-CINC	36310	1640	17140
362020	SCCI HOSPITAL LIMA	36010	4320	30620
362021	SCCI HOSPITAL-MANSFIELD	36710	4800	31900
362022	SELECT SPECIALTY HOSPITAL-COL/	36250	1840	18140
362023	MAHONING VALLEY HOSPITAL	36510	9320	49660
362024	SELECT SPECIALTY HOSPITAL-YOUNGSTOWN	36510	9320	49660
362025	SPECIALTY HOSPITAL OF LORAIN	36480	1680	17460
362026	KINDRED HOSPITAL- CLEVELAND	36170	1680	17460
362027	SELECT SPECIALITY HOSPITAL-AKRON/SHS, INC	36780	0080	10420
362028	LIFE CARE HOSPITAL OF DAYTON	36580	2000	19380
362029	REGENCY HOSPITAL OF AKRON	36780	0080	10420
362030	DRAKE PAVILION, LLC	36310	1640	17140
362031	SELECT SPECIALTY HOSPITAL-ZANESVILLE INC	36610	36	36
372004	KINDRED HOSPITAL OKLAHOMA CITY	37540	5880	36420
372005	EDMOND SPECIALTY HOSPITAL	37540	5880	36420
372006	SELECT SPECIALTY HOSPITAL-TULSA	37710	8560	46140
372007	HILLCREST SPECIALTY HOSPITAL	37710	8560	46140
372008	SELECT SPECIALTY HOSPITAL-OKLA CITY	37540	5880	36420
372009	SELECT SPECIALTY HOSPITAL-OKLA CITY	37540	5880	36420
372011	CONTINUOUS CARE CENTER OF TULSA	37710	8560	46140
372012	SPECIALTY HOSPITAL OF MIDWEST CITY	37540	5880	36420
372014	CONTINUOUS CARE CENTER OF BARTLESVILLE	37730	37	37
372015	CENTRIS	37540	5880	36420
372016	INTEGRIS BASS PAVILION	37230	2340	37
372017	LANE FROST HEALTH AND REHABILITATION CENTER	37110	37	37
372020	ADVANCE CARE HOSPITAL OF OKLAHOMA	37540	5880	36420
392024	LIFECARE HOSPITALS OF PITTSBURGH INC	39010	6280	38300
392025	MERCY SPECIAL CARE HOSPITAL	39480	7560	42540
392026	GIRARD MEDICAL CENTER	39620	6160	37964
392027	KINDRED HOSPITAL PHILADELPHIA	39640	39	39
392028	KINDRED HOSPITAL-PITTSBURGH	39010	6280	38300
392029	SELECT SPECIALTY HOSPITAL O PITTSBURGH	39010	6280	38300
392030	SELECT SPCIALTY HOSPITAL OF PHILA/AEMC	39000	39	39
392031	SELECT SPECIALTY HOSPITAL OF JOHNSTOWN	39160	3680	27780
392032	KINDRED HOSPITAL-DELAWARE COUNTY	39620	6160	37964
392033	GOOD SHEPHERD SPECIALTY HOSPITAL	39470	0240	10900
392034	SCCI HOSPITAL EASTON	39590	0240	10900
392035	SCCI HOSPITAL HARRISBURG	39280	3240	25420
392036	SELECT SPECIALTY HOSPITAL OF GREENSBRG	39770	6280	38300
392037	SELECT SPECIALTY HOSPITAL ERIE	39320	2360	21500
392038	HEALTHSOUTH REHAB HOSP FOR SPECIAL SVS	39270	3240	25420
392039	SELECT SPECIALTY HOSPITAL CTR PA (CP)	39280	3240	25420
392040	SEMPERCARE HOSPITAL OF LANCASTER	39440	4000	29540
392041	HEALTHSOUTH REHAB HOSP OF GREATER PITT	39010	6280	38300
392042	KINDRED HOSPITAL-WYOMING VALLEY	39480	7560	42540
392043	KINDRED HOSPITAL AT HERITAGE VALLEY	39010	6280	38300
392044	SELECT SPECIALTY HOSPITAL PITTSBURGH UPMC	39010	6280	38300
412001	ELEANOR SLATER HOSPITAL	41030	6483	39300
422004	SPARTANBURG HOSP FOR RESTORATIVE CARE	42110	42	42

TABLE 4.—A LISTING OF LONG-TERM CARE HOSPITALS' STATE AND COUNTY LOCATION; MSA-BASED LABOR MARKET AREA DESIGNATION; AND NEW CBSA-BASED LABOR MARKET AREA DESIGNATION [1]—Continued

LTCH provider number	Name of LTCH	SSA state and county code [2]	MSA-based labor market area [3]	CBSA-based labor market area [4]
422005	KINDRED HOSPITAL CHARLESTON	42090	1440	16700
422006	INTERMEDICAL HOSPITAL OF SC	42390	1760	17900
422007	REGENCY HOSPITAL OF FLORENCE	42200	2655	22500
422008	NORTH GREENVILLE LONG TERM ACUTE CARE HOSPITAL	42220	3160	24860
432002	SELECT SPECIALTY HOSPITAL	43490	7760	43620
442007	KINDRED HOSPITAL-CHATTANOOGA	44320	1560	16860
442010	BAPTIST MEMORIAL RESTORATIVE CARE HOSP	44780	4920	32820
442011	SELECT SPECIALTY HOSPITAL-NASHVILLE	44180	5360	34980
442012	SELECT SPECIALTY HOSPITAL-KNOXVILLE	44460	3840	28940
442013	METHODIST EXTENDED CARE HOSPITAL	44780	4920	32820
442014	SELECT SPECIALTY HOSPITAL MEMPHIS	44780	4920	32820
442015	SELECT SPECIALTY HOSPITAL-NORTH KNOXVILLE	44460	3840	28940
442016	SELECT SPECIALTY HOSPITAL-TRICITIES	44810	3660	28700
452015	KINDRED HOSPITAL DALLAS	45390	1920	19124
452016	KINDRED HOSPITAL SAN ANTONIO	45130	7240	41700
452017	BAYLOR CENTER FOR RESTORATIVE CARE	45390	1920	19124
452018	HARRIS CONTINUED CARE HOSPITAL	45910	2800	23104
452019	KINDRED HOSPITAL FORT WORTH	45910	2800	23104
452022	SELECT SPECIALTY HOSPITAL-DALLAS	45390	1920	19124
452023	KINDRED HOSPITAL-HOUSTON	45610	3360	26420
452027	SCCI HOSPITAL HOUSTON CENTRAL	45610	3360	26420
452028	KINDRED HOSPITAL-TARRANT COUNTY	45910	2800	23104
452029	HENDRICK CENTER FOR EXTENDED CARE	45911	0040	10180
452031	MEMORIAL SPECIALTY HOSPITAL	45020	45	45
452032	CORNESTONE HOSPITAL OF HOUSTON	45610	3360	26420
452034	CORNERSTONE HOSPITAL OF AUSTIN	45940	0640	12420
452035	MESA HILL SPECIALTY HOSPITAL	45480	2320	21340
452036	CORPUS CHRISTI SPECIALTY HOSPITAL	45830	1880	18580
452038	TEXAS NEURO REHABILITATION CENTER	45940	0640	12420
452039	KINDRED HOSPITAL	45610	3360	26420
452040	SPECIALTY HOSPITAL OF SAN ANTONIO	45130	7240	41700
452041	TEXOMA MEDICAL CTR RESTORATIVE CARE	45564	7640	43300
452042	DUBUIS HOSP OF BEAUMONT	45700	0840	13140
452043	GULF POINTE SPECIALITY HOSPITAL	45610	3360	26420
452044	LIFECARE HOSPITAL OF DALLAS	45390	1920	19124
452045	COMPASS HOSP OF SAN ANTONIO,THE	45130	7240	41700
452046	PLAZA SPECIALTY HOSP	45610	3360	26420
452049	SELECT SPECIALTY HOSPITAL-HOUSTON HEIG	45610	3360	26420
452050	SOUTHWEST REGIONAL SPEC HOSPITAL	45770	4600	31180
452051	EAST TEXAS MED CTR SPECIALTY HOSP	45892	8640	46340
452053	CORNERSTONE HOSPITAL OF CENTRAL TEXAS	45940	0640	12420
452054	PLANO SPECIALTY HOSPITAL	45310	1920	9124
452055	DUBUIS HOSPITAL OF HOUSTON	45610	3360	26420
452056	SCCI HOSPITAL OF VICTORIA	45948	8750	47020
452057	BEACON SPECIALITY HOSPITAL	45610	3360	26420
452059	LIFECARE HOSPITAL OF SAN ANTONIO	45130	7240	41700
452060	SCCI HOSPITAL OF AMARILLO	45860	0320	11100
452061	DUBUIS HOSPITAL OF TEXARKANA	45170	8360	45500
452062	WARM SPRING SPECIALITY HOSPTIAL AT LULING	45562	45	45
452063	LIFECARE HOSPITALS OF SOUTH TX INC	45650	4880	32580
452064	SCCI HOSPITAL-SAN ANGELO	45930	7200	41660
452066	PLUM CREEK SPECIALTY HOSPITAL	45860	0320	11100
452067	IHS HOSPITAL AT DALLAS	45390	1920	19124
452068	IHS HOSPITAL AT WICHITA FALLS	45960	9080	48660
452071	KINDRED HOSPITAL-WHITE ROCK	45390	1920	19124
452072	MEMORIAL HERMANN CONTINUING CARE HOSPI	45610	3360	26420
452073	SELECT SPECIALTY HOSPITAL SAN ANTONIO	45130	7240	41700
452074	TRIUMPH HOSPITAL OF NORTH HOUSTON	45610	3360	26420
452075	TRIUMPH HOSPITAL EAST HOUSTON	45610	3360	26420
452077	HOUSTON REHABILITATION ASSOCIATES	45610	3360	26420
452078	SELECT SPECIALTY HOSPITAL SOUTH DALLAS	45390	1920	19124
452079	.....	.....	2320	21340
452080	TRIUMPH HOSPITAL SOUTHWEST	45610	3360	26420
452081	TRIUMPH HOSPITAL NORTHWEST	45610	3360	26420
452082	DUBUIS HOSPITAL OF PARIS	45750	45	45
452083	GOLDEN SPECIALTY MEDICAL CENTER	45840	0840	13140
452084	SELECT SPECIALTY HOSPITAL OF MIDLAND INC	45794	5800	33260
452085	REGENCY HOSPITAL OF ODESSA	45451	5800	36220

TABLE 4.—A LISTING OF LONG-TERM CARE HOSPITALS' STATE AND COUNTY LOCATION; MSA-BASED LABOR MARKET AREA DESIGNATION; AND NEW CBSA-BASED LABOR MARKET AREA DESIGNATION [1]—Continued

LTCH provider number	Name of LTCH	SSA state and county code [2]	MSA-based labor market area [3]	CBSA-based labor market area [4]
452086	DUBUIS HOSPITAL OF CORPUS CHRISTI	45830	1880	18580
452087	SEMPERCARE HOSPITAL OF LONGVIEW	45570	4420	30980
452088	KINDRED HOSPITAL FORT WORTH	45910	2800	23104
452089	SELECT SPECIALTY HOSPITAL CONROE	45801	3360	26420
452090	.....	.....	7240	41700
462003	SOUTH DAVIS COMMUNITY HOSPITAL	46050	7160	36260
462004	SALT LAKE SPECIALITY MEDICAL CENTER	46180	46	46
492001	LAKE TAYLOR HOSP	49641	5720	47260
492007	HOSPITAL FOR EXTENDED RECOVERY	49641	5720	47260
502001	REG HOSP FOR RESP AND COMPLEX CARE	50160	7600	42644
502002	KINDRED HOSPITAL-SEATTLE	50160	7600	42644
512002	SELECT SPECIALITY HOSPITAL	51190	1480	16620
522004	KINDRED HSPTL MILWAUKEE	52390	5080	33340
522005	LAKEVIEW REHAB CTR	52500	6600	39540
522006	SELECT SPECIALTY HSPTL MILWAUKEE	52390	5080	33340
522007	LIFECARE HSPTLS OF MILWAUKEE	52390	5080	33340

[1] Missing values denote unavailable information.
[2] First 2-digits are the SSA State code and the last 3-digits are the SSA county code.
[3] Under the MSA-based labor market area designations, a 4-digit code denotes an urban area and a 2-digit code denotes a rural area.
[4] Under the CBSA-based labor market area designations, a 5-digit code denotes an urban area and a 2-digit code denotes a rural area.

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Federal Register

Friday,
May 6, 2005

Part III

Department of Health and Human Services

Announcement of Anticipated Availability of Funds for Family Planning Services Grants; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Anticipated Availability of Funds for Family Planning Services Grants

AGENCY: Department of Health and Human Services, Office of Public Health and Science, Office of Population Affairs.

ACTION: Notice.

Funding Opportunity Title: Announcement of Anticipated Availability of Funds for Family Planning Services Grants.

Announcement Type: Initial Competitive Grant.

CFDA Number: 93.217.

Authority: Section 1001 of the Public Health Service Act.

DATES: Application due dates vary. To receive consideration, applications must be received by the Office of Public Health and Science (OPHS) Office of Grants Management no later than the applicable due date listed in Table I of this announcement (Section IV. 3, *Submission Dates and Times*) and within the time frames specified in this announcement for electronically submitted, mailed, and/or hand-delivered hardcopy applications.

Executive Order 12372 comment due date: The State Single Point of Contact (SPOC) has 60 days from the applicable due date as listed in Table I of this announcement to submit any comments.

SUMMARY: The Office of Population Affairs (OPA), Office of Family Planning (OFP), announces the anticipated availability of funds for Fiscal Year (FY) 2006 family planning services grants under the authority of Title X of the Public Health Service Act, and solicits applications for competing grant awards to serve the areas and/or populations listed in Table I. Only applications which propose to serve the populations and/or areas listed in Table I will be accepted for review and possible funding.

I. Funding Opportunity Description

This announcement seeks applications from public and nonprofit private entities to establish and operate voluntary family planning services projects, which shall provide family planning services to all persons desiring such services. Family planning services include clinical family planning and related preventive health services; information, education, and counseling related to family planning, including abstinence education; and, referral services as indicated.

Program Statute and Regulations

Requirements regarding the provision of family planning services under Title X can be found in the statute (Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*), the implementing regulations which govern project grants for family planning services (42 CFR part 59, subpart A), and the ''Program Guidelines for Project Grants for Family Planning Services'' (January 2001). Title X of the Public Health Service Act authorizes the Secretary of Health and Human Services (HHS) to award grants for projects to provide family planning services to persons from low-income families and others. Section 1001 of the Act, as amended, authorizes grants ''to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents).'' Title X regulations further specify that ''These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children'' (42 CFR 59.1). In addition, section 1001 of the statute requires that, to the extent practicable, Title X service providers shall encourage family participation in family planning services projects. Section 1008 of the Act, as amended, stipulates that ''none of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.''

Copies of the Title X statute, regulations, and Program Guidelines may be obtained by contacting the OPHS Office of Grants Management, or downloaded from the Office of Population Affairs Web site at *http://opa.osophs.dhhs.gov.* These documents are also included in the application kit. All Title X requirements—including those derived from the statute, the regulations, and the Program Guidelines—apply to all activities funded under this announcement. For example, projects must meet the regulatory requirements set out at 42 CFR 59.5 regarding charges to clients, and the funding criteria set out at 42 CFR 59.7 apply to all applicants under this announcement.

II. Award Information

The anticipated FY 2006 appropriation for the Title X family planning program is approximately $286 million. Of this amount, OPA intends to make available approximately $55 million for competing Title X family planning services grant awards in 19 states, populations, and/or areas. (See Table I, Section IV. 3, *Submission Dates and Times*, for competing areas and approximate amount of awards). The remaining funds will be used for continued support of grants and activities which are not competitive in FY 2006. This program announcement is subject to the appropriation of funds, and is a contingency action taken to ensure that, should funds become available for this purpose, applications can be processed in an orderly manner, and funds can be awarded in a timely fashion. Grants will be funded in annual increments (budget periods) and are generally approved for a project period of three to five years. Funding for all approved budget periods beyond the first year of the grant is contingent upon the availability of funds, satisfactory progress of the project, and adequate stewardship of Federal funds.

III. Eligibility Information

1. Eligible Applicants

Any public or nonprofit private entity located in a State (which includes one of the 50 United States, the District of Columbia, Commonwealth of Puerto Rico, U.S. Virgin Islands, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands) is eligible to apply for a grant under this announcement. Faith-based organizations are eligible to apply for these Title X family planning services grants.

2. Cost Sharing

Program regulations at state that § 59.7(c) stipulate that ''No grant may be made for an amount equal to 100 percent of the project's estimated costs.'' Also, 42 CFR 59.7(b) states that ''No grant may be made for less than 90 percent of the project's costs, as so estimated, unless the grant is to be made for a project that was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975.''

While there is not a fixed cost-sharing percentage or amount, the requested project budget should reflect financial support in addition to Title X funds on both the SF 424A and in the budget justification. The OPHS Office of Grants Management will review applications to ensure that the requested amount of Title X funding is in compliance with this business requirement.

3. Other

Awards will be made only to those organizations or agencies which have met all applicable requirements and which demonstrate the capability of providing the required and proposed services.

IV. Application and Submission Information

1. Address To Request Application Package

Application kits may be requested from, and applications submitted to: OPHS Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; 301–594–0758. Application kits are also available online through the OPHS electronic grants management Web site at *https://egrants.osophs.dhhs.gov,* and requests may be submitted by FAX at 301–594–9399. Instructions for use of the eGrants system can be found on the OPA Web site at *http://opa.osophs.dhhs.gov* or requested from the OPHS Office of Grants Management.

2. Content and Form of Application

Applications must be submitted on the Form OPHS–1 (Revised 8/04) and in the manner prescribed in the application kit. Applications should be limited to 60 double-spaced pages, not including required forms, budget pages, budget narrative, and appendices, using an easily readable serif typeface, such as Times Roman, Courier, or GC Times. All pages, charts, figures and tables should be numbered. The application narrative should be numbered separately and should clearly show the 60 page limit. If the application narrative exceeds 60 pages, only the first 60 pages of the application narrative will be reviewed. Appendices may provide progress reports for current grantees who are re-competing, curriculum vitae of key staff, organizational structure, examples of organizational capabilities, or other supplemental information which supports the application. However, appendices are for supportive information only. All information that is critical to the proposed project should be included in the body of the application. Appendices should be clearly labeled.

A Dun and Bradstreet Universal Numbering System (DUNS) number is required for all applications for Federal assistance. Organizations should verify that they have a DUNS number or take the steps needed to obtain one. Instructions for obtaining a DUNS number are included in the application package, and may be downloaded from the OPA Web site.

Applications must include a one-page abstract of the proposed project. The abstract will be used to provide reviewers with an overview of the application, and will form the basis for the application summary in grants management documents.

Application Content

The following priorities represent overarching goals for the Title X program. In developing a proposal, each applicant should describe how the proposed project will address each priority.

Program Priorities

1. Assuring ongoing high quality family planning and related preventive health services that will improve the overall health of individuals;

2. Assuring access to a broad range of acceptable and effective family planning methods and related preventive health services that include natural family planning methods, infertility services, and services for adolescents; highly effective contraceptive methods; breast and cervical cancer screening and prevention that corresponds with nationally recognized standards of care; STD and HIV prevention education, counseling, and testing; extramarital abstinence education and counseling; and other preventive health services. The broad range of services does not include abortion as a method of family planning;

3. Encouraging participation of families, parents, and/or other adults acting in the role of parents in the decision of minors to seek family planning services, including activities that promote positive family relationships;

4. Improving the health of individuals and communities by partnering with community-based organizations (CBOs), faith-based organizations (FBOs), and other public health providers that work with vulnerable or at-risk populations;

5. Promoting individual and community health by emphasizing family planning and related preventive health services for hard-to-reach populations, such as uninsured or under-insured individuals, males, persons with limited English proficiency, adolescents, and other vulnerable or at-risk populations.

Legislative Mandates

The following legislative mandates have been part of the Title X appropriations for each of the last several years. In developing a proposal, the applicant should describe how the proposed project will address each of these legislative mandates.

- ''None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities;'' and
- ''Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.''

Other Key Issues

In addition to the Program Priorities and Legislative Mandates, the following Key Issues have implications for Title X services projects and should be acknowledged in the program plan:

1. The increasing cost of providing family planning services;

2. The U.S. Department of Health and Human Service priorities and initiatives, including increasing access to health care; emphasizing preventive health measures, improving health outcomes; improving the quality of health care; and eliminating disparities in health; as well as Healthy People 2010 objectives for Family Planning (Chapter 9); Health Communication (Chapter 11); HIV (Chapter 13), and Sexually Transmitted Diseases (Chapter 25). (*http://www.health.gov/healthypeople*);

3. Departmental initiatives and legislative mandates, such as the Health Insurance Portability and Accountability Act (HIPAA); Infant Adoption Awareness Training Program (IAATP); providing unmarried adolescents with information, skills and support to encourage sexual abstinence; serving persons with limited English proficiency;

4. Integration of HIV/AIDS services into family planning programs; specifically, HIV/AIDS education, counseling and testing either on-site or by referral should be provided in all Title X family planning services projects. Education regarding the prevention of HIV/AIDS should incorporate the ''ABC'' message. That is, for adolescents and unmarried individuals, the message should include ''A'' for abstinence; for married individuals or those in committed relationships, the message is ''B'' for be faithful; and, for individuals who engage in behavior that puts them at risk for HIV, the message should include

''A,'' ''B,'' and ''C'' for correct and consistent condom use.

5. Utilization of electronic technologies, such as electronic grants management systems;

6. Data collection and reporting which is responsive to the revised Family Planning Annual Report (FPAR) and other information needs for monitoring and improving family planning services;

7. Service delivery improvement through utilization of research outcomes focusing on family planning and related population issues; and

8. Utilizing practice guidelines and recommendations developed by recognized professional organizations and Federal agencies in the provision of evidence-based Title X clinical services.

Characteristics of a Successful Proposal

Proposed projects must adhere to all requirements of the Title X statute, regulations, and Program Guidelines. Successful proposals will fully describe how the project will address the requirements, and should include the following:

1. A clear description of the need for the services proposed;

2. A description of the geographic area and population to be served;

3. Evidence that the proposed project will address the family planning needs identified;

4. Evidence that the applicant organization has experience in providing clinical health services and the capacity to undertake the clinical family planning and related preventive health services required, including offering a broad range of acceptable and effective family planning methods and services;

5. Evidence that the proposed services are consistent with the requirements of Title X. Use of Title X funds is prohibited in programs where abortion is a method of family planning;

6. A project plan which describes the services to be provided, the location(s) and hours of clinic operations, and projected number of clients to be served;

7. A staffing plan which is reasonable and adheres to the Title X regulatory requirement that family planning medical services will be performed under the direction of a physician with special training or experience in family planning. Staff providing clinical services should be licensed and function within the applicable professional practice acts for the State;

8. Goal statement(s) and related outcome objectives that are specific, measurable, achievable, realistic and time-framed (S.M.A.R.T.);

9. Description of how the applicant will address Title X Program Priorities, Legislative Mandates, and Key Issues.

10. Evidence of formal agreements for referral services (*e.g.*, required clinical services, if not provided by the applicant), and collaborative agreements with other service providers in the community, where appropriate;

11. Evidence of the capability of collecting and reporting the required program data for the Title X annual data collection system (FPAR);

12. Evidence of a system for ensuring quality family planning services, including adherence to program requirements; and

13. A budget and budget justification narrative for year one of the project that is detailed, reasonable, adequate, cost efficient, and that is derived from proposed activities. Budget projections for each of the continuing years should be included.

3. Submission Dates and Times

Competing grant applications are invited for the following areas (please note, in order to maximize access to family planning services, one or more grants may be awarded for each area listed):

TABLE I

States/populations/areas to be served	Approximate funding available	Application due date	Approx. grant funding date
Region I:			
No service areas competitive in FY 2006.			
Region II:			
No service areas competitive in FY 2006.			
Region III:			
Delaware	$1,062,000	12/1/05	4/1/06
Pittsburgh, PA	3,743,000	3/1/06	7/1/06
Wilkes Barre, PA	1,588,000	3/1/06	7/1/06
Region IV:			
Alabama	4,768,000	3/1/06	7/1/06
Florida	8,638,000	3/1/06	7/1/06
Mississippi	5,009,000	3/1/06	7/1/06
North Carolina	6,483,000	3/1/06	7/1/06
Miami, Florida	544,000	6/1/06	9/30/06
Region V:			
Indiana	4,812,000	10/1/05	2/1/06
Minnesota	190,000	5/30/06	9/30/06
Ohio	4,632,000	11/1/05	3/1/06
Central Ohio	701,000	11/1/05	3/1/06
Ohio, Summit, Portage & Medina Cos.	782,000	3/1/06	7/1/06
Region VI:			
Oklahoma	3,681,000	8/1/05	12/1/05
Eastern Oklahoma, including the Choctaw Nation and the Osage Nation	475,000	8/1/05	12/1/05
Region VII:			
Missouri	4,876,000	12/1/05	4/1/06
Region VIII:			
No service areas competitive in FY 2006.			
Region IX:			
Nevada, Clark County	923,000	9/1/05	1/1/06
California, East/Southeast Los Angeles	400,000	9/1/05	1/1/06
Hawaii	1,665,000	3/1/06	7/1/06
Federated States of Micronesia	411,000	3/1/06	7/1/06

TABLE I—Continued

States/populations/areas to be served	Approximate funding available	Application due date	Approx. grant funding date
Region X: No service areas competitive in FY 2006.			

Submission Mechanisms

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review and will be returned to the applicant unread. The submission deadline will not be extended. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant. The application due date requiement specified in this announcement supercedes the instructions in the OPHS–1.

Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review. While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the OPHS eGrants system or the Grants.gov Web site Portal is encouraged.

Electronic Submissions Via the OPHS eGrants System

The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. Information about this system is available on the OPHS eGrants Web site, *https://egrants.osophs.dhhs.gov,* or may be requested from the OPHS Office of Grants Management at 301–594–0758.

The body of the application and required forms can be submitted using the OPHS eGrants system. In addition to electronically submitted materials, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms with the original signature of an individual authorized to act for the applicant agency or organization. The application will not be considered complete until both the electronic application components submitted via the OPHS eGrants system and any hard copy materials or original signatures are received.

Electronic grant application submissions must be submitted via the OPHS eGrants system no later than 5 p.m. Eastern Time on the deadline date specified in Table I of this announcement. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in Table I of this announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Any application submitted electronically after 5 p.m. Eastern Time on the deadline date specified in Table I of this announcement will be considered late and will be deemed ineligible. Failure of the applicant to submit all required hardcopy original signatures and required mail-in items to the OPHS Office of Grants Management by 5 p.m. Eastern Time on the next business day after the deadline date specified in Table I of this announcement will result in the electronic application being deemed ineligible.

Upon completion of a successful electronic application submission, the OPHS eGrants system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the OPHS eGrants system to ensure that all signatures and mail-in items are received.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions Via the Grants.gov Web site Portal

The Grants.gov Web site Portal provides for applications to be submitted electronically. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov*.

The body of the application and required forms can be submitted using the Grants.gov Web site Portal. Grants.gov allows the applicant to download and complete the application forms at any time, however, it is required that organizations successfully complete the necessary registration processes in order to submit the application to Grants.gov.

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, excluding the standard forms included in the Grants.gov application package (*e.g.*, Standard Form 424 Face Page, Standard Assurances and Certifications (Standard Form 424B, and Standard Form LLL)) must be submitted separately via mail to the OPHS Office

of Grants Management, and, if required, must contain the original signature of an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Electronic grant application submissions must be submitted via the Grants.gov Web site Portal no later than 5 p.m. Eastern Time on the deadline date specified in Table I of this announcement. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in Table I of this announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Any application submitted electronically via the Grants.gov Web site Portal after 5 p.m. Eastern Time on the deadline date specified in Table I of this announcement will be considered late and will be deemed ineligible. Failure of the applicant to submit all required hardcopy original signatures or materials to the OPHS Office of Grants Management by 5 p.m. Eastern Time on the next business day after the deadline date specified in Table I of this announcement will result in the electronic application being deemed ineligible.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Web site Portal will be validated by Grants.gov. Any applications deemed ''Invalid'' by the Grants.gov Web site Portal will not be transferred to the OPHS eGrants system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Web site Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the OPHS eGrants system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hardcopy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site Portal.

Applicants are encouraged to initiate electronic applications via the Grants.gov Web site Portal early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Mailed or Hand-Delivered Hard Copy Applications

Applications submitted in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management on or before 5 p.m. Eastern Time on the deadline date specified in Table I of this announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

4. Intergovernmental Review

Applicants under this announcement are subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented by 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for the state in which the applicant is located. The application kit contains the currently available listing of the SPOCs that have elected to be informed of the submission of applications. For those states not represented on the listing, further inquiries should be made by the applicant regarding the submission to the relevant SPOC. The SPOC should forward any comments to the OPHS Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, Maryland 20852. The SPOC has 60 days from the applicable due date listed in Table I of this announcement to submit any comments. For further information, contact the OPHS Office of Grants Management at 301–594–0758.

5. Funding Restrictions

The allowability, allocability, reasonableness and necessity of direct and indirect costs that may be charged to OPHS grants are outlined in the following documents: OMB Circular A–21 (Institutions of Higher Education); OMB Circular A–87 (State and Local Governments); OMB Circular A–122 (Nonprofit Organizations); and 45 CFR part 74, Appendix E (Hospitals). Copies of the Office of Management and Budget (OMB) Circulars are available on the Internet at *http://www.whitehouse.gov/omb/grants/grants_circulars.html*.

In order to claim indirect costs as part of a budget request, an applicant organization must have an indirect cost rate which has been negotiated with the Federal government. The Health and Human Services Division of Cost Allocation (DCA) Regional Office that is applicable to your State can provide information on how to receive such a rate. A list of DCA Regional Offices is included in the application kit for this announcement.

6. Other Submission Requirements—None

V. Application Review Information

1. Criteria

Eligible applications will be assessed according to the following criteria:

(1) The degree to which the project plan adequately provides for the requirements set forth in the Title X regulations at 42 CFR part 59, subpart A (20 points);

(2) The extent to which family planning services are needed locally (20 points);

(3) The number of patients, and, in particular, the number of low-income patients to be served (15 points);

(4) The adequacy of the applicant's facilities and staff (15 points);

(5) The capacity of the applicant to make rapid and effective use of the Federal assistance (10 points);

(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project (10 points); and

(7) The relative need of the applicant (10 points).

2. Review and Selection Process

Each regional office is responsible for evaluating applications and setting funding levels according to the criteria set out in 42 CFR 59.7(a). Eligible applications will be reviewed by a panel of independent reviewers and will be evaluated based on the criteria listed above. In addition to the independent review panel, there will be staff reviews of each application for programmatic and grants management compliance.

Final grant award decisions will be made by the Regional Health Administrator (RHA) for the applicable PHS Region. In making grant award decisions, the RHA will fund those projects which will, in his/her judgement, best promote the purposes of section 1001 of the Act, within the limits of funds available for such projects.

VI. Award Administration Information

1. Award Notices

The OPA does not release information about individual applications during the review process. When final funding decisions have been made, each applicant will be notified by letter of the outcome. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award (NGA), signed by the Director of the OPHS Office of Grants Management. This document specifies to the grantee the amount of money awarded, the purposes of the grant, the length of the project period, terms and conditions of the grant award, and the amount of funding, if any, to be contributed by the grantee to project costs. The NGA will also identify the Grants Specialist and Program Project Officer assigned to the grant.

2. Administrative and National Policy Requirements

In accepting the award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 45 CFR parts 74 and 92, currently in effect or implemented during the period of the grant.

The successful applicant will be responsible for the overall management of activities within the scope of the approved project plan. The OPHS requires all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. This is consistent with the OPHS mission to protect and advance the physical and mental health of the American people.

A Notice providing information and guidance regarding the ''Government-wide Implementation of the President's Welfare-to-Work Initiative for Federal Grant Programs'' was published in the **Federal Register** on May 16, 1997. This initiative was designed to facilitate and encourage grantees and their sub-recipients to hire welfare recipients and to provide additional needed training and/or mentoring as needed. The text of the Notice is available electronically on the OMB home page at *http://www.whitehouse.gov/omb*.

The HHS Appropriations Act requires that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, grantees shall clearly state the percentage and dollar amount of the total costs of the program or project that will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. Reporting

Each grantee is required to submit a Family Planning Annual Report (FPAR) each year.

The information collections (reporting requirements) and format for this report have been approved by the Office of Management and Budget and assigned OMB No. 0990–0221. The FPAR contains a brief organizational profile and 14 tables to report data on users, service use, and revenue for the reporting year. The FPAR instrument and instructions can be found on the OPA Web site at *http://opa.osophs.dhhs.gov*.

In addition to the FPAR, grantees are required to submit an annual Financial Status Report within 90 days of the end of each budget period. Grantees who receive greater than $500,000 of Federal funds must also undergo an independent audit in accordance with OMB Circular A–133.

Grantees are required to submit a non-competing continuation application, which includes a progress report, each year of the approved project period.

VII. Agency Contacts

Administrative and Budgetary Requirements

For information related to administrative and budgetary requirements, contact the OPHS Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; 301–594–0758.

Program Requirements

For information related to family planning program requirements, contact the Family Planning contact in the applicable Regional Office listed below:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)—Betsy Rosenfeld, 617–565–4265 or Kathy Stratford 617–565–1070;

Region II (New Jersey, New York, Puerto Rico, Virgin Islands)—Robin Lane, 212–264–3935;

Region III (Delaware, Washington, D.C., Maryland, Pennsylvania, Virginia, West Virginia)—Donna Garner, 215–861–4624 or Dickie Lynn Gronseth, 215–861–4656;

Region IV (Kentucky, Mississippi, North Carolina, Tennessee, Alabama, Florida, Georgia, South Carolina)—Cristino Rodriguez, 404–562–7900;

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)—Janice Ely, 312–886–3864;

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)—Evelyn Glass, 214–767–3088;

Region VII (Iowa, Kansas, Missouri, Nebraska)—Elizabeth Curtis, 816–426–2924;

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)—Jill Leslie, 303–844–7856;

Region IX (Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federal States of Micronesia, Republic of the Marshall Islands)—Nancy Mautone-Smith, 415–437–7984; and

Region X (Alaska, Idaho, Oregon, Washington)—Janet Wildeboor, 206–615–2776.

Dated: April 26, 2005.

Alma L. Golden,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 05–9017 Filed 5–5–05; 8:45 am]

BILLING CODE 4150–34–P

Federal Register

Friday,
May 6, 2005

Part IV

Department of Housing and Urban Development

24 CFR Part 207

Mortgagee Time Limits for Supplemental Claims for Additional Insurance Benefits; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 207

[Docket No. FR–4957–P–01; HUD–2005–0008]

RIN 2502–AI31

Mortgagee Time Limits for Supplemental Claims for Additional Insurance Benefits

AGENCY: Office of the Assistant Secretary of Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's regulations to establish a time limit for filing supplemental multifamily mortgage insurance claims. The time limit established will provide an incentive for mortgagees to complete all mortgage insurance claims in a timely manner.

DATES: *Comment Due Date:* July 5, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Electronic comments may be submitted through either:

- The Federal eRulemaking Portal at *http://www.regulations.gov*; or
- The HUD electronic Web site at *http://www.epa.gov/feddocket.* Follow the link entitled ''View Open HUD Dockets.'' Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Copies are also available for inspection and downloading at *http://www.epa.gov/feddocket.*

FOR FURTHER INFORMATION CONTACT: Roland C. Diggs II, Housing Project Manager, Room 6180, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–1320 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 207 of the National Housing Act (12 U.S.C. 1713) (NHA) authorizes the Secretary to insure certain eligible multifamily mortgages and to pay insurance benefits to the mortgagee. HUD's regulations implementing multifamily mortgage insurance eligibility requirements and contract rights and obligations regarding insurance benefits can be found at 24 CFR part 207. Under part 207, upon an assignment of the mortgage or a conveyance of the property to the Federal Housing Commissioner (Commissioner), and delivery by the mortgagee of items required pursuant to part 207, the Commissioner will pay insurance benefits to the mortgagee. After the initial insurance claim is paid to the mortgagee at final settlement, the Commissioner may also pay additional benefits due to adjustments or corrections of the claim amount paid at final settlement. These additional claims are often known as supplemental insurance claims.

II. This Proposed Rule

For several years, a considerable number of mortgagees have filed supplemental insurance claims for additional insurance benefits more than a year after the Commissioner paid a final settlement on the mortgagee's initial insurance claim. These supplemental insurance claims are often belatedly filed in part due to insufficient preparation when filing the initial insurance claim. The large and complex nature of supplemental insurance claims, and the time spent reviewing and processing these claims, delays processing and payment of all initial and supplemental insurance claims.

This proposed rule would amend HUD's multifamily mortgage insurance regulations at 24 CFR part 207 to require mortgagees to file all supplemental insurance claims with HUD within six months after the date of final payment of the initial insurance claim. Requiring that mortgagees file supplemental insurance claims within this time period creates an incentive for mortgagees to complete all final settlements promptly and will allow HUD to decrease some of its reviewing and processing costs. For the purposes of the proposed rule, the term final payment would be defined to mean the payment of the initial claim that is made at final settlement by the Commissioner based upon the submission by the mortgagee of all required documents and information.

III. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule would impose no additional economic or other burdens on mortgagees participating in HUD's multifamily mortgage insurance programs. All such mortgagees, regardless of size, will be subject to the new requirements proposed by the rule. The rule proposes to establish a six-month time limitation for all mortgagees to file supplemental multifamily housing mortgage insurance claims. Small mortgagees will have no more additional compliance costs than other mortgagees within this six-month time limit as a result of this rule. Therefore, the undersigned certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described by this preamble.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This proposed rule does not impose any federal mandates on any

state, local, or tribal government or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from publishing any rule that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

For the reasons stated in the preamble, HUD proposes to amend 24 CFR part 207 as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 207 continues to read as follows:

Authority: 12 U.S.C. 1701z-11(e), 1709(c)(1), 1713, and 1715b; and 42 U.S.C. 3535(d).

2. Add § 207.259 (f) to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(f) *Mortgagee Time Limits for Supplemental Claims for Additional Insurance Benefits.* A mortgagee may not file for any additional payments of its mortgage insurance claim more than six months after the date of final payment of the initial insurance claim by the Commissioner. For the purpose of this section, the term *final payment* shall mean the payment of the initial insurance claim that is made by the Commissioner at final settlement based upon the submission by the mortgagee of all required documents and information pursuant to part 207 of this chapter.

Dated: April 8, 2005.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 05–9141 Filed 5–5–05; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Friday,
May 6, 2005

Part V

Department of Education

Institute of Education Sciences; Notice Inviting Applications for Grants To Support Education Research for Fiscal Year (FY) 2006; Notice

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.305A, 84.305B, 84.305E, 84.305G, 84.305H, 84.305K, 84.305M, 84.305R, 84.305W, 84.324A, 84.324B, 84.324E, 84.324G, 84.324I, 84.324K, 84.324L, 84.324M, 84.324S, 84.324W, and 84.902B]

Institute of Education Sciences; Notice Inviting Applications for Grants To Support Education Research for Fiscal Year (FY) 2006

SUMMARY: The Director of the Institute of Education Sciences (Institute) announces 20 FY 2006 competitions for grants to support education research. The Director takes this action under the Education Sciences Reform Act of 2002, Title I of Public Law 107–279. The intent of these grants is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood education through postsecondary and adult education.

SUPPLEMENTARY INFORMATION:

Mission of Institute: A central purpose of the Institute is to provide parents, educators, students, researchers, policymakers, and the general public with reliable and valid information about education practices that support learning and improve academic achievement and access to education opportunities for all students. In carrying out its mission, the Institute provides support for programs of research in areas of demonstrated national need.

Competitions in this notice: The Institute, through its National Center for Education Research (NCER), plans to support the following research competitions in FY 2006:

- National Research and Development Centers. These centers will focus on Education Policy, Early Childhood Education, Postsecondary Education, and Gifted and Talented Education.
- Post-doctoral Research Training Fellowships.
- Reading and Writing Education Research.
- Cognition and Student Learning Research.
- Mathematics and Science Education Research.
- Teacher Quality Research with a Focus on Reading and Writing Education.
- Teacher Quality Research with a Focus on Mathematics and Science Education.
- Research on Education Finance, Leadership, and Management.
- Research on High School Reform.

The Institute, through its National Center for Special Education Research (NCSER), plans to support the following special education research competitions in FY 2006:

- Reading and Writing Special Education Research.
- Science and Mathematics Special Education Research.
- Research on Early Intervention and Assessment for Young Children with Disabilities.
- Language and Vocabulary Development Special Education Research.
- Serious Behavior Disorders Special Education Research.
- Special Education Research on Assessment for Accountability.
- Individualized Education Programs Research.
- Secondary and Postsecondary Outcomes Special Education Research.
- Special Education Teacher Quality Research with a Focus on Reading and Writing in Special Education.
- Special Education Teacher Quality Research with a Focus on Mathematics and Science in Special Education.

In addition, the Institute, through its National Center for Education Statistics (NCES), plans to support a competition for:

- Secondary Analysis of Data from the National Assessment of Educational Progress.

Eligible Applicants: Applicants that have the ability and capacity to conduct scientifically valid research are eligible to apply. Eligible applicants include, but are not limited to, non-profit and for-profit organizations and public and private agencies and institutions, such as colleges and universities.

Request for Applications and Other Information: Information regarding program and application requirements for each of the Institute's competitions is contained in the applicable Request for Applications package (RFA), which will be available at the following Web site: *http://www.ed.gov/about/offices/list/ies/programs.html* on the dates indicated in the chart printed elsewhere in this notice. Interested potential applicants should periodically check the Institute's Web site.

Information regarding selection criteria and review procedures will be provided in the applicable RFA package.

Fiscal Information: Although Congress has not enacted a final appropriation for FY 2006, the Institute is inviting applications for these competitions now so that it may be prepared to make awards following final action on the Department's appropriations bill. The President's FY 2006 Budget for the Institute includes sufficient funding for all of the competitions included in this notice. The actual award of grants is pending the availability of funds. The number of awards made under each competition will depend upon the quality of the applications received for that competition. The size of the awards will depend upon the scope of the projects proposed.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 77, 80, 81, 82, 84, 85, 86 (part 86 applies only to institutions of higher education), 97, 98, and 99. In addition 34 CFR part 75 is applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217, 75.219, 75.220, 75.221, 75.222, and 75.230.

Performance Measures: To evaluate the overall success of its education research program, the Institute annually assesses the quality and relevance of newly funded research projects, as well as the quality of research publications that result from its funded research projects. Two indicators address the quality of new projects. First, external panels of qualified scientists review the quality of new research applications, and the percentage of newly funded projects that receive an average panel score of excellent or higher is determined. Second, because much of the Institute's work focuses on questions of effectiveness, newly funded applications are evaluated to identify those that address causal questions and then to determine what percentage of those projects use randomized field trials to answer the causal questions. To evaluate the relevance of newly funded research projects, a panel of experienced education practitioners and administrators reviews descriptions of a randomly selected sample of newly funded projects and rates the degree to which the projects are relevant to educational practice.

Two indicators address the quality of new research publications, both print and web-based, which are the products of funded research projects. First, an external panel of eminent scientists reviews the quality of a randomly selected sample of new publications, and the percentage of new publications that are deemed to be of high quality is determined. Second, publications that address causal questions are identified, and are then reviewed to determine the percentage that employ randomized experimental designs. As funded research projects are completed, the Institute will subject the final reports to similar reviews.

To evaluate impact, the Institute surveys K–16 policymakers and administrators once every three years to determine the percentage who report routinely considering evidence of effectiveness before adopting educational products and approaches.

Application Procedures:

The Government Paperwork Elimination Act (GPEA) of 1998 (Pub. L. 105–277) and the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107) encourage us to undertake initiatives to improve our grant processes. Enhancing the ability of individuals and entities to conduct business with us electronically is a major part of our response to these Acts. Therefore, we are taking steps to adopt the Internet as our chief means of conducting transactions in order to improve services to our customers and to simplify and expedite our business processes.

We are requiring that applications for the FY 2006 competitions be submitted electronically to the following Web site: *https://ies.constellagroup.com*. Information on the software to be used in submitting applications will be available at the same Web site.

FOR FURTHER INFORMATION CONTACT: The contact person associated with a particular program of research is listed in the chart elsewhere in this notice and in the particular RFA. The date on which applications will be available, the deadline for transmittal of applications, the estimated range of awards, and the project period are also listed in the chart and in the particular RFA that will be posted at: *http://www.ed.gov/about/offices/list/ies/programs.html*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. Individuals with disabilities may obtain a copy of the RFA in an alternative format by contacting that person.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Program Authority: 20 U.S.C. 9501 *et seq.*

Dated: May 3, 2005.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

BILLING CODE 4000–01–P

INSTITUTE OF EDUCATION SCIENCES

FY 2006 Grant Competitions to Support Education Research

CFDA NUMBER AND NAME	APPLICATIONS AVAILABLE	DEADLINE FOR TRANSMITTAL OF APPLICATIONS	ESTIMATED RANGE OF AWARDS*	PROJECT PERIOD	FOR FURTHER INFORMATION CONTACT
National Center for Education Research (NCER)					
84.305G Reading and Writing Education Research	May 6, 2005	July 21, 2005	$100,000 to $1,200,000	Up to 5 years	Elizabeth Albro Elizabeth.Albro@ed.gov
84.305M Teacher Quality Research: Mathematics and Science Education	May 6, 2005	July 21, 2005	$100,000 to $1,200,000	Up to 5 years	Harold Himmelfarb Harold.Himmelfarb@ed.gov
84.305B Post-doctoral Research Training Fellowships	May 6, 2005	July 21, 2005	Up to $200,000	Up to 4 years	James Griffin James.Griffin@ed.gov
84.305E Research on Education Finance, Leadership, and Management	May 6, 2005	July 28, 2005	$100,000 to $1,200,000	Up to 5 years	Mark Schneider Mark.Schneider@ed.gov
84.305K Mathematics and Science Education Research	May 6, 2005	November 3, 2005	$100,000 to $1,200,000	Up to 5 years	Diana Cordova Diana.Cordova@ed.gov
84.305W Teacher Quality Research: Reading and Writing Education	May 6, 2005	November 3, 2005	$100,000 to $1,200,000	Up to 5 years	Harold Himmelfarb Harold.Himmelfarb@ed.gov
84.305H Cognition and Student Learning Research	June 27, 2005	November 3, 2005	$150,000 to $350,000	Up to 3 years	Elizabeth Albro Elizabeth.Albro@ed.gov
84.305A National Research and Development Centers	June 27, 2005	November 10, 2005	$1,000,000 to $2,000,000	Up to 5 years	Anne Sweet Anne.Sweet@ed.gov
84.305R Research on High School Reform	June 27, 2005	November 10, 2005	$150,000 to $1,200,000	Up to 5 years	Mark Schneider Mark.Schneider@ed.gov
National Center for Special Education Research (NCSER)					
84.324B Special Education Research: Serious Behavior Disorders	May 6, 2005	July 28, 2005	$100,000 to $1,200,000	Up to 5 years	Patricia Gonzalez Patricia.Gonzalez@ed.gov
84.324E Special Education Research: Early Intervention and Assessment for Young Children with Disabilities	May 6, 2005	July 28, 2005	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov
84.324G Special Education Research: Reading and Writing	May 6, 2005	August 4, 2005	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov
84.324L Special Education Research: Language and Vocabulary Development	May 6, 2005	August 4, 2005	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov
84.324M Special Education Teacher Quality Research: Mathematics and Science	May 6, 2005	August 4, 2005	$100,000 to $1,200,000	Up to 5 years	David Malouf David.Malouf@ed.gov
84.324A Special Education Research: Assessment for Accountability	June 27, 2005	November 10, 2005	$100,000 to $1,200,000	Up to 5 years	David Malouf David.Malouf@ed.gov
84.324I Special Education Research: Individualized Education Programs	June 27, 2005	November 17, 2005	$100,000 to $1,200,000	Up to 5 years	Patricia Gonzalez Patricia.Gonzalez@ed.gov
84.324K Special Education Research: Mathematics and Science	May 6, 2005	November 17, 2005	$100,000 to $1,200,000	Up to 5 years	David.Malouf David.Malouf@ed.gov
84.324W Special Education Teacher Quality Research: Reading and Writing	May 6, 2005	November 17, 2005	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov
84.324S Special Education Research: Secondary and Postsecondary Outcomes	June 27, 2005	November 17, 2005	$100,000 to $1,200,000	Up to 5 years	Patricia.Gonzalez Patricia.Gonzalez@ed.gov
National Center for Education Statistics (NCES)					
84.902B Secondary Analysis of National Assessment of Educational Progress Data	May 6, 2005	July 21, 2005	$65,000 to $100,000	Up to 18 months	Alexandra Sedlacek Alex.Sedlacek@ed.gov

*These estimates are annual amounts.

Note: The Department is not bound by any estimates in this notice.

[FR Doc. 05–9131 Filed 5–5–05; 8:45 am]

BILLING CODE 4000–01–C

Federal Register

Friday,
May 6, 2005

Part VI

Environmental Protection Agency

40 CFR Part 93

Transportation Conformity Rule Amendments for the New $PM_{2.5}$ National Ambient Air Quality Standard: $PM_{2.5}$ Precursors; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[Docket No. OAR–2003–0049; FRL–7908–3]

RIN 2060–AN03

Transportation Conformity Rule Amendments for the New $PM_{2.5}$ National Ambient Air Quality Standard: $PM_{2.5}$ Precursors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule adds the following transportation-related $PM_{2.5}$ precursors to the transportation conformity regulations: nitrogen oxides (NO_X), volatile organic compounds (VOCs), sulfur oxides (SO_X), and ammonia (NH_3). The final rule specifies when each of these precursors must be considered in conformity determinations in $PM_{2.5}$ nonattainment and maintenance areas before and after $PM_{2.5}$ state air quality implementation plans (SIPs) are submitted. Today's action also makes a technical correction to a cross-reference of the U.S. Department of Transportation's (DOT) planning regulations in the public consultation procedures of the conformity rule. The Clean Air Act requires federally supported highway and transit projects to be consistent with (''conform to'') the purpose of a SIP. EPA has consulted with DOT on the development of this final rule and DOT concurs with its content.

EFFECTIVE DATE: June 6, 2005.

ADDRESSES: Materials relevant to this rulemaking are in Public Docket I.D. No. OAR–2003–0049 located at the Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460; phone: 202–566–1742. For more information about accessing information from the docket, see Section I.B. of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Rudy Kapichak, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, e-mail address: *kapichak.rudolph@epa.gov,* telephone number: (734) 214–4574, fax number 734–214–4052; or Angela Spickard, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, e-mail address: *spickard.angela@epa.gov,* telephone number: (734) 214–4283, fax number 734–214–4052.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. General Information

A. Does This Action Apply to Me?

Entities potentially regulated by the conformity rule are those that adopt, approve, or fund transportation plans, programs, or projects under title 23 U.S.C. or title 49 U.S.C. Regulated categories and entities affected by today's action include:

Category	Examples of regulated entities
Local government	Local transportation and air quality agencies, including metropolitan planning organizations (MPOs).
State government	State transportation and air quality agencies.
Federal Government	Department of Transportation (Federal Highway Administration (FHWA) and Federal Transit Administration (FTA)).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this final rule. This table lists the types of entities of which EPA is aware that potentially could be regulated by the conformity rule. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 93.102 of the transportation conformity rule. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of This Document?

1. Docket. Materials relevant to this rulemaking are in Public Docket I.D. No. OAR–2003–0049. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Docket telephone number is (202) 566–1742. 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 Public Reading Room is (202) 566–1744. You may have to pay a reasonable fee for copying docket materials.

2. *Electronic Access.* You may access this **Federal Register** document electronically through EPA's Transportation Conformity Web site at *http://www.epa.gov/otaq/transp/traqconf.htm.* You may also access this document electronically under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.B.1. Once in the EPA electronic docket system, select ''search,'' then key in the appropriate docket identification number.

II. Background

A. What Is Transportation Conformity?

Transportation conformity is required under Clean Air Act section 176(c) (42 U.S.C. 7506(c)) to ensure that federally

supported highway and transit project activities are consistent with (''conform to'') the purpose of the state air quality implementation plan (SIP). Conformity currently applies to areas that are designated nonattainment, and those redesignated to attainment after 1990 (''maintenance areas'' with plans developed under Clean Air Act section 175A) for the following transportation-related criteria pollutants: ozone, particulate matter ($PM_{2.5}$ and PM_{10}),[1] carbon monoxide (CO), and nitrogen dioxide (NO_2). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS or ''standards'').

B. What Is the History of the Transportation Conformity Rule?

EPA's transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the SIP. EPA first promulgated the transportation conformity rule on November 24, 1993, (58 FR 62188) and subsequently published a comprehensive set of amendments on August 15, 1997, (62 FR 43780) that clarified and streamlined language from the 1993 rule. EPA has made other smaller amendments to the rule both before and after the 1997 amendments.

On July 1, 2004, EPA published a final rule (69 FR 4004) that amended the conformity rule to accomplish three objectives. The final rule:

- Provided conformity procedures for state and local agencies under the new ozone and $PM_{2.5}$ air quality standards;
- Incorporated existing EPA and U.S. Department of Transportation (DOT) federal guidance into the conformity rule consistent with a March 2, 1999, U.S. Court of Appeals decision; and
- Streamlined and improved the conformity rule.

The July 1, 2004, final conformity rule incorporated most of the provisions from the November 5, 2003, proposal for conformity under the new ozone and $PM_{2.5}$ standards (68 FR 62690). EPA is conducting its conformity rulemakings for the new standards in the context of EPA's broader strategies for implementing the new ozone and $PM_{2.5}$ standards.

The July 2004 final rule also incorporated all of the amendments resulting from a separate June 30, 2003, proposal (68 FR 38974). This proposal addressed the March 2, 1999, court ruling by the U.S. Court of Appeals for the District of Columbia Circuit (*Environmental Defense Fund* v. *EPA,* et al., 167 F. 3d 641, D.C. Cir. 1999), and incorporated existing federal guidance consistent with the court decision.

Most recently, on December 13, 2004, EPA published in the **Federal Register** a supplemental notice of proposed rulemaking to the November 5, 2003, new standards conformity proposal entitled, ''Options for $PM_{2.5}$ and PM_{10} Hot-Spot Analyses in the Transportation Conformity Rule Amendments for the New $PM_{2.5}$ and Existing PM_{10} National Ambient Air Quality Standards'' (69 FR 72140). In response to substantial comments received on the November 2003 proposal, EPA, in consultation with DOT, proposed additional options for $PM_{2.5}$ and PM_{10} hot-spot requirements and requested comment on them as well as on the options presented in the November 2003 proposal. Subsequently, EPA extended the public comment period for this supplemental proposal, to January 27, 2005. EPA has not yet taken final action on the December 13, 2004 supplemental proposal. We are currently reviewing the public comments received on the supplemental proposal and will be issuing a final rule in the near future.

C. Why Are We Issuing This Final Rule?

In the November 5, 2003, proposal, EPA proposed options for addressing $PM_{2.5}$ precursors in the conformity process. However, EPA did not finalize $PM_{2.5}$ precursor requirements in the subsequent July 1, 2004, final rule because EPA had not proposed a broader $PM_{2.5}$ implementation rule to seek comment on options for addressing $PM_{2.5}$ precursors in the New Source Review program and in SIP planning activities such as reasonable further progress plans, attainment demonstrations, reasonably available control technology (RACT) requirements, and reasonably available control measures (RACM) analyses. At that time, EPA believed that it would have been inappropriate to select a final option for precursors in transportation conformity determinations prior to the development of the precursor options in the broader $PM_{2.5}$ implementation rule proposal. While EPA has not yet proposed the $PM_{2.5}$ implementation strategy, EPA has moved ahead with $PM_{2.5}$ designations and this action has caused us to re-evaluate the need to defer finalization of the $PM_{2.5}$ precursor requirements for transportation conformity until the implementation rule is proposed. Our re-evaluation is based on the fact that the one-year conformity grace period began on April 5, 2005, the effective date of the designations. EPA believes that it is crucial that $PM_{2.5}$ nonattainment areas be aware of the requirements for $PM_{2.5}$ precursors at the beginning of the one-year grace period in order to facilitate completion of all necessary work to determine conformity by the end of the grace period for all applicable precursors. Therefore, EPA has decided to finalize the transportation conformity requirements for $PM_{2.5}$ precursors in advance of proposing the $PM_{2.5}$ implementation rule. Although the implementation rule has not yet been proposed, on-going consideration of issues related to precursors in the implementation rule have been coordinated with development of this final rule.

EPA's implementation strategy for the $PM_{2.5}$ standard will include options for addressing $PM_{2.5}$ precursors in other air quality planning programs (*e.g.,* New Source Review for stationary sources). The public will have the opportunity to comment on these options during the comment period for that rulemaking once it is published in **Federal Register**.

In today's final rule, EPA addresses all public comments on the $PM_{2.5}$ precursor options included in the November 2003 conformity proposal that were received during the comment period for that rulemaking. The comment period for the November 2003 conformity proposal ended on December 22, 2003.

Today's final rule should not be interpreted as prejudging our decision on the $PM_{2.5}$ precursor requirements that will soon be proposed in the $PM_{2.5}$ implementation rulemaking. Our final rule for the implementation proposal will reflect how $PM_{2.5}$ precursors should best be considered in other air quality planning programs and the comments received on that proposal. While EPA's final decisions on $PM_{2.5}$ precursors must be legally consistent, EPA could take differing positions with respect to various precursors in other programs as appropriate to the programmatic needs, legal requirements and pollution sources relevant to the differing programs.

EPA notes, however, that if in the future we change our legal rationale for considering $PM_{2.5}$ precursors among the various air quality planning programs from the positions currently under consideration as a result of comments received on the $PM_{2.5}$ implementation strategy proposal, such changes could necessitate a subsequent revision to the transportation conformity rule. In the

[1] Section 93.102(b)(1) of the conformity rule defines $PM_{2.5}$ and PM_{10} as particles with an aerodynamic diameter less than or equal to a nominal 2.5 and 10 micrometers, respectively.

case where an amendment to the conformity regulations is needed to reflect an alternative approach to considering $PM_{2.5}$ precursors, EPA would conduct such a revision through full public notice and comment rulemaking.

DOT is our federal partner in implementing the transportation conformity regulations. We have consulted DOT in developing this final rule and DOT concurs with its content.

D. How Does This Final Rule Affect the One-Year Conformity Grace Period?

As explained in the July 1, 2004, final rule that addresses the conformity requirements for the 8-hour ozone and $PM_{2.5}$ standards (69 FR 40004), conformity applies one year after the effective date of EPA's initial nonattainment designation for a given pollutant and standard. On January 5, 2005 (70 FR 943), EPA designated areas as attainment and nonattainment for the $PM_{2.5}$ air quality standard. These designations became effective on April 5, 2005, 90 days after EPA's published action in the **Federal Register**. Therefore, conformity for the $PM_{2.5}$ standard will apply on April 5, 2006.

Today's final rule does not change the one-year conformity grace period for any area recently designated nonattainment for the $PM_{2.5}$ standard. On April 5, 2006, metropolitan $PM_{2.5}$ nonattainment areas must have in place a transportation plan and transportation improvement program (TIP) that conforms in accordance with the $PM_{2.5}$ precursor requirements finalized by today's action and the requirements previously finalized by the July 1, 2004, rulemaking. See the July 1, 2004, final rule (69 FR 40008 through 40014) for more information on the implementation of the one-year conformity grace period in newly designated $PM_{2.5}$ nonattainment areas.

III. $PM_{2.5}$ Precursors

A. Description of the Final Rule

Today's final rule identifies four transportation-related $PM_{2.5}$ precursors—nitrogen oxides (NO_X), volatile organic compounds (VOCs), sulfur oxides (SO_X), and ammonia (NH_3)—for consideration in the conformity process in $PM_{2.5}$ nonattainment and maintenance areas. Once a $PM_{2.5}$ SIP is submitted, a regional emissions analysis would be required for a given precursor if the SIP establishes an adequate or approved budget for that particular precursor.

The November 5, 2003, notice of proposed rulemaking contained two options for addressing $PM_{2.5}$ precursors in conformity determinations made before a SIP is submitted and emissions budgets are found adequate or approved. EPA is finalizing a modified version of the proposed options in this final rule. Specifically, a regional emissions analysis is required for NO_X as a $PM_{2.5}$ precursor in all $PM_{2.5}$ nonattainment areas, unless the head of the state air agency and the EPA Regional Administrator make a finding that NO_X is *not a significant contributor* to the $PM_{2.5}$ air quality problem in a given area. Regional emissions analyses are not required for VOC, SO_X or ammonia before an adequate or approved SIP budget for such precursors is established, unless the head of the state air agency or EPA Regional Administrator makes a finding that on-road emissions of any of these precursors *is a significant contributor.* Prior to EPA finding the budgets from the submitted $PM_{2.5}$ SIP adequate or approving the $PM_{2.5}$ SIP, the MPO and DOT will document in their conformity determinations that a regional emissions analysis has not been conducted for NO_X when EPA and the state air agency have determined NO_X to be insignificant. The regulatory text for this final rule can be found in §§ 93.102(b)(2)(iv) and (v) and 93.119(f)(9) and (10).

A state air agency and/or EPA finding of significance or insignificance (a ''significance finding'') for a $PM_{2.5}$ precursor will be based on criteria similar to the general criteria for insignificance of motor vehicle emissions in § 93.109(k) of the conformity rule. Specifically, the following criteria will be considered in making significance or insignificance findings for $PM_{2.5}$ precursors: The contribution of on-road emissions of the precursor to the total 2002 baseline SIP inventory; the current state of air quality for the area; the results of speciation monitoring for the area; the likelihood that future motor vehicle control measures will be implemented for a given precursor; and projections of future on-road emissions of the precursor. Determining the significance or insignificance of motor vehicle emissions in a given area will be conducted on a case-by-case basis.

Significance and insignificance findings will be made only after discussions among the interagency consultation partners for the $PM_{2.5}$ nonattainment area. These discussions should include a review of the available data being considered to support the significance finding. Interagency consultation also ensures that all of the relevant agencies are aware that such a finding is being considered. It is important to provide transportation agencies with adequate notice of which, if any, precursors they may need to address in conformity analyses. A significance finding will be made through a letter from the state air agency or EPA regional office to the relevant state and local air quality and transportation agencies, MPO(s), DOT and EPA (in the case of a state air agency finding). An insignificance finding will be made through either letters from the state air agency and the EPA regional office or a letter co-signed by the state air agency and the EPA regional office to the relevant state and local air quality and transportation agencies, MPO(s) and DOT.

EPA notes that any significance or insignificance finding made prior to EPA's adequacy finding for budgets in a SIP, or EPA's approval of the SIP, should not be viewed as the ultimate determination of the significance of precursor emissions in a given area. State and local agencies may find through the SIP development process that emissions of one or more precursors are significant, even if a precursor had previously been considered insignificant. In such a case, the $PM_{2.5}$ SIP would establish a motor vehicle emissions budget for that precursor and a regional emissions analysis for that precursor would be included in subsequent conformity determinations. Alternatively, state and local agencies may find through the SIP development process that emissions of one or more precursors are insignificant even if a precursor had previously been considered significant. In such a case, the $PM_{2.5}$ SIP would not establish a motor vehicle emissions budget for that precursor and a regional emissions analysis for that precursor would not be necessary in subsequent conformity determinations.

To calculate emission factors for $PM_{2.5}$ precursors, areas must use the latest EPA-approved motor vehicle emissions factor model (currently MOBILE6.2 for all states except California). $PM_{2.5}$ nonattainment and maintenance areas in California must use EMFAC2002 or a more recently EPA-approved model. It should be noted that EMFAC2002 does not calculate emissions factors for ammonia. However, EPA understands that California is developing a methodology for estimating ammonia emissions from on-road vehicles. It is anticipated that this methodology will be completed prior to the end of the one-year conformity grace period. However, as a practical matter, conformity for ammonia would not be required in California until there is an acceptable method for estimating such

emissions, because a method would be needed to estimate current or future ammonia emissions for either a significance finding or SIP motor vehicle emissions budget.

B. Rationale for This Final Rule

Section 176(c)(1)(B) of the Clean Air Act requires that federal funding and approval be given only to transportation activities that are consistent with state and local air quality goals. To fulfill this requirement with respect to $PM_{2.5}$, EPA is requiring that transportation conformity determinations consider $PM_{2.5}$ precursors if they are significant contributors to an area's $PM_{2.5}$ air quality problem.

Today's final rule incorporates NO_X, VOCs, SO_X, and ammonia as possible transportation-related $PM_{2.5}$ precursors because all of these precursors are emitted from on-road motor vehicles. Based on data collected from monitoring sites in the national speciation trends network,[2] secondary particles from precursors commonly account for over half of the total fine particle mass from all emissions sources measured at these sites. Therefore, we expect that areas may need to address on-road emissions of relevant precursors (i.e., NO_X, VOC, SO_X and ammonia) in their SIPs and in conformity.

The final rule allows for the consideration of the four precursors in conformity prior to $PM_{2.5}$ SIPs when such precursors are significant: NO_X is considered significant in the absence of a finding; VOCs, SO_X and ammonia must be found significant to be included. In finalizing this rule EPA attempted to strike a balance between: (1) Expeditiously addressing transportation-related emissions that could exacerbate the $PM_{2.5}$ air quality problem before a SIP is established, and (2) targeting conformity requirements in $PM_{2.5}$ areas in an efficient and reasonable manner.

EPA based its decision on a number of factors. For example, EPA considered the environmentally conservative nature of requiring conformity determinations for all four precursors prior to the submission of a SIP unless a finding is made that on-road emissions of a precursor or precursors is insignificant, rather than only for NO_X. Requiring that all four precursors be addressed in conformity prior to the submission of a SIP may be a more environmentally protective approach to meeting the Clean Air Act's conformity requirements because any significant precursors would automatically be addressed without the need for a significance finding to be made by the state air agency or the EPA regional office. On the other hand, requiring significance findings for the precursors VOCs, SO_X and ammonia better accounts for regional variability in air quality and better targets resources to the precursors that are most important in an individual area. Also, requiring significance findings for these three precursors could help areas avoid adopting on-road control measures to address a particular precursor before a SIP is submitted that ultimately prove to be unnecessary after a SIP is developed, if emissions of the targeted precursor are ultimately found to be insignificant. In addition, EPA also considered with respect to each precursor the chemistry of secondary particle formation, the results of speciated air quality monitoring and on-road emissions inventory data. In addition to the information provided below, the November 2003 notice of proposed rulemaking contains a more detailed discussion of speciated air quality data and on-road emissions data (68 FR 62706 through 62708). Please refer to the notice of proposed rulemaking for additional details.

Sulfur dioxide. While speciated air quality data show that sulfate is a relatively significant component (e.g., ranging from nine to 40 percent) of $PM_{2.5}$ mass in all regions of the country, emissions inventory data and projections show that on-road emissions of SO_X constitute a ''*de minimis*'' (i.e., extremely small) portion of total SO_X emissions. Emissions inventory data for 1999 for the 372 potential $PM_{2.5}$ nonattainment counties for $PM_{2.5}$ (based on 1999–2001 air quality data) show that on-road sources were responsible for only two percent of total SO_X emissions. By comparison, fuel combustion sources (e.g., electric utility and industrial combustion of coal and oil) contributed approximately 88 percent of the SO_X emissions in 1999 in these same counties.

Furthermore, EPA has already adopted two regulations that will greatly reduce emissions of SO_X from on-road sources by the time such regulations are both in full effect in 2009. First, in 2004 the low sulfur gasoline program began to be phased in and will be fully effective in 2007 (February 10, 2000, 65 FR 6697). This regulation will reduce the sulfur content of gasoline by approximately 90 percent when fully effective.[3] Second, in 2006 the low sulfur diesel program will begin to be phased in and will be fully effective by 2009 (January 18, 2001, 66 FR 5001). This regulation will reduce the sulfur content of diesel fuel by approximately 97 percent nationally when fully effective.

Projections of on-road emissions of SO_2 in 2020 indicate that on-road sources will be responsible for less than one percent of the total SO_2 emissions in 2020 in the 372 potential $PM_{2.5}$ nonattainment counties (based on 1999–2001 air quality data).[4] These projections confirm that the implementation of the fuel regulations discussed above will ensure that as a general matter SO_2 emissions from on-road sources remain at insignificant levels in all areas. Therefore, states are not required to include SO_X in conformity determinations prior to submission of a SIP unless the state air agency or EPA regional office makes a finding that on-road emissions of SO_X are a significant contributor to an area's $PM_{2.5}$ problem. If a state determines through its SIP development process that on-road emissions of SO_X are significant and the SIP includes an adequate or approved emissions budget for SO_X, then future conformity determinations will be required to include a regional emissions analysis for SO_X.

Nitrogen oxides. Based on a review of speciated monitoring data analyses, nitrate concentrations vary significantly across the country. For example, in some southeastern locations, annual average nitrate levels range from six to eight percent of total $PM_{2.5}$ mass, whereas nitrate comprises 40 percent or more of $PM_{2.5}$ mass in certain California locations. Nitrate formation is favored by the availability of ammonia, low temperatures, and high relative humidity. Nitrate formation also depends upon the amount of nearby SO_2 emissions because ammonia reacts preferentially with SO_2 over NO_X (i.e., ammonia first reacts to form ammonium sulfate and then reacts to form ammonium nitrate).

The sources of NO_X are numerous and widespread, including motor vehicles, power plants, and many other combustion activities. We believe these source categories and the potential for significant impacts on air quality exist in many nonattainment areas. The analysis of speciated air quality data

[2] The speciation trends network consists of over 50 monitoring sites in urban areas and provides nationally consistent data on $PM_{2.5}$ constituents by type (i.e., ''speciated'') including nitrates, elemental carbon, organic carbon and sulfates.

[3] In addition, California has adopted its own rule which addresses the sulfur content of gasoline in that State. California's regulation is similar in stringency to the Federal regulation.

[4] EPA 420–R–00–020, October 2002, ''Procedures for Developing Base Year and Future Year Mass and Modeling Inventories for the Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel (HDD) Rulemaking.''

and the discussion of emission inventory data in the November 2003 transportation conformity notice of proposed rulemaking provide an appropriate basis for deciding that states must include NO_X in conformity determinations made before SIPs are submitted and emissions budgets are found adequate or approved, unless the state air agency and the EPA regional office find that on-road emissions of NO_X are not a significant contributor to the area's $PM_{2.5}$ problem.

EPA believes that requiring both the state air agency and the EPA regional office make an insignificance finding for NO_X is warranted because in this rulemaking EPA has initially determined that NO_X is a significant precursor for all $PM_{2.5}$ nonattainment areas. Additionally, all other insignificance findings require both state air agency and EPA regional office action because they are made through either a motor vehicle emission budget adequacy finding or a SIP approval as required by § 93.109(k) of the conformity regulation. Therefore, based on the reasons stated above, EPA believes that it is necessary that both the state air agency and the EPA regional office make a finding that on-road emissions of NO_X are an insignificant contributor to an area's $PM_{2.5}$ air quality problem prior to the submission of a SIP. A finding made by both agencies provides assurance that on-road emissions of NO_X are in fact insignificant contributors to an area's $PM_{2.5}$ air quality problem and therefore may be omitted from conformity determinations prior to the submission of a SIP for the area. After a $PM_{2.5}$ SIP is submitted, conformity determinations will be required for on-road emissions of NO_X if the SIP includes emissions budgets that are found adequate or are approved.

Volatile Organic Compounds. In 2003, EPA estimates that on-road motor vehicles accounted for 28 percent of total VOCs nationwide. Carbonaceous particles, which result, in part, from reactions involving VOCs, account for 25–70% of constructed fine particle mass measured at specific Speciation Trends Network sites. The highest percentages of carbonaceous particles tend to be in the western United States, while the lowest percentages tend to be in the eastern United States.

Although research clearly indicates that VOCs can contribute to the formation of carbonaceous secondary $PM_{2.5}$ compounds, the current science is still incomplete in its understanding of the fraction of particulate organic compounds that began as VOCs. A major reason for this existing deficiency is the varying degrees of volatility of organic compounds, as well as our inability to model collectively the reactivity of these different groups of compounds. For example, there are highly reactive volatile compounds with six or fewer carbon atoms that indirectly contribute to PM formation through reaction with oxidizing compounds such as the hydroxyl radical and ozone. There are also semi-volatile compounds with between seven and 24 carbon atoms that can exist in particle form and can readily be oxidized to form other low volatility compounds. Finally, high molecular weight organic compounds (with 25 carbon atoms or more and low vapor pressure) are emitted directly as primary organic particles and exist primarily in the condensed phase at ambient temperatures. For this reason, these high molecular weight organic compounds are generally considered to be primary particles and not VOCs. The relative importance of each of these groups of organic compounds in the formation of organic particles varies from area to area. In addition, the contribution of on-road source emissions to each of these three groups of organic compounds may also vary from area to area.

Current scientific and technical information clearly shows that carbonaceous material is a significant fraction of total $PM_{2.5}$ mass in most areas, and that certain aromatic VOC emissions such as toluene, xylene, and trimethyl-benzene are precursors to the formation of secondary $PM_{2.5}$ (secondary organic aerosols). However, while significant progress has been made in understanding the role of gaseous organic material in the formation of organic PM, this relationship is complex and requires further research and technical tools to determine the extent of the contribution of specific VOC compounds to organic PM mass, prior to EPA being able to determine the extent of the contribution of VOCs to nonattainment problems in all $PM_{2.5}$ areas.

Additional research is also needed to determine the sources of VOC emissions that contribute most to $PM_{2.5}$ air quality issues. For example, analysis of air quality samples collected in Pittsburgh, Pennsylvania from 1998 through 2003 indicate that approximately half of the secondary organic aerosol in Pittsburgh may be attributable to biogenic sources (*e.g.*, trees) as opposed to anthropogenic sources (*i.e.*, man-made sources such as power plants and motor vehicles). Similarly, analysis of air quality samples collected in Atlanta, Georgia from 1998 through 2003 indicate that as much as 80 percent of the secondary organic aerosol may be attributable to biogenic sources. These data [5] are significant because biogenic emissions cannot be controlled. In addition, EPA believes that in some $PM_{2.5}$ nonattainment areas, particularly during seasons with high photochemical activity, a significant amount of the secondary organic aerosol may be due to biogenic emissions as opposed to anthropogenic emissions of VOCs, as evidenced by the data from Pittsburgh and Atlanta.

EPA acknowledges that analytical tools are evolving to enable areas to adequately model the contribution of VOCs to $PM_{2.5}$ formation. Researchers in the field anticipate that within the next five years the ability of models to simulate various components of $PM_{2.5}$ will improve greatly, as will their ability to estimate the effectiveness of various control measures. These model improvements are particularly significant for secondary organic aerosols and biogenic and anthropogenic emissions of VOCs. However, until such model improvements are made and our understanding of VOC secondary particle formation improves, EPA believes it is not appropriate to require regional conformity analyses for VOCs in $PM_{2.5}$ nonattainment areas prior to the submission of a $PM_{2.5}$ SIP and emissions budgets for VOCs being found adequate or approved, unless the state air agency or EPA regional office finds that VOCs are a significant contributor to an area's $PM_{2.5}$ problem. If a state determines through its SIP development process that on-road emissions of VOCs are significant and the SIP includes an adequate or approved emissions budget for VOCs, then future conformity determinations will be required to include a regional emissions analysis for VOCs.

Ammonia. We believe a case-by-case approach is also appropriate for ammonia because there is sufficient uncertainty about emissions inventories and about the potential efficacy of control measures from location to location. Reductions of ammonia may be effective primarily in areas where nitric acid is in abundance and ammonia is the limiting factor to ammonium nitrate formation (ammonium nitrate is a type of

[5] Data from the PM Supersites Program documented in a September 2004 summary response entitled, ''Policy Relevant Science Questions Regarding PM—Precursors,'' Prepared by Spyros Pandis, CMU; David Allen, University of Texas at Austin; Armistead (Ted) Russell, Georgia Institute of Technology; and Paul A. Solomon, U.S. EPA, ORD. This document can be found in the docket for today's rulemaking.

particulate matter). Although ammonia reductions may be appropriate in selected locations, in other locations such reductions may lead to increased atmospheric acidity, exacerbating acidic deposition problems. In other words, states should evaluate the benefits of including ammonia in conformity determinations prior to the submission of SIPs and emissions budgets being found adequate or approved. Therefore, states are not required to include ammonia in conformity determinations prior to submission of a SIP unless the state air agency or EPA regional office makes a finding that on-road emissions of ammonia are a significant contributor to an area's $PM_{2.5}$ problem. If a state determines through its SIP development process that on-road emissions of ammonia are significant and the SIP includes an adequate or approved emissions budget for ammonia, then future conformity determinations will be required to include a regional emissions analysis for ammonia.

C. Response to Comments

1. Required Precursors

Two comments received on the November 5, 2003, proposed rulemaking indicated support for identifying NO_X, VOCs, SO_X and ammonia as potential transportation-related $PM_{2.5}$ precursors. No commenters were opposed to identifying all of these as potential precursors.

EPA received a number of comments on the proposed options for addressing precursors during the period before $PM_{2.5}$ SIPs are submitted and emissions budgets are found adequate or approved. The majority of commenters supported option 2 included in the November 2003 proposal. Option 2 would have required significance findings for any of the four precursors to be analyzed in conformity determinations prior to EPA finding emissions budgets in a $PM_{2.5}$ SIP adequate or EPA's approval of that SIP. Some commenters that supported option 2 believed that limited resources would be best used by determining which precursors contribute significantly to an area's air quality problem before conformity for those precursors was required. A number of commenters also supported the proposed option 1. Option 1 would have required NO_X and VOCs to be analyzed in conformity determinations prior to the submission of $PM_{2.5}$ SIPs unless one or both precursors was determined to be insignificant. This option also would not have required SO_X or ammonia to be analyzed for conformity prior to a submitted SIP unless one or both precursors was found significant. Two supporters of option 1 believed sufficient air quality data exists for their areas to support requiring analysis of NO_X and VOCs in conformity determinations prior to the submission of a $PM_{2.5}$ SIP.

One commenter recommended that to properly implement the Clean Air Act in all $PM_{2.5}$ areas, conformity determinations should be required for all four precursors prior to the submission of a $PM_{2.5}$ SIP unless a precursor was found to be insignificant. This commenter believed that it would be unreasonable to allow an area to opt out of conducting an analysis by default for a precursor that could be responsible for a large portion of $PM_{2.5}$. Additionally, two commenters indicated that SO_X should be addressed in conformity determinations prior to submission of a $PM_{2.5}$ SIP unless it is found to be insignificant. One commenter stated that ammonia should be included in conformity determinations as soon as modeling and analysis tools are available. Another commenter opined that the only pollutant that should require a significance finding prior to the submission of a $PM_{2.5}$ SIP is ammonia.

EPA considered all of these comments along with a number of other factors including, speciated air quality data, emissions inventory information, and the state of the scientific understanding of the formation of secondary particles. We based today's decision on all of these factors as described above in section III.B.

Several commenters believed that SIP budgets for one or more of the $PM_{2.5}$ precursors should be established before conformity is required for those precursors. Specifically, two commenters believed that SO_X and ammonia should be evaluated for significance and have SIP budgets before conformity is required. Three other commenters believed that conformity determinations should not be required for any $PM_{2.5}$ precursors prior to the submission of a SIP and emissions budgets being found adequate or approved. One of these commenters stated that §§ 93.102(b)(2)(iii)–(v) and 93.102(b)(3) should refer to budgets because conformity should only be required if there is an explicit motor vehicle emissions budget that is intended to be a ceiling on future emissions.

EPA disagrees with these commenters. Clean Air Act section 176(c)(6) requires that conformity apply in new nonattainment areas one year after the effective date of the nonattainment designation, even prior to the submission of SIPs establishing budgets for a particular pollutant or precursor. Clean Air Act section 176(c)(4) provides EPA with the authority to establish conformity tests that will ensure that transportation plans, TIPs and projects do not result in new violations of an air quality standard, increase the frequency or severity of an existing violation, or delay timely attainment of a standard during the period before a SIP is submitted. While the contribution of mobile sources to $PM_{2.5}$ nonattainment problems is likely to vary from area to area, on-road emissions of at least NO_X, and perhaps other precursors, are likely to make a significant contribution to $PM_{2.5}$ problems in most areas. Therefore, EPA believes it is both required by the Clean Air Act and necessary to protect public health for $PM_{2.5}$ areas to begin considering the role of on-road emissions of $PM_{2.5}$ precursors in their $PM_{2.5}$ air quality problems, and to demonstrate conformity for those precursors that make a significant contribution to their air quality problems once conformity applies for $PM_{2.5}$. Before adequate or approved SIP budgets are established, $PM_{2.5}$ areas must use one of the interim emissions tests in § 93.119 to fulfill this statutory requirement.

One commenter opined that requiring conformity for additional precursors results in additional burden. The commenter stated that any additional pollutant or precursor that has to be included in a conformity determination leads to additional modeling runs, additional documentation of results, additional explanation to the public and regional decision makers and an additional opportunity for a conformity lapse. This commenter believed that EPA should not minimize these resource requirements or use this argument to support the inclusion of $PM_{2.5}$ precursors in conformity determinations prior to a SIP submission.

EPA understands the commenter's concerns and has attempted to structure requirements for $PM_{2.5}$ precursors so that human health and air quality are protected while targeting regional emissions analyses to only those precursors whose on-road emissions make a significant contribution to an area's $PM_{2.5}$ air quality problem. However, EPA continues to believe as stated in the November 2003 proposal that including $PM_{2.5}$ precursors in $PM_{2.5}$ regional emissions analyses prior to the submission of a SIP should not result in any additional transportation or emissions modeling because $PM_{2.5}$ areas will already be producing VMT and

emissions estimates for direct $PM_{2.5}$ (68 FR 62706). The same VMT estimates would be used in calculating emissions of any and all precursors. Additionally, emission factors for the relevant precursors would generally be produced in the same model runs as the emission factors for direct $PM_{2.5}$. EPA recognizes that there would be some small increase in burden in documenting these results and in discussing these precursors with regional decision makers and the public, but we believe this small increase is merited if a precursor is a significant contributor to an area's air quality problem.

EPA also recognizes that it is possible that an area could lapse because it may not be able to demonstrate conformity for one or more of the $PM_{2.5}$ precursors. EPA and DOT always attempt to work with areas that are experiencing problems demonstrating conformity in order to resolve problems before a lapse occurs. However, the Clean Air Act's conformity requirements are intended to ensure that the use of Federal transportation funds does not cause new air quality problems, make existing problems worse, or delay meeting a Clean Air Act requirement such as attainment. Therefore, if one or more precursors is a significant contributor to an area's air quality problem, the inability to demonstrate conformity for such precursors would be consistent with the Clean Air Act's intended purpose of the conformity process. In other words, if conformity cannot be demonstrated for a significant precursor, Federal transportation funds could not be spent on transportation activities that potentially would cause a new air quality problem, worsen an existing problem, or delay attainment or other emission reduction milestone. The inability to demonstrate conformity would indicate that further action is needed before Federal transportation funding and approvals can occur so that ultimately both transportation and air quality goals are achieved.

2. Significance Findings

A number of commenters expressed support for significance findings to be made by either the state air agency or the EPA regional office before a $PM_{2.5}$ SIP is submitted. However, commenters also suggested different options for making significance findings. Thirteen commenters stated that both the state air agency and the EPA regional office should make the finding, while two commenters stated that the finding should be made through an area's interagency consultation process. Another commenter recommended that only the state should have the ability to make significance findings.

EPA is making one change with regard to insignificance findings. EPA has determined that insignificance findings for NO_X should be made by both the state air agency and the EPA regional office. EPA believes that requiring both the state air agency and the EPA regional office to make an insignificance finding for NO_X is appropriate because, as stated above in this rulemaking, EPA has initially determined that NO_X is a significant precursor for all $PM_{2.5}$ nonattainment areas. Additionally, all other insignificance findings made within the transportation conformity and SIP processes require both state air agency and EPA regional office action because they are made through either a motor vehicle emission budget adequacy finding or a SIP approval as required by § 93.109(k) of the conformity regulation. Therefore, EPA believes that it is necessary that both the state air agency and the EPA regional office make a finding that on-road emissions of NO_X are an insignificant contributor to an area's $PM_{2.5}$ air quality problem prior to the submission of a SIP. A finding made by both agencies provides assurance that on-road emissions of NO_X are in fact insignificant contributors to an area's $PM_{2.5}$ air quality problem and therefore may be omitted from conformity determinations prior to the submission of a SIP for the area.

Finally, EPA believes that an insignificance finding for NO_X should be made by both the state air agency and the EPA regional office because NO_X is the only pollutant/precursor for which a regional analysis is not required if a finding is made. That is, the conformity rule allows NO_X to be found insignificant before a SIP is submitted and therefore not be included in subsequent conformity determinations. For all other $PM_{2.5}$ and PM_{10} pollutants/precursors covered by the conformity rule (*i.e.*, VOCs, SO_X and ammonia as $PM_{2.5}$ precursors; NO_X and VOCs as PM_{10} precursors and road dust as a contributor to $PM_{2.5}$ air quality problems) either the state air agency or the EPA regional office can decide if emissions are significant and therefore should be included in conformity determinations prior to the submission of a SIP and emissions budgets being found adequate or approved. However, a finding for NO_X (in this case, a finding of insignificance) would lead to a less environmentally conservative result where NO_X would no longer be considered in conformity determinations.

In contrast, consistent with the rule's requirements for significance findings for other precursor emissions and the November 5, 2003, proposal, today's action specifies that significance findings for VOCs, SO_X and ammonia as $PM_{2.5}$ precursors can be made by either the state air agency or the EPA regional office. We believe that changes to the procedures for finding VOCs, SO_X and ammonia precursor emissions significant in response to comments are unnecessary because such findings would result in the inclusion of one or more precursors in conformity which would be more environmentally protective. Furthermore, allowing significance findings for VOCs, SO_X and ammonia to be made by either the state air agency or the EPA regional office acknowledges the state's authority as well as EPA's role in ensuring national consistency in such decisions. The language used in the final rule for these three $PM_{2.5}$ precursors is consistent with how such findings have been made for PM_{10} precursors, since the original 1993 conformity rule. Today's final rule for these three precursors is also consistent with how such findings are to be made for $PM_{2.5}$ road dust. The road dust requirements were finalized in the July 1, 2004, final rule. EPA believes that maintaining consistency in cases where precursors are determined to be significant will facilitate implementation of the conformity rules with no adverse impacts, in light of the role interagency consultation will play as explained above.

One commenter, who favored including all precursors in conformity determinations prior to the submission of a SIP, stated that a precursor could be found to be insignificant if current on-road emissions are less than five percent of total $PM_{2.5}$ and no increases are expected on a percentage basis during the period covered by the SIP or the conformity determination for the area. EPA disagrees with this suggested approach. Merely using a percentage level as a basis for a significance or insignificance finding ignores many other aspects of an area's nonattainment problem. Rather, EPA believes that a combination of the criteria for insignificance findings contained in § 93.109(k) of the conformity rule and the discussion of insignificance and significance findings as they apply to $PM_{2.5}$ precursors contained in this notice provide the appropriate basis for deciding whether or not a $PM_{2.5}$ precursor is significant or insignificant in a given area. Discussion of EPA's rationale for establishing criteria for significance and insignificance findings

can be found in the preamble to the July 1, 2004, final rule (69 FR 40061 through 40063). Therefore, EPA is not adopting the criteria suggested by the commenter.

One commenter believed that if all precursors were considered in conformity prior to a SIP submission it could be presumed that these precursors will ultimately be included in the SIP for the area. In such a case, the commenter believed it would be difficult to justify not including the precursors in the SIP for the area if the state presumptively includes all of them in the first conformity determination. As previously stated, under today's final rule any significance finding made prior to EPA's adequacy finding for budgets in a SIP, or EPA's approval of the SIP, should not be viewed as the ultimate determination of the significance of precursor emissions in a given area. State and local agencies may find through the SIP development process that emissions of one or more precursors are significant, even if a precursor had previously been considered insignificant. In such a case, the $PM_{2.5}$ SIP would establish a motor vehicle emissions budget for that precursor and a regional emissions analysis for that precursor would be included in subsequent conformity determinations. Similarly, state and local agencies may find that a precursor is insignificant when preparing the SIP, even if previously found significant prior to the SIP's preparation.

One commenter stated that the insignificance policy should be applied to precursor emissions in $PM_{2.5}$ nonattainment and maintenance areas for a variety of reasons such as the need for additional information on the nature and cause of an area's $PM_{2.5}$ problem, speciation of $PM_{2.5}$ and availability of $PM_{2.5}$ control measures. EPA agrees with this commenter. Today's final rule allows nonattainment areas to make findings on the significance of each of the four precursors to their $PM_{2.5}$ air quality problem during the period before a SIP is submitted and budgets are found adequate as described above. The insignificance policy also generally applies after a SIP is submitted, via the decisions about precursors that are determined in the SIP.

One commenter requested additional guidance on significance and insignificance findings. EPA does not believe that additional guidance on significance and insignificance findings is necessary at this time. EPA has described the criteria to be considered and the process to be used in making these findings in § 93.109(k) of the conformity rule and in today's preamble. Additional discussion and details on insignificance findings can be found in the preamble to the July 1, 2004, final rule (69 FR 40061 through 40063).

3. Precursors in SIPs

One commenter stated that after $PM_{2.5}$ SIPs are submitted, areas should consider all four precursors in conformity determinations unless the SIP clearly states that one or more precursors are insignificant. EPA is not making any changes in response to this comment. EPA does not believe that it is necessary for a SIP to explicitly state that a precursor is insignificant. Instead, EPA believes that states will consider the on-road contribution of all four precursors to the $PM_{2.5}$ problem as they develop their SIPs. If through the SIP process a state concludes that on-road emissions of one or more precursors needs to be addressed in order to attain the $PM_{2.5}$ standard as expeditiously as practicable, then EPA expects that the state will include an emissions budget in the SIP for each of the relevant precursors. A conformity determination will then be required for each precursor for which there is a budget, after the emissions budgets are found adequate or approved. In making a decision about each precursor, states should consider the insignificance criteria contained in § 93.109(k) of the conformity rule and the current state of the science concerning the precursor's role in the formation of $PM_{2.5}$. Once SIPs are submitted and found adequate or approved the conformity rule requires that conformity be assessed against the budgets in the applicable SIP. Conformity determinations must then address all precursors for which the SIP establishes a budget, and need not address any possible precursor for which the state has not established a budget because the emissions of that precursor are insignificant.

EPA notes that, if inventory and modeling analyses demonstrating reasonable further progress, attainment or maintenance indicate a level of emissions of a precursor that must be maintained to demonstrate compliance with the applicable requirement, then that level of emissions should be clearly identified in the SIP as a motor vehicle emissions budget for transportation conformity purposes consistent with § 93.118(e) even if the SIP does not establish particular controls for the given precursor. If the state fails to identify such a level of emissions as a motor vehicle emissions budget, EPA will find the submitted SIP budgets inadequate because the SIP fails to clearly identify the motor vehicle emissions budget as required by conformity rule § 93.118(e)(4)(iii).

Several commenters raised concerns about SIP development and regional emissions analyses in areas that are nonattainment for both 8-hour ozone and $PM_{2.5}$. One of these commenters asked if NO_X and VOC conformity analyses would be the same for both pollutants in these areas. Another commenter asked if NO_X and VOC budgets would be the same for 8-hour ozone and $PM_{2.5}$ SIPs in these areas.

EPA does not expect that either regional emissions analyses or budgets for NO_X and VOCs will be the same for 8-hour ozone and $PM_{2.5}$ standards in areas that are nonattainment for both pollutants, for several reasons. First, it is likely that most areas will have different attainment dates for each of the two pollutants, which means that it is likely that analyses and budgets will be required for different years. Second, it is possible that in many cases the boundaries of the nonattainment area for each pollutant may be different. For example, the 8-hour ozone nonattainment area may contain more counties than the $PM_{2.5}$ nonattainment area or vice versa. Finally, VOC and NO_X regional emissions analyses and budgets for 8-hour ozone and $PM_{2.5}$ areas will most likely be developed using different meteorological conditions and, in some areas, different travel patterns. For example, because in most areas, ozone is a summertime pollutant, NO_X and VOC regional emissions and budgets in 8-hour ozone areas would be calculated using meteorological and travel data for a ''typical'' summer day. In contrast, NO_X and VOC regional emissions and budgets for $PM_{2.5}$ areas may be established using annual averages for meteorological and traffic conditions, rather than conditions for only a particular season, because most $PM_{2.5}$ nonattainment areas are violating the annual $PM_{2.5}$ standard instead of the 24-hour standard.

One commenter stated that there was an error in the proposed option 1 language in § 93.102(b)(iv) of the November 2003 rulemaking. Specifically, the commenter suggested that the proposed language appeared to require conformity determinations for NO_X and VOCs if a submitted SIP does not contain emissions budgets for NO_X and VOCs. EPA disagrees; the language as proposed for NO_X and VOCs is correct and we are retaining that language for NO_X in today's final rule. We believe that the commenter misunderstood the proposal. The language in § 93.102(b)(iv) that is finalized today requires that conformity

determinations be made for NO_X unless: (1) During the period before a SIP is submitted and budgets are found adequate or approved the state air agency and EPA regional office make a finding that on-road emissions of NO_X are not significant contributors to an area's air quality problem; and/or (2) the area's SIP does not establish an emissions budget for on-road emissions of NO_X. In other words, if the SIP includes an adequate or approved emissions budget for NO_X, then NO_X must be analyzed in conformity determinations in $PM_{2.5}$ nonattainment areas. In contrast, if the SIP does not contain a budget for NO_X and instead concludes that emissions of NO_X could rise to any reasonably foreseeable level without impairing reasonable further progress or attainment, EPA would make an insignificance finding, either through a motor vehicle emissions budget adequacy finding or through a SIP approval, and NO_X would not have to be considered for conformity purposes.

4. Modeling Concerns

Several commenters expressed concerns about generating estimates for $PM_{2.5}$ precursors. One commenter stated that few areas have experience using MOBILE6 to evaluate $PM_{2.5}$ emissions and that unexpected issues and problems will arise from the use of MOBILE6. The commenter believed that difficulties will come from both model shortcomings and inexperience of the users. Another commenter had concerns about relying on a future release of MOBILE6.2 or other future guidance for estimating precursor emissions. A third commenter stated that there is a need for guidance on analysis techniques for ammonia and SO_X.

Since the conformity proposal was published in November 2003, EPA has released MOBILE6.2. MOBILE6.2 is based on the latest available information concerning vehicle emissions and is therefore the best available tool at this time for calculating on-road emissions of $PM_{2.5}$ precursors (in all states except California). The **Federal Register** notice announcing the release of the model was published on May 19, 2004 (69 FR 28830). EPA released SIP and conformity policy guidance on the use of MOBILE6.2 on February 24, 2004, entitled, ''Policy Guidance on the Use of MOBILE6.2 and the December 2003 AP–42 Method for Re-Entrained Road Dust for SIP Development and Transportation Conformity.'' EPA released technical guidance on the use of the MOBILE6.2 model in August 2004. Information on training in the use of MOBILE6.2, related policy memoranda and the technical guidance in the use of the model are available on EPA's MOBILE Web site at *http://www.epa.gov/otaq/m6.htm.*

EPA understands the concerns that these commenters have expressed about estimating precursors. However, we believe there is adequate time for new areas to gain MOBILE experience and conduct conformity analyses for the $PM_{2.5}$ standard before the end of the one-year conformity grace period. We believe that the material described above contains sufficient information for the states that use MOBILE to conduct modeling of on-road emissions of ammonia and SO_X. Therefore, we believe that additional guidance or analytical techniques for estimating these precursors is unnecessary. EPA recognizes, however, that California needs to complete the development of a methodology for estimating on-road emissions of ammonia before ammonia would be included in conformity determinations in California, as discussed above in Section III. A.

5. State of the Science

Two commenters expressed concern about the current understanding of the formation of secondary particles. One commenter stated that the role of ammonia needs to be evaluated quickly so that states can have all information possible while they plan to attain the $PM_{2.5}$ standard. The other commenter stated that there is a lack of understanding about the formation of secondary particles. This commenter believed that unnecessary analysis of potential $PM_{2.5}$ precursors would be time consuming and overly burdensome without producing substantial air quality benefits.

EPA acknowledges that our understanding of the formation of secondary particles is not complete. However, EPA believes that this final rule strikes an appropriate balance between preserving limited state and local resources and environmental protection. Our incomplete understanding of the role of VOCs and ammonia in the formation of secondary particles is one of the reasons that we determined that $PM_{2.5}$ nonattainment areas should not be required to address those precursors in conformity determinations before SIP budgets are available unless a significance finding is made. On the other hand, EPA believes that there is clear evidence and a substantial understanding of the role of NO_X and SO_X in the formation of secondary particles. Additional information on the role of each of the precursors can be found in the U.S. EPA Criteria Document,[6] and in the NARSTO Fine Particle Assessment.[7]

EPA agrees that further research is needed on the role of ammonia in particle formation and the benefits of ammonia control measures. Ongoing research is expected to greatly improve our understanding of ammonia control measures as well as our understanding of the role of ammonia in aerosol formation. However, as states and EPA develop a greater understanding over the coming years about the air quality effects of reducing ammonia emissions in specific nonattainment areas, it may be appropriate for ammonia reduction strategies to be included in future SIPs and it may be appropriate to include ammonia in future conformity determinations.

6. Comment Period

One commenter requested an additional comment period for $PM_{2.5}$ related requirements. As stated in the July 1, 2004, **Federal Register** notice, EPA determined that it is not necessary to reopen the comment period on the proposed options for addressing $PM_{2.5}$ precursors in conformity determinations (69 FR 40032). EPA published a supplemental proposal on $PM_{2.5}$ hot-spot analyses on December 13, 2004. Providing the public with an opportunity to comment the proposed options for hot-spot analyses. Additionally, when EPA publishes the proposed $PM_{2.5}$ implementation strategy the public will have the opportunity to comment on that proposal as well. EPA concludes that the comment periods for these rulemakings has provided the public with adequate time to comment on additional issues related to $PM_{2.5}$.

IV. Technical Correction to Public Consultation Procedures

In this action, we are correcting a cross-reference to a provision of DOT's transportation planning regulations that is cited under the public consultation procedure requirements in § 93.105(e) of the conformity rule. This cross-reference to the transportation planning regulations is intended to specify the provision of DOT's regulations that

[6] USEPA, 2003. Air Quality Criteria for Particulate Matter (Fourth External Review Draft). EPA/600/P–99/002aD and bD. U.S. Environmental Protection Agency, Office of Research and Development, National Center For Environmental Assessment, Research Triangle Park Office, Research Triangle Park, NC. June 2003. Available electronically at *http://cfpub.epa.gov/ncea/cfm/partmatt.cfm.*

[7] North American Research Strategy for Tropospheric Ozone (NARSTO) and Particulate Matter, *Particulate Matter Science for Policy Makers—A NARSTO* Assessment, Parts 1 and 2. NARSTO Management Office (Envair), Pasco, Washington. February 2003.

contains the fee schedule for public inspection and copying of transportation planning and conformity documents. Prior to today's action the cross-reference was listed as 49 CFR 7.95; this final rule changes the cross-reference to 49 CFR 7.43.

EPA is making this technical correction to § 93.105(e) as a result of DOT's July 16, 1998, final rule that changed the citation of the transportation planning fee schedule provision (63 FR 38331). We did not issue a proposal or provide an opportunity for public comment for this minor correction to the rule. We believe such actions are unnecessary because this minor revision in no way changes the substantive public consultation procedures described in § 93.105(e) of the conformity rule. This revision merely updates a cross reference in the conformity rule to be consistent with the recodification of DOT's regulations so that implementers can more easily locate the correct corresponding DOT regulation.

V. How Does Today's Final Rule Affect Conformity SIPs?

Today's final rule does not affect conformity SIP requirements. In all nonattainment and maintenance areas with and without approved conformity SIPs, the final rule requirements for $PM_{2.5}$ precursors will apply immediately upon the effective date of today's action because no prior conformity rules (or approved conformity SIPs) address precursors for $PM_{2.5}$. The technical correction to § 93.105(e) included in this rulemaking will apply immediately upon the effective date in all areas except those that have an approved conformity SIP containing this provision. For these areas, the § 93.105(e) correction will not be reflected in their SIPs until the state includes the correction in a SIP revision and EPA approves that revision. EPA has no authority to disregard this statutory requirement for this portion of today's final rule. EPA does not believe, however, that the conformity SIP requirement will preclude areas with approved SIPs from appropriately implementing § 93.105(e), as today's action merely corrects a cross-reference to DOT's transportation planning regulations. We believe that areas can interpret their approved conformity SIPs consistent with today's change to reflect the new correct citation. We believe this interpretation would be reasonable, given that this change to DOT's fee schedule rules is merely one of reorganizing and not one of substance. EPA will work with states as appropriate to approve revisions to their conformity SIPs as expeditiously as possible through flexible administrative techniques such as parallel processing and direct final rulemaking. EPA released guidance on conformity SIPs on November 18, 2004, entitled, ''Conformity SIP Guidance.'' This guidance is primarily intended to assist areas with approved conformity SIPs determine which provisions of the July 1, 2004, conformity rule amendments apply immediately and which provisions cannot apply until their conformity SIPs are revised.

By way of background, Clean Air Act section 176(c)(4)(C) currently requires states to submit revisions to their SIPs to reflect the criteria and procedures for determining conformity. States can choose to develop conformity SIPs as a memorandum of understanding (MOU), memorandum of agreement (MOA), or state rule. However, a state must have and use its authority to make an MOU or MOA enforceable as a matter of state law, if such mechanisms are used. Section 51.390(b) of the conformity rule specifies that after EPA approves a conformity SIP revision, the federal conformity rule no longer governs conformity determinations (for the parts of the rule that are covered by the approved conformity SIP). In accordance with § 51.390, states must submit a revision to their conformity SIP to reflect the provisions of this final rule within 12 months of the publication date.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

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

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

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

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

It has been determined that this final rule is not a ''significant regulatory action'' under the terms of Executive Order and therefore not subject to OMB.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* And has assigned OMB control number 2060–0561.

Transportation conformity determinations are required under Clean Air Act section 176(c) (42 U.S.C. 7506(c)) to ensure that federally supported highway and transit project activities are consistent with (''conform to'') the purpose of the SIP. Conformity to the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant air quality standards. Transportation conformity applies under EPA's conformity regulations at 40 CFR parts 51.390 and 93 to areas that are designated nonattainment and those redesignated to attainment after 1990 (''maintenance areas'' with SIPs developed under Clean Air Act section 175A) for transportation-source criteria pollutants. The Clean Air Act gives EPA the statutory authority to establish the criteria and procedures for determining whether transportation activities conform to the SIP.

EPA provided two opportunities for public comment on the incremental burden estimates for transportation conformity determinations under the new 8-hour ozone and $PM_{2.5}$ standards. EPA received comments on both the initial burden estimates provided in the November 5, 2003, proposal (68 FR 62720) and on the revised estimates in the January 5, 2004, ICR (69 FR 336). EPA responded to all of these comments in the ICR that has been approved by OMB. This ICR addresses all aspects of the conformity rulemaking effort for the new air quality standards. EPA estimated burden in this ICR is based on implementing the most intensive options proposed for all aspects of the conformity rules, including $PM_{2.5}$ precursors. The options selected in today's final action are consistent with the burden estimated in the ICR.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal

agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information; process and maintain information; and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and, transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. In addition, EPA has amended the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations to list the regulatory citations for the information requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires the Agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit organizations and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This regulation directly affects Federal agencies, state departments of transportation and metropolitan planning organizations that, by definition, are designated under Federal transportation laws only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities within the meaning of the Regulatory Flexibility Act.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this final rule itself does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The primary purpose of this rulemaking is to incorporate into the conformity regulations the $PM_{2.5}$ precursors that must be considered in conformity determinations in $PM_{2.5}$ nonattainment and maintenance areas. Clean Air Act section 176(c)(5) requires the applicability of conformity to such areas as a matter of law one year after nonattainment designations. Therefore, this final rule merely implements already established law that imposes conformity requirements and does not itself impose requirements that may result in expenditures of $100 million or more in any year. As a result, today's action is not subject to the requirements of sections 202 and 205 of the UMRA and EPA has not prepared a statement with respect to budgetary impacts.

E. Executive Order 13132: Federalism

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

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The Clean Air Act requires conformity to apply in certain nonattainment and maintenance areas as a matter of law, and this final rule merely establishes and revises procedures for transportation planning entities in subject areas to follow in meeting their existing statutory obligations. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175: ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on

the distribution of power and responsibilities between the Federal Government and Indian tribes.''

Today's amendments to the conformity rule do not significantly or uniquely affect the communities of Indian tribal governments, as the Clean Air Act already requires transportation conformity to apply as a matter of law in any area that is designated nonattainment or maintenance. This final rule incorporates into the conformity rule provisions addressing newly designated $PM_{2.5}$ nonattainment and maintenance areas subject to conformity requirements as a matter of law under the Act that would not themselves have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Accordingly, the requirements of Executive Order 13175 are not applicable to this final rule.

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

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

This final rule is not subject to Executive Order 13045 because it is not economically significant within the meaning of Executive Order 12866 and does not involve the consideration of relative environmental health or safety risks on children.

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

This final rule is not subject to Executive Order 13211, ''Action Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355; May 22, 2001), because it will not have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. ''Voluntary consensus standards'' are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, the use of voluntary consensus standards does not apply to this final rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on June 6, 2005.

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such a rule or action. This action may not be challenged later in proceeding to enforce its requirements. (See section 307(b)(2) of the Administrative Procedures Act.)

List of Subjects in 40 CFR Part 93

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Transportation, Volatile organic compounds.

Dated: May 2, 2005.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, 40 CFR part 93 is amended as follows:

PART 93—[AMENDED]

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 2. Section 93.102 is amended by:
■ a. removing the word ''and'' at the end of paragraph (b)(2)(ii);
■ b. removing the period at the end of paragraph (b)(2)(iii) and replacing it with a semicolon; and
■ c. adding paragraphs (b)(2)(iv) and (v).

The revisions and additions read as follows:

§ 93.102 Applicability.

* * * * *

(b) * * *

(2) * * *

(iv) NO_X in $PM_{2.5}$ areas, unless both the EPA Regional Administrator and the director of the state air agency have made a finding that transportation-related emissions of NO_X within the nonattainment area are not a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT, or the applicable implementation plan (or implementation plan submission) does not establish an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy; and

(v) VOC, sulfur oxides (SO_X) and/or ammonia (NH3) in $PM_{2.5}$ areas either if the EPA Regional Administrator or the director of the state air agency has made a finding that transportation-related emissions of any of these precursors within the nonattainment area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

* * * * *

■ 3. Section 93.105(e) is amended by revising the reference ''49 CFR 7.95'' to read ''49 CFR 7.43.''
■ 4. Section 93.119 is amended by:
■ a. removing the word ''and'' at the end of paragraph (f)(7);

■ b. removing the period at the end of paragraph (f)(8) and replacing it with a semicolon; and

■ c. adding new paragraphs (f)(9) and (f)(10).

The revisions and additions read as follows:

§ 93.119 Criteria and procedures: Interim emissions in areas without motor vehicle emissions budgets.

* * * * *

(f) * * *

(9) NO_X in $PM_{2.5}$ areas, unless the EPA Regional Administrator and the director of the State air agency have made a finding that emissions of NO_X from within the area are not a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT; and

(10) VOC, SO_X and/or ammonia in $PM_{2.5}$ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that any of such precursor emissions from within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT.

* * * * *

[FR Doc. 05–9086 Filed 5–5–05; 8:45 am]

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H.R. 787/P.L. 109–10

To designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse". (Apr. 29, 2005; 119 Stat. 228)

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