Federal Register

6–22–05 Wednesday

Vol. 70 No. 119 June 22, 2005

Pages 35985–36324

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RESERVATIONS: (202) 741–6008

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Federal Register

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 229, Special Condition 23–168–SC]

Special Conditions; Duncan Aviation Inc., EFIS on the Raytheon 300 King Air; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Duncan Aviation Inc., 15745 S Airport Rd Battle Creek, MI 49015, for a Supplemental Type Certificate for the Raytheon 300 King Air. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of an electronic flight instrument system (EFIS). The EFIS consists of the Universal Avionics, Inc. EFI–890R system for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). The installation includes three EFI–890R Flat Panel Displays (two Primary Flight Displays Pilot/Copilot and one Navigational Displays Pilot), and supporting equipment. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is June 15, 2005. Comments must be received on or before July 22, 2005.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. 229, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE229. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Wes Ryan, AerospaceEngineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4127.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. *229*.'' The postcard will be date stamped and returned to the commenter.

Background

Duncan Aviation made application to the FAA for a new Supplemental Type Certificate for the Raytheon Model 300. The Raytheon Model 300 is currently approved under TC No. A24CE. The proposed modification incorporates a novel or unusual design features, such as a digital Primary Flight Display, that may be vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, Duncan Aviation must show that the Raytheon Model 300 aircraft meets the original certification basis for the airplane, as listed on Type Data Sheet A24CE, additional certification requirements added for the Universal Avionics EFI–890 system, exemptions, if any; and the special conditions adopted by this rulemaking action. The rules that were applied at Part 23 Amendment 54 for this STC include 23.1301, 23.1311, 23.1309, 23.1321, 23.1322, 23.1325, and 23.1543.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Duncan Aviation plans to incorporate certain novel and unusual design features into the Raytheon Model 300 airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for

protection from the effects of HIRF. These features include EFIS, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems from High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid-state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

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

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant for approval by the FAA to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions, whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Raytheon Model 300. Should Duncan Aviation apply at a later date for a supplemental type certificate to modify any other model on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

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

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

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

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Raytheon Model 300 airplane modified by Duncan Aviation to add the Universal Avionics EFI–890 system.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

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

Issued in Kansas City, Missouri on June 15, 2005.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12363 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19754; Directorate Identifier 2004–NM–181–AD; Amendment 39–14138; AD 2005–13–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700 & 701) Series Airplanes, and Model CL–600–2D24 (Regional Jet Series 900) Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model CL–600–2C10 (Regional Jet series 700 & 701) series airplanes, and Model CL–600–2D24 (Regional Jet series 900) series airplanes. This AD requires revising the Airworthiness Limitations section of the Instructions of Continued Airworthiness by incorporating new repetitive inspections and an optional terminating action for the repetitive inspections, and repairing any crack. This AD is prompted by reports of hydraulic pressure loss in either the number 1 or number 2 hydraulic system due to breakage or leakage of hydraulic lines in the aft equipment bay and reports of cracks on the aft pressure bulkhead web around these feed-through holes. We are issuing this AD to prevent loss of hydraulic pressure, which could result in reduced controllability of the airplane, and to detect and correct cracks on the aft pressure bulkhead web, which could result in reduced structural integrity of the aft pressure bulkhead.

DATES: This AD becomes effective July 27, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of July 27, 2005.

ADDRESSES: For service information identified in this AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2004–19754; the directorate identifier for this docket is 2004–NM–181–AD.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7312; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Bombardier Model CL–600–2C10 (Regional Jet series 700 & 701) series airplanes, and Model CL–600–2D24 (Regional Jet series 900) series airplanes. That action, published in the **Federal Register** on December 1, 2004 (69 FR 69842), proposed to require revising the Airworthiness Limitations section of the Instructions of Continued Airworthiness by incorporating new repetitive inspections and an optional terminating action for the repetitive inspections, and repairing any crack.

Comments

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

Request To Remove Airplanes From the Applicability

One commenter requests that certain airplane serial numbers be excluded from the applicability specified in paragraph (c) of the proposed AD. The commenter states that the inspection of the hydraulic tube adapters specified in Bombardier CRJ 700/900 Series Temporary Revision (TR) MRM2–129, dated June 1, 2004 (referenced in the proposed AD as the appropriate source of service information), should be applicable to Bombardier Model CL–600–2C10 (Regional Jet Series 700 & 701) series airplanes having serial numbers 10003 through 10099 inclusive, since Modification Summary 670T11944 was introduced in production at serial number 10100. The commenter also states the two remaining inspections of the bulkhead assembly and pylon pressure pan specified in TR MRM2–129 should be applicable to only airplanes having serial numbers 10003 through 10156 inclusive, since Modification Summary 670T11508 was incorporated in production at serial number 10157.

We agree. Bombardier CRJ 700/900 Series MRM2–129, dated June 1, 2004, identifies Modification Summaries 670T00494 or 670T11944; and Modification Summary 670T11508 or Bombardier Service Bulletin 670BA–29–008, dated March 12, 2004, or Revision A, dated May 5, 2004; as terminating modification for the applicable repetitive inspections. Therefore, we have revised the applicability of this AD to ''exclud[e] those airplanes on which Modification Summaries 670T00494 or 670T11944; and Modification Summary 670T11508 or Bombardier Service Bulletin 670BA–29–008, dated March 12, 2004, or Revision A, dated May 5, 2004); has been incorporated in production.''

Request To Refer to Latest Revision of Maintenance Requirement Manual

One commenter requests that paragraph (f) of the proposed AD refer to Revision 4, dated September 9, 2004, of the general revisions of the Maintenance Requirement Manual instead of Bombardier CRJ 700/900 Series TR MRM2–129, dated June 1, 2004. The commenter states that TR MRM2–129 was superseded by Revision 4 of the general revisions before

publication of the NPRM in the **Federal Register**.

We contacted the commenter to get clarification about its request. In an e-mail response, the commenter states that its Maintenance Requirement Manual no longer contains TR MRM2–129, because it has been superseded by Revision 4 of the general revisions. The commenter also states that there are differences between the two documents and provides an example of such a difference.

We do not agree with the commenter's request to revise paragraph (f) of the AD. We acknowledge that, once TR MRM2–129 is incorporated into the general revisions of the Maintenance Requirement Manual, it is void and no longer exists. It is impossible for us to ascertain the revision level of the general revisions at which the contents of a TR will be incorporated and to anticipate when that will be done. Therefore, we find it appropriate to refer to TR MRM2–129 in paragraph (f) of the AD. It should be noted that we attempted to address incorporation of the contents of TR MRM2–129 into the general revisions in paragraph (h) of the proposed AD, which states, ''When the information in TR MRM2–129, dated June 1, 2004, is included in the general revisions of the Maintenance Requirement Manual, this TR may be removed.'' However, we find that clarification is necessary and have revised paragraph (h) to read ''When the information in TR MRM2–129, dated June 1, 2004, is included in the general revisions of the Maintenance Requirement Manual, the general revisions may be inserted into the Airworthiness Limitations section of the Instructions of Continued Airworthiness and this TR may be removed.''

Request To Revise Compliance Time for Paragraph (h)(2) of the NPRM

One commenter requests that a subparagraph be added to paragraph (h) of the proposed AD stating, ''Within 30 days after the effective date of this AD for cracks previously repaired revise the Airworthiness Limitations section of the Maintenance Requirement Manual as stated in (h)(2).'' The commenter notes that paragraph (h) of the proposed AD does not address airplanes that were previously repaired.

A second commenter requests that paragraph (h)(2) of the proposed AD be extended from ''Within 30 days after repairing any crack * * *'' to ''Within 30 days after receiving any new inspection requirements for repairs * * *.'' The commenter states that it has experienced cases where the airplane manufacturer has exceeded 12 months for damage tolerance evaluations of its repairs.

We agree with the first commenter that paragraph (h)(2) of the proposed AD does not address airplanes that have been repaired before the effective date of this AD. The specified compliance time of ''within 30 days after repairing any crack in accordance with paragraph (h)(1) of this AD'' would ground those airplanes on the effective of this AD. We also agree with the second commenter to extend the compliance time of paragraph (h)(2) of the AD, but do not agree with the commenter's suggested compliance time. We have determined that the new inspection requirements are not always readily available after a repair. We have consulted with TCCA and determined that a 12-month compliance time is an adequate amount of time for operators to incorporate the new inspection criteria. Therefore, we have revised paragraph (h)(2) of the AD by including two new subparagraphs for the revised compliance time. The revised compliance time is as follows:

- If the repair required by paragraph (h)(1) of this AD is done after the effective date of this AD: Revise the Airworthiness Limitations section within 12 months after the repair.
- If the repair required by paragraph (h)(1) of this AD was accomplished before the effective date of this AD: Revise the Airworthiness Limitations section within 12 months after the repair or 30 days after the effective date of this AD, whichever occurs later.

Conclusion

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

Costs of Compliance

This AD will affect about 116 airplanes of U.S. registry. The required actions will take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $7,540, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–13–02 Bombardier, Inc. (Formerly Canadair): Amendment 39–14138. Docket No. FAA–2004–19754; Directorate Identifier 2004–NM–181–AD.

Effective Date

(a) This AD becomes effective July 27, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to the airplanes listed in Table 1 of this AD, certificated in any category, excluding those airplanes on which Modification Summaries 670T00494 or 670T11944; and Modification Summary 670T11508 or Bombardier Service Bulletin 670BA–29–008, dated March 12, 2004, or Revision A, dated May 5, 2004; has been incorporated in production.

TABLE 1.—APPLICABILITY

Bombardier model	Serial numbers
(1) CL–600–2C10 (Regional Jet Series 700 & 701) series airplanes	10003 through 10999 inclusive.
(2) CL–600–2D24 (Regional Jet Series 900) series airplanes	15001 through 15990 inclusive.

Unsafe Condition

(d) This AD was prompted by reports of hydraulic pressure loss in either the number 1 or number 2 hydraulic system due to breakage or leakage of hydraulic lines in the aft equipment bay and reports of cracks on the aft pressure bulkhead web around these feed-through holes. We are issuing this AD to prevent loss of hydraulic pressure, which could result in reduced controllability of the airplane, and to detect and correct cracks on the aft pressure bulkhead web, which could result in reduced structural integrity of the aft pressure bulkhead.

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

Revision of Airworthiness Limitations Section

(f) Within 30 days after the effective date of this AD, revise the Airworthiness Limitations section of the Instructions of Continued Airworthiness by inserting a copy of the new repetitive inspections and an optional terminating action of Bombardier CRJ 700/900 Series Temporary Revision (TR) MRM2–129, dated June 1, 2004, into Section 1.4, Part 2 (Airworthiness Limitations), of Bombardier Regional Jet Model CL–600–2C10 and CL–600–2D24 Maintenance Requirements Manual, CSP B–053. Thereafter, except as provided in paragraph (h)(2) or (i) of this AD, no alternative structural inspection intervals may be approved for this aft pressure bulkhead and pylon pressure pan in the vicinity of the hydraulic fittings and the hydraulic tube adapters.

(g) When the information in TR MRM2–129, dated June 1, 2004, is included in the general revisions of the Maintenance Requirement Manual, the general revisions may be inserted into the Airworthiness Limitations section of the Instructions of Continued Airworthiness and this TR may be removed.

Corrective Action

(h) If any crack is found during any inspection done in accordance with Bombardier CRJ 700/900 Series TR MRM2–129, dated June 1, 2004, or the same inspection specified in the general revisions of the Maintenance Requirement Manual, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Before further flight, repair the crack in accordance with a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(2) At the applicable time specified in paragraph (h)(2)(i) or (h)(2)(ii) of this AD, revise the Airworthiness Limitations section of the Instructions of Continued Airworthiness by inserting a copy of the inspection requirements for the repair required by paragraph (h)(1) of this AD into Section 1.4, Part 2 (Airworthiness Limitations), of Bombardier Regional Jet Model CL–600–2C10 and CL–600–2D24 Maintenance Requirements Manual, CSP B–053. Thereafter, except as provided in paragraph (i) of this AD, no alternative structural inspection intervals may be approved for this aft pressure bulkhead and pylon pressure pan in the vicinity of the hydraulic fittings, and the hydraulic tube adapters.

(i) If the repair required by paragraph (h)(1) of this AD is done after the effective date of this AD: Revise the Airworthiness Limitations section within 12 months after the repair.

(ii) If the repair required by paragraph (h)(1) of this AD was accomplished before the effective date of this AD: Revise the Airworthiness Limitations section within 12 months after the repair or 30 days after the effective date of this AD, whichever occurs later.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, New York ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(j) Canadian airworthiness directive CF–2004–14, dated July 20, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Bombardier CRJ 700/900 Series Temporary Revision MRM2–129, dated June 1, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the **Federal Register** approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. To view the AD docket, contact the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. 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 the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on June 10, 2005.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12000 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19678; Directorate Identifier 2004–NM–62–AD; Amendment 39–14141; AD 2005–13–05]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400F Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–400F series airplanes. This AD requires initial detailed and open-hole high frequency eddy current inspections for cracking of the web, upper chord, and upper chord strap of the upper deck floor beams, and repair of any cracking. This AD also requires a preventive modification of the upper deck floor beams, and repetitive inspections for cracking after

accomplishing the modification. This AD is prompted by reports of fatigue cracking found on the upper deck floor beam to frame attachment points. We are issuing this AD to prevent fatigue cracks in the upper chord, upper chord strap, and the web of the upper deck floor beams and resultant failure of the floor beams. Failure of a floor beam could result in damage to critical flight control cables and wire bundles that pass through the floor beam, and consequent loss of controllability of the airplane. Failure of the floor beam also could result in the failure of the adjacent fuselage frames and skin, and consequent rapid decompression of the airplane.

DATES: This AD becomes effective July 27, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of July 27, 2005.

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

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2004–19678; the directorate identifier for this docket is 2004–NM–62–AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 747–400F series airplanes. That action, published in the **Federal Register** on November 24, 2004 (69 FR 68277), proposed to require initial detailed and open-hole high frequency eddy current inspections for cracking of the web, upper chord, and upper chord strap of the upper deck floor beams, and repair of any cracking. That action also proposed to require a preventive modification of the upper deck floor beams, and repetitive inspections for cracking after accomplishing the modification.

Comments

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

Conclusion

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

Costs of Compliance

This AD affects about 53 airplanes worldwide and 13 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD, depending on the airplane configuration:

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of affected U.S.-registered airplanes	Fleet cost
Pre-modification inspections	11	$65	$0	$715	13	$9,295
Modification/Inspections done during modification	498 or 524	65	$13,554 or $14,874.	$45,924 or $48,934.	13	$597,012 or $636,142
Post-modification inspections	66	65	$0	$4,290, per inspection cycle.	13	$55,770

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–13–05 Boeing: Amendment 39–14141. Docket No. FAA–2004–19678; Directorate Identifier 2004–NM–62–AD.

Effective Date

(a) This AD becomes effective July 27, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to Model 747–400F series airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin 747–53A2443, dated May 9, 2002.

Unsafe Condition

(d) This AD was prompted by reports of fatigue cracking found on the upper deck floor beam to frame attachment points. We are issuing this AD to prevent fatigue cracks in the upper chord, upper chord strap, and web of the upper deck floor beams and the resultant failure of the floor beams. Failure of a floor beam could result in damage to critical flight control cables and wire bundles that pass through the floor beam, and consequent loss of controllability of the airplane. Failure of the floor beam also could result in the failure of the adjacent fuselage frames and skin, and consequent rapid decompression of the airplane.

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

Service Bulletin Reference

(f) For the purposes of this AD, the term ''service bulletin'' means the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2443, dated May 9, 2002.

Inspections/Repair/Modification

(g) Before the accumulation of 15,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later: Accomplish detailed and open-hole high frequency eddy current (HFEC) inspections for cracking of the web, upper chord, and upper chord strap of the upper deck floor beams, by doing all the applicable actions in accordance with Part 3.B.1. of the service bulletin.

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

(h) If any crack is found during any inspection required by paragraph (g) of this AD: Before further flight, accomplish the actions required by paragraph (h)(1) and (h)(2) of this AD.

(1) Repair in accordance with the service bulletin; except where the service bulletin specifies to contact Boeing for appropriate action, before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(2) Accomplish the inspections and preventive modification of the floor beams by doing all the actions in accordance with Part 3.B.2. or Part 3.B.3. of the service bulletin, as applicable. If any crack is found during any inspection, before further flight, repair as required by paragraph (h)(1) of this AD.

(i) If no crack is found during any inspection required by paragraph (g) of this AD: Accomplish the actions required by either paragraph (i)(1) or (i)(2) of this AD, at the time specified.

(1) Before further flight: Accomplish the inspections and preventive modification of the floor beam by doing all the actions in accordance with Part 3.B.2 or Part 3.B.3. of the service bulletin, as applicable. If the preventive modification is performed concurrently with the inspections required by paragraph (g) of this AD, the upper chord straps must be removed when performing the open-hole HFEC inspection. If any crack is found during any inspection, before further flight, repair as required by paragraph (h)(1) of this AD.

(2) Before the accumulation of 20,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later: Accomplish the inspections and preventive modification of the upper deck floor beams, by doing all the actions in accordance with Part 3.B.2. or 3.B.3. of the service bulletin, as applicable. If any crack is found during any inspection, before further flight, repair as required by paragraph (h)(1) of this AD.

Post-Modification Inspections

(j) Within 15,000 flight cycles after accomplishing the applicable preventive modification required by paragraph (h)(2), (i)(1), or (i)(2) of this AD: Accomplish the inspections required by either paragraph (j)(1) or (j)(2) of this AD; if any crack is found during any inspection, before further flight, repair as required by paragraph (h)(1) of this AD.

(1) Accomplish detailed and surface HFEC inspections for cracking of the web, upper chord, and upper chord strap of the upper deck floor beams, by doing all the applicable actions in accordance with Part 3.B.4. of the service bulletin. If no crack is found, repeat the inspections at intervals not to exceed 1,000 flight cycles.

(2) Accomplish detailed and open-hole HFEC inspections for cracking of the web, upper chord, and strap of the upper deck floor beams, by doing all the applicable actions in accordance with Part 3.B.5. of the service bulletin. If no crack is found, repeat the inspections at intervals not to exceed 5,000 flight cycles.

Note 2: There is no terminating action currently available for the repetitive inspections required by this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically refer to this AD.

Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 747–53A2443, dated May 9, 2002, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the **Federal Register** approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. 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 the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on June 10, 2005.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12002 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18496; Directorate Identifier 2004–NE–04–AD; Amendment 39–14143; AD 2005–13–07]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. (Formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) TFE731–2 and –3 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) TFE731–2 and –3 series turbofan engines with certain part numbers (P/Ns) and serial numbers (SNs) of low pressure (LP) 1st and 2nd stage turbine rotor discs initially installed. This AD requires replacement of those LP 1st and 2nd stage turbine rotor discs. This AD results from a report of an uncontained failure of an LP 2nd stage turbine rotor disc that resulted in an in-flight engine shutdown. We are issuing this AD to prevent LP turbine rotor disk separation, which could result in an uncontained engine failure and damage to the airplane.

DATES: This AD becomes effective July 27, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of July 27, 2005.

ADDRESSES: You can get the service information identified in this AD from Honeywell Engines and Systems (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial Aviation), fax: (602) 365–5577 (General Aviation), (602) 365–2832 (Commercial Aviation).

You may examine the AD docket on the Internet at *http://dms.dot.gov* or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood CA 90712–4137; telephone: (562) 627–5246; fax: (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) TFE731–2 and –3 series turbofan engines with certain P/Ns and SNs of LP 1st and 2nd stage turbine rotor discs initially installed as new parts before April 1, 1991. These discs were heat treated with a process that may have resulted in disk material with a non-uniform microstructure that is susceptible to creep fatigue, which may lead to cracking or separation. We published the proposed AD in the **Federal Register** on July 1, 2004 (69 FR 39875). That action proposed to require replacement of those LP 1st and 2nd stage turbine rotor discs.

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

There are about 56 Honeywell International Inc. TFE731–2 and –3 series turbofan engines of the affected design in the worldwide fleet. We estimate that 24 engines installed on airplanes of U.S. registry will be affected by this AD. We also estimate that it will take about 4 work hours per engine to perform these actions, and that the average labor rate is $65 per work hour. Required parts cost about $30,000 per engine. Based on these figures, we estimate the total cost of this AD to U.S. operators to be $726,240.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–13–07 Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.): Amendment 39–14143. Docket No. FAA–2004–18496; Directorate Identifier. 2004–NE–04–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 27, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) TFE731–2 and –3 series turbofan engines with the following low pressure (LP) 1st and 2nd stage turbine rotor disc part numbers (P/Ns), with serial numbers (SNs) listed in Tables 1, 2, and 3 of Honeywell International Inc. SB No. TFE731–72–3682, dated November 26, 2002, initially installed as new parts before April 1, 1991:

PART NUMBERS

3072069-All	3073014-All
3072070-All	3073113-All
3072351-All	3071114-All
3072542-All	3074103-All
3073013-All	3074105-All

(All denotes all dash numbers installed)

These engines are installed on, but not limited to, the following airplanes:

Avions Marcel Dassault Mystere-Falcon 10 and 50 series

Cessna Model 650, Citation III, and Citation VI

Gulfstream Aerospace LP (formerly IAI) 1125 Westwind Astra series

Israel Aircraft Industries (IAI) 1124 series

Learjet 31, 35, 36, and 55 series

Lockheed-Georgia 1329–25 series (731 Jetstar, Jetstar II)

Raytheon Corporate Jets (formerly British Aerospace) DH/HS/BH–125 series;

Sabreliner NA–265–65 (Sabreliner 65)

Unsafe Condition

(d) This AD results from a report of an uncontained failure of an LP 2nd stage turbine rotor disc that resulted in an in-flight engine shutdown. We are issuing this AD to prevent LP turbine rotor disk separation, which could result in an uncontained engine failure and damage to the airplane.

Compliance

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

Removal From Service of LP 1st and 2nd Stage Turbine Rotor Discs

(f) For TFE731–2–2J, TFE731–2–2N, TFE731–2A–2A, and TFE731–3–1J engines, replace discs that are listed by SN in Tables 1 and 3 of SB No. TFE731–72–3682, dated November 26, 2002, within 100 hours time-in-service (TIS) after the effective date of this AD.

(g) For TFE731–2 series engines except TFE731–2–2J, TFE731–2–2N, and TFE731–2A–2A engines, replace discs that are listed by SN in Tables 1 and 2 of SB No. TFE731–72–3682, dated November 26, 2002, at the next Major Periodic Inspection (MPI) or next access to the turbine discs after the effective date of this AD, but within 2,200 hours TIS since the last disc inspection, whichever occurs first.

(h) For TFE731–3 series engines except TFE731–3–1J, replace discs that are listed by SN in Table 3 of SB No. TFE731–72–3682, dated November 26, 2002, at the next MPI or next access to the turbine discs after the effective date of this AD, but within 1,500 hours TIS since the last disc inspection, whichever occurs first.

(i) Information on replacing affected discs can be found in Honeywell International Inc. SB No. TFE731–72–3682, dated November 26, 2002.

(j) After the effective date of this AD, do not install any LP 1st and 2nd stage turbine rotor disc that has a SN listed in Table 1, 2, or 3 of SB No. TFE731–72–3682, dated November 26, 2002, and determined to be manufactured before April 1, 1991.

Definitions

(k) For the purposes of this AD, access to the turbine discs is the level of disassembly that has removed the tie-shaft nut.

Alternative Methods of Compliance

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

Material Incorporated by Reference

(m) You must use Honeywell International, Inc. Service Bulletin No. TFE731–72–3682, dated November 26, 2002, to perform the replacements required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Honeywell Engines and Systems Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial Aviation), fax: (602) 365–5577 (General Aviation), (602) 365–2832 (Commercial Aviation) for a copy of this service information. You may review copies at the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001, on the internet at *http://dms.dot.gov*, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Related Information

(n) None.

Issued in Burlington, Massachusetts, on June 13, 2005.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–12080 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–05–19473; Directorate Identifier 2004–CE–35–AD; Amendment 39–14146; AD 2005–13–09]

RIN 2120–AA64

Airworthiness Directives; GROB–WERKE Model G120A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain GROB–WERKE Model G120A airplanes. This AD requires you to replace the main landing gear (MLG) up-lock hook assembly. This AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. We are issuing this AD to prevent the MLG from becoming jammed and not extending, which could result in loss of control of the airplane during landing. During the comment period for the notice of proposed rulemaking (NPRM) regarding this action, we received a comment recommending the incorporation of service information to install connecting bolts secured with cotter pins instead of connecting bolts secured with snap rings. All U.S.-registered airplanes currently have these actions incorporated so these actions do not impose an additional burden over that proposed in the NPRM and prior public comment is not necessary. However, we are reopening the comment period to allow the public the chance to comment on these additional actions.

DATES: This AD becomes effective on July 26, 2005.

As of July 26, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

We must receive any comments on this AD by September 20, 2005.

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

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

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

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

Fax: 1–202–493–2251.

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

To get the service information identified in this proposed AD, contact GROB–WERKE, Burkart Grob e.K., Unternehmenbereich Luft-und Raumfahrt, Lettenbachstrasse 9, 86874 Tussenhausen-Mattsies, Germany; telephone: 011 49 8268 998 105; facsimile: 011 49 8268 998 200.

To view the comments to this AD, go to http://dms.dot.gov. The docket number is FAA–05–19473; Directorate Identifier 2004–CE–35–AD.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, ACE–112, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: 816–329–4146; facsimile: 816–329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on certain GROB–WERKE Model G120A airplanes. The LBA reports that the up-lock/main landing gear roller combination may become jammed because of contamination (*i.e.*, dirt or dust) or misalignment of the assembly.

What is the potential impact if FAA took no action? This condition, if not corrected, could cause the MLG to become jammed and to not extend, which could result in loss of control of the airplane during landing.

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 certain GROB–WERKE Model G120A airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 23, 2005 (70 FR 14599). The NPRM proposed the requirement for you to replace the main landing gear (MLG) up-lock hook assembly.

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: Incorporate Additional Actions Into the AD

What is the commenter's concern? The Director of Aircraft Maintenance of the Airline Training Center Arizona, Inc. ATCA requests that the provisions of GROB–WERKE Service Bulletin MSB 1121–060, dated March 7, 2005, be included in the FAA AD. MSB 1121–060 incorporates a design change using cotter pins in place of snap rings in the landing gear assemblies. Snap ring failure could cause landing gear up-lock failure. MSB 1121–060 eliminates the daily inspections of the landing gear. The commenter represents the operator of all 6 U.S.-registered airplanes.

What is FAA's response to the concern? The FAA agrees that incorporation of MSB 1121–060 is a reasonable action because of the following reasons:

—Using snap rings in the landing gear assemblies requires more rework than using cotter pins in the landing gear assemblies;

—Uncorporating the design change of MSB 1121–060 eliminates daily inspections;

—Additional provisions in the AD would not increase the burden on U.S. operators because ATCA has already done the actions on their 6 airplanes, and they are the only operator of the G120A in the United States; and

—The additional actions will only affect those airplanes imported to the United States.

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 because all U.S. registered airplanes already have the additional actions incorporated.

Comments Invited

Will I have the opportunity to comment before you issue the rule? Since all 6 airplanes that are currently on the U.S. register have the additional actions incorporated, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures are unnecessary.

However, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–05–19473; Directorate Identifier 2004–CE–35–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us through a nonwritten communication, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

Docket Information

Where can I go to view the docket information? You may view the AD docket that contains information relating to this subject in person at the DMS Docket Offices between 9 a.m. and 5 p.m. (eastern standard time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES**. You may also view the AD docket on the Internet at *http://dms.dot.gov.*

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

How many airplanes does this AD impact? We estimate that this AD affects 6 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? GROB–WERKE will provide warranty credit for labor and parts.

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–05–19473; Directorate Identifier 2004–CE–35–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the 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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–13–09 GROB–WERKE: Amendment 39–14146; Docket No. FAA–05–19473; Directorate Identifier 2004–CE–35–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on July 26, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects the following airplane models and serial numbers that are certificated in any category: Model G120A, all serial numbers beginning with 85001.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of a report that the main landing gear (MLG) may not extend because of contamination or misalignment of the assembly. The actions specified in this AD are intended to prevent the MLG from becoming jammed and not extending, which could result in loss of control of the airplane during landing.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Remove MLG lock-up hook assembly and replace with the new MLG lock-up hook assembly.	Within 100 hours time-in-service after July 26, 2005 (the effective date of this AD), unless already done.	Follow GROB–WERKE Service Bulletin No. MSB1121–060, dated March 7, 2005.
(2) Inspect the MLG for proper operation and adjust as needed.	Prior to further flight after the installation of the new MLG lock-up hook assembly.	Follow GROB–WERKE Service Bulletin No. MSB1121–060, dated March 7, 2005.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, FAA. For information on any already approved alternative methods of compliance, contact Karl Schletzbaum, Aerospace Engineer, ACE–112, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: 816–329–4146; facsimile: 816–329–4090.

Is There Other Information That Relates to This Subject?

(g) Luftfahrt-Bundesamt Airworthiness Directive D–2004–299R2, dated March 15, 2005; and GROB–WERKE Service Bulletin No. MSB1121–060, dated March 7, 2005, also address the subject of this AD.

Does This AD Incorporate Any Material by Reference?

(h) You must do the actions required by this AD following the instructions in GROB–WERKE Service Bulletin No. MSB1121–060, dated March 7, 2005. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact GROB–WERKE, Burkart Grob e.K., Unternehmenbereich Luft-und Raumfahrt, Lettenbachstrasse 9, 86874 Tussenhausen-Mattsies, Germany; telephone: 011 49 8268 998 105; facsimile: 011 49 8268 998 200. To review copies of this 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–05–

19473; Directorate Identifier 2004–CE–35–AD.

Issued in Kansas City, Missouri, on June 14, 2005.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12152 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20865; Directorate Identifier 2003–NM–103–AD; Amendment 39–14145; AD 2005–13–08]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. This AD requires the overhaul of certain auxiliary components installed on the main landing gear (MLG) and nose landing gear (NLG). This AD is prompted by manufacturer determination that overhaul limits need to be imposed for certain auxiliary components of the MLG and NLG. Components that exceed the established overhaul limits could fail due to fatigue, wear, and age. We are issuing this AD to prevent failure of the MLG or NLG, and consequent damage to the airplane and injury to flightcrew and passengers.

DATES: This AD becomes effective July 27, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of July 27, 2005.

ADDRESSES: For service information identified in this AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2005–20865; the directorate identifier for this docket is 2003–NM–103–AD.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. That action, published in the **Federal Register** on April 6, 2005 (70 FR 17373), proposed to require the overhaul of certain auxiliary components installed on the main landing gear (MLG) and nose landing gear (NLG).

Comments

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

Conclusion

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

Costs of Compliance

This AD will affect about 57 airplanes of U.S. registry. The following table, using an average labor rate of $65 per hour, provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Replacement	Work hours	Parts cost	Cost per airplane	Fleet cost
MLG shock strut (left and right)	6	*$25,000	$50,390	$2,872,230
NLG shock strut	3	30,000	30,195	1,721,115
MLG retract actuator (left and right)	6	*6,300	12,990	740,430
NLG retract actuator	3	4,100	4,295	244,815
MLG drag brace/actuator (left and right)	6	*9,500	19,390	1,105,230
MLG uplock/actuator (left and right)	6	*5,600	11,590	660,630
NLG downlock/actuator	3	3,200	3,395	193,515
NLG uplock/actuator	3	2,800	2,995	170,715
Steering selector valve	3	6,800	6,995	398,715
Total	39	139,700	142,235	8,107,395

*Per side.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–13–08 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–14145. Directorate Identifier 2003–NM–103–AD.

Effective Date

(a) This AD becomes effective July 27, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to all BAE Systems (Operations) Limited Model Jetstream 4101 airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by manufacturer determination that overhaul limits need to be imposed for certain auxiliary components of the main landing gear (MLG) and nose landing gear (NLG). Components that exceed the established overhaul limits could fail due to fatigue, wear, and age. We are issuing this AD to prevent failure of the MLG or NLG, and consequent damage to the airplane and injury to flightcrew and passengers.

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

Overhaul of Landing Gear

(f) Within 18 months after the effective date of this AD, overhaul auxiliary components installed on the MLG and NLG, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–32–081, dated August 6, 2002, except as provided by paragraph (g) of this AD; and thereafter as specified in the ''Overhaul Period'' column of Table 1 of the Accomplishment Instructions of the service bulletin.

Note 1: BAE Systems (Operations) Limited Service Bulletin J41–32–081 refers to BAE Systems (Operations) Limited Service Bulletin J41–05–001, Revision 2, dated March 15, 2002, as an additional source of service information for calculating estimated usage of affected auxiliary components.

No Reporting Requirement

(g) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(i) British airworthiness directive 006–08–2002 also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use BAE Systems (Operations) Limited Service Bulletin J41–32–081, dated August 6, 2002, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC.

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 the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on June 10, 2005.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12150 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20438; Directorate Identifier 2005–CE–03–AD; Amendment 39–14147; AD 2005–13–10]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 172R, 172S, 182T, T182T, 206H, and T206H airplanes. This AD requires you to inspect any MC01–3A I.C. 9 or MC01–3A I.C. 10 main electrical power junction box circuit breakers for correct amperage (amp) (a correct 40-amp circuit breaker) and replace any incorrect amp circuit breaker with the correct 40-amp circuit breaker. This AD results from several reports of circuit breakers that are not the correct 40-amp circuit breaker installed in the MC01–3A main electrical power junction box. We are issuing this AD to replace any incorrect circuit breaker installed in the MC01–3A I.C. 9 or MC01–3A I.C. 10 main electrical power junction box, which could result in premature tripping of the power junction box main feeder circuit breakers and could lead to partial or complete loss of all electrical power on the airplane. This condition could lead to the loss of all navigation and communication equipment and lighting in the cockpit.

DATES: This AD becomes effective on August 9, 2005.

As of August 9, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

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

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2005–20438; Directorate Identifier 2005–CE–03–AD.

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

SUPPLEMENTARY INFORMATION:

Discussion

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

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

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 certain Cessna Aircraft Company (Cessna) Models 172R, 172S, 182T, T182T, 206H, and T206H airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 17, 2005 (70 FR 12978). The NPRM proposed to require you to inspect any MC01–3A I.C. 9 or MC01–3A I.C. 10 main electrical power junction box circuit breakers for correct amperage (amp) (a correct 40-amp circuit breaker) and replace any incorrect amp circuit breaker with the correct 40-amp circuit breaker.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

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 minor editorial corrections. We have determined that these 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.

Docket Information

Where can I go to view the docket information? You may view the AD docket that contains information relating to this subject in person at the DMS Docket Offices between 9 a.m. and 5 p.m. (eastern standard time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES.** You may also view the AD docket on the Internet at *http://dms.dot.gov.*

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

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

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

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

We estimate the following costs to do any necessary replacements that would be required based on the results of this inspection. We have no way of determining the number of airplanes that may need this replacement:

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

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

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

Regulatory Findings

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–2005–20438; Directorate Identifier 2005–CE–03–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the 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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–13–10 Cessna Aircraft Company: Amendment 39–14147; Docket No. FAA–2005–20438; Directorate Identifier 2005–CE–03–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on August 9, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

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

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

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of several reports of circuit breakers that are not the correct 40-amp circuit breaker installed in the MC01–3A I.C. 9 or MC01–3A I.C. 10 main electrical power junction box. The actions specified in this AD are intended to replace any incorrect circuit breaker installed in the MC01–3A main electrical power junction box, which could result in premature tripping of the power junction box main feeder circuit breakers and could lead to partial or complete loss of all electrical power on the airplane. This condition could lead to the loss of all navigation and communication equipment and lighting in the cockpit.

What Must I Do To Address This Problem?

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

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

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Wichita Aircraft Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact Jose Flores, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4133; facsimile: (316) 946–4107.

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

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

Does This AD Incorporate Any Material by Reference?

(h) You must do the actions required by this AD following the instructions in Cessna Service Bulletin No. SB05–24–01, dated January 31, 2005. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. To review copies of this 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–2005–20438; Directorate Identifier 2005–CE–03–AD.

Issued in Kansas City, Missouri, on June 14, 2005.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12175 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19960; Directorate Identifier 2004–CE–47–AD; Amendment 39–14153; AD 2005–13–16]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. PA–34 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts an airworthiness directive to supersede AD 93–24–14 applicable to all The New Piper Aircraft, Inc. (Piper) PA–34 series airplanes. This AD results from many service difficulty reports related to the collapse of the nose landing gear (NLG). Consequently, this AD retains the actions required in AD 93–24–14, requires you to inspect the NLG and components of the NLG using new procedures for rigging the nose gear installation, and requires you to replace unserviceable parts. We are issuing this AD to detect, correct, and prevent failure in certain components of the NLG, lack of cleanliness of the NLG due to inadequate maintenance, or lack of lubricant in the NLG or NLG components. This failure of the NLG could lead to loss of control of the airplane during take-off, landing, or taxiing operations.

DATES: This AD becomes effective on August 8, 2005.

As of August 8, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960. To review this 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–2004–19960; Directorate Identifier 2004–CE–47–AD.

FOR FURTHER INFORMATION CONTACT: Hassan Amini, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6080; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? Several incidents where the nose landing gear (NLG) on The New Piper Aircraft, Inc. (Piper) PA–34 series airplanes collapsed caused us to issue AD 93–24–14, Amendment 39–8762 (58 FR 65115, December 13, 1993). AD 93–24–14 currently requires the repetitive replacement of the bolt and stack up that connect the upper drag link to the nose gear trunnion on all Piper PA–34 series airplanes.

Since AD 93–24–14 was issued, FAA has received 186 service difficulty reports (SDRs) related to the NLG on Piper PA–34 series airplanes. There are 71 SDRs that describe the collapse or involuntary retraction of the NLG.

A review of the SDRs related to the NLG and the collapse or involuntary retraction of the NLG found that one or more of the following conditions could result in collapse of the NLG:

—Nose gear steering control excessive travel and the disengagement of the tiller roller;
—Failure or out of tolerances of the retraction links and bolts;
—Crack(s) in the nose gear trunnion;
—Failure of the nose gear upper drag link attach bolt;
—Failure of the nose gear retraction link retention spring;
—Out of rig and failure of the nose gear down lock link assembly;
—Failure of the nose gear actuator mounting bracket and its attachments;
—Failure of the attachment of the retraction link to the actuator mounting bracket;
—Lack of lubricant in the NLG or NLG components; or
—Lack of cleanliness of the NLG or the NLG components.

The exact cause of the collapse or involuntary retraction of the NLG cannot be determined.

Consequently, Piper took the following actions to prevent future failure of the NLG:

—Modified certain components to improve their long-term service life;
—Corrected and clarified the rigging procedures for the nose gear installation; and
—Revised the periodic inspection requirements of the applicable maintenance manuals.

What is the potential impact if FAA took no action? Failure in certain components of the NLG, a lack of cleanliness of the NLG, or a lack of lubricant in the NLG or the NLG components could result in failure of the NLG. This failure of the NLG could lead to loss of control of the airplane during take-off, landing, or taxiing operations.

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 The New Piper Aircraft, Inc. (Piper) PA–34 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 9, 2005 (70 FR 6782). The NPRM proposed to supersede Airworthiness Directive (AD) 93–24–14, which applies to all Piper PA–34 series airplanes. AD 93–24–14 currently requires you to repetitively replace the bolt and stack up that connect the upper drag link to the nose gear trunnion. The NPRM proposed to retain the actions required in AD 93–24–14 and would require you to inspect the NLG and components of the NLG using new procedures for rigging the nose gear installation, and replace unserviceable parts.

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: No Justification for the NPRM Based on the Types of Operations

What is the commenter's concern? The commenter states that the NPRM does not distinguish between the types of operations based on the Service Difficulty Reports (SDRs). The commenter specifically states:

—The incidents are primarily operational and maintenance issues, not design issues.
—The FAA should withdraw the NPRM until a pattern or relationship to the kinds of operations involved is developed.
—The NPRM gives equal weight to improper maintenance with

operational errors as the justification for the AD.

The commenter believes that, unless FAA can develop a specific correlation to why the problems are occurring, then the AD should be withdrawn.

Therefore, the commenter does not believe that AD action is justified.

What is FAA's response to the concern? The FAA's SDR database shows 186 reports related to NLG problems, with 71 of these NLG problems resulting in collapses. The data shows that the majority of the incidents are maintenance related. This led to FAA reviewing the maintenance procedures currently in place. Based on this review, we have determined that the current maintenance procedures are not adequate to prevent problems with the nose landing gear on these airplanes, and additional inspections and modifications are necessary to prevent an unsafe condition.

The only vehicle FAA has for mandating such inspections and modifications is through an AD. In this case, we issued an NPRM and are following it with a final rule.

Therefore, we are not changing the final rule as a result of these comments.

Comment Issue No. 2: FAA Should Do More Studies To Determine Exact Cause

What is the commenter's concern? The commenter believes that FAA should continue to study this issue to determine what is causing the majority of the problems, and thus direct the thrust of the corrective action in a more targeted manner. The commenter states that FAA is using a ''shotgun'' approach, and that this is unwise because it treats this problem in a vacuum.

What is FAA's response to the concern? The FAA does not concur. The FAA in collaboration with Piper has examined this issue for the past 5 years. Piper conducted several ground and flight tests in an effort to determine the source of the problem. Unfortunately, due to the complicated design of the NLG, Piper could not isolate one specific problem. However, the tests and type design show that the components of the NLG must be within the tolerances called out in the appropriate maintenance manuals and appropriate service Bulletins for the NLG to operate properly. Specifically, the actions of Piper Service Bulletin No. 1123A must be incorporated.

As stated earlier, the only vehicle FAA has for mandating such inspections and modifications is through an AD. In this case, we issued an NPRM and are following it with a final rule.

Therefore, we are not changing the final rule as a result of these comments.

Comment Issue No. 3: Improper Cleaning Is Serious for Mechanic Training and Should Not Be Targeted to Only Piper PA–34 Series Airplanes

What is the commenter's concern? The commenter states that, if the improper cleaning of NLG parts is this serious of an issue, then why is FAA targeting only Piper PA–34 series airplanes? The commenter believes that FAA should target the Airframe & Powerplant (A&P) training methods.

What is FAA's response to the concern? As stated earlier, cleaning is only one aspect of the maintenance of these components that the NPRM is addressing. Due to the nature of the Model PA–34 NLG design, it is critical that every aspect of maintenance be fully complied with to preclude any type of failure. This includes incorporating the actions of Piper Service Bulletin No. 1123A.

As stated earlier, the only vehicle that FAA has for mandating such inspections and modifications is through an AD. In this case, we issued an NPRM and are following it with a final rule. The FAA routinely evaluates the current training methods of A&P mechanics and makes any necessary adjustments.

Based on this comment, we are not changing the final rule as a result of these comments.

Comment Issue No. 4: The Problem Seems To Be Isolated to Part 135 and Training Operations; the AD Should Be Written Against These Types of Operations Only

What is the commenter's concern? The commenter states that, if operators are breaking nose gear parts during training or part 135 operations, it makes little sense to mandate a very costly AD on the entire fleet. The commenter wants FAA to revise the AD to only apply to those airplanes in these types of operations.

What is FAA's response to the concern? The FAA does not agree that the failure of the NLG is strictly limited to training schools or part 135 operations. We have determined this AD mandates inspections that are required to prevent the failure of the NLG, regardless of operation. The FAA does not issue ADs against specific operation, but against the type design of the specific product.

Therefore, we are not changing the final rule as a result of these comments.

Comment Issue No. 5: The NPRM Does Not Address Any Serious Injuries That Have Resulted from the SDR Reports

What is the commenter's concern? The commenter states that the NPRM does not include any information about any serious injuries that have resulted from the problem, specifically any incidents of loss of life. The FAA infers from the commenter that, without this information, the NPRM is not justified and should be withdrawn.

What is FAA's response to the concern? The FAA does not concur. The decision to issue an AD is not based on occurrences of injuries but it is based on whether an unsafe condition exists. In this case, FAA determined that the frequency of occurrences that lead to the unsafe condition justified AD action.

Therefore, we are not changing the final rule as a result of these comments.

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 minor editorial corrections. We have determined that these 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.

Docket Information

Where can I go to view the docket information? You may view the AD docket that contains information relating to this subject in person at the DMS Docket Offices between 9 a.m. and 5 p.m. (eastern standard time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES**. You may also view the AD docket on the Internet at *http://dms.dot.gov.*

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

How many airplanes does this AD impact? We estimate that this AD affects 2,047 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to do the inspections and the rigging of the nose gear installation:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
9 workhours × $65 per hour = $585	No cost for parts	$585	2,047 × $585 = $1,197,495.

We estimate the following costs to do all the necessary replacements that would be required based on the results of this inspection. We have no way of determining the number of airplanes that may need these replacements:

Labor cost	Parts cost	Total cost per airplane
44 workhours × $65 per hour = $2,860	$920 (only if cracks or damage found in the NLG).	$2,860 + $920 = $3,780.

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–2004–19960; Directorate Identifier 2004–CE–47–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the 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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–13–16 The New Piper Aircraft, Inc.: Amendment 39–14153; Docket No. FAA–2004–19960; Directorate Identifier 2004–CE–47–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on August 8, 2005.

What Other ADs Are Affected by This Action?

(b) This AD supersedes AD 93–24–14, Amendment 39–8762.

What Airplanes Are Affected by This AD?

(c) This AD affects Models PA–34–200, PA–34–200T, and PA–34–220T airplanes, all serial numbers, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of service difficulty reports related to the collapse or involuntary retraction of the nose landing gear (NLG). The actions specified in this AD are intended to detect, correct, and prevent failure in certain components of the NLG, lack of cleanliness of the NLG due to inadequate maintenance, or lack of lubricant in the NLG or NLG components. This failure of the NLG could lead to loss of control of the airplane during take-off, landing, or taxiing operations.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Replace the bolt and stack up that connects the upper drag link to the nose gear trunnion with new parts (or FAA-approved equivalent part numbers (P/N)) of the following: (i) Piper P/N 400 274 (AN7–35) bolt; (ii) Piper P/N 407 591 (AN960–716L) washer, as applicable; (iii) Piper P/N 407 568 (AN960–716); (iv) Piper P/N 404 396 (AN320–7) nut; and (v) Piper P/N 424 085 cotter pin.	Within the next 100 hours time-in-service (TIS) after January 28, 1994 (the effective date of AD 93–24–14), unless already done within the last 400 hours TIS before January 28, 1994 (compliance with AD 93–24–14). Repetitively replace thereafter at intervals not to exceed 500 hours TIS. Continue to repetitively replace until the actions in paragraphs (e)(2) and (e)(3) of this AD begin.	Follow Figure 1 of this AD.
(2) Do the inspections, replacements, and other corrective actions specified in Table 1 ''Specified Maintenance'' of Piper Service Bulletin No. 1123A, dated November 30, 2004.	Within the next 100 hours TIS after August 8, 2005 (the effective date of this AD), unless already done. Repetitively inspect thereafter at the intervals referenced in the Inspection Time column of the *INSTRUCTIONS* paragraph in Piper Service Bulletin No. 1123A, dated November 30, 2004.	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1123A, dated November 30, 2004.
(3) Do any necessary corrective actions as a result of the actions specified in Table 1 ''Specified Maintenance'' of Piper Service Bulletin No. 1123A, dated November 30, 2004.	Before further flight after any action required by paragraph (e)(2) of this AD.	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1123A, dated November 30, 2004.

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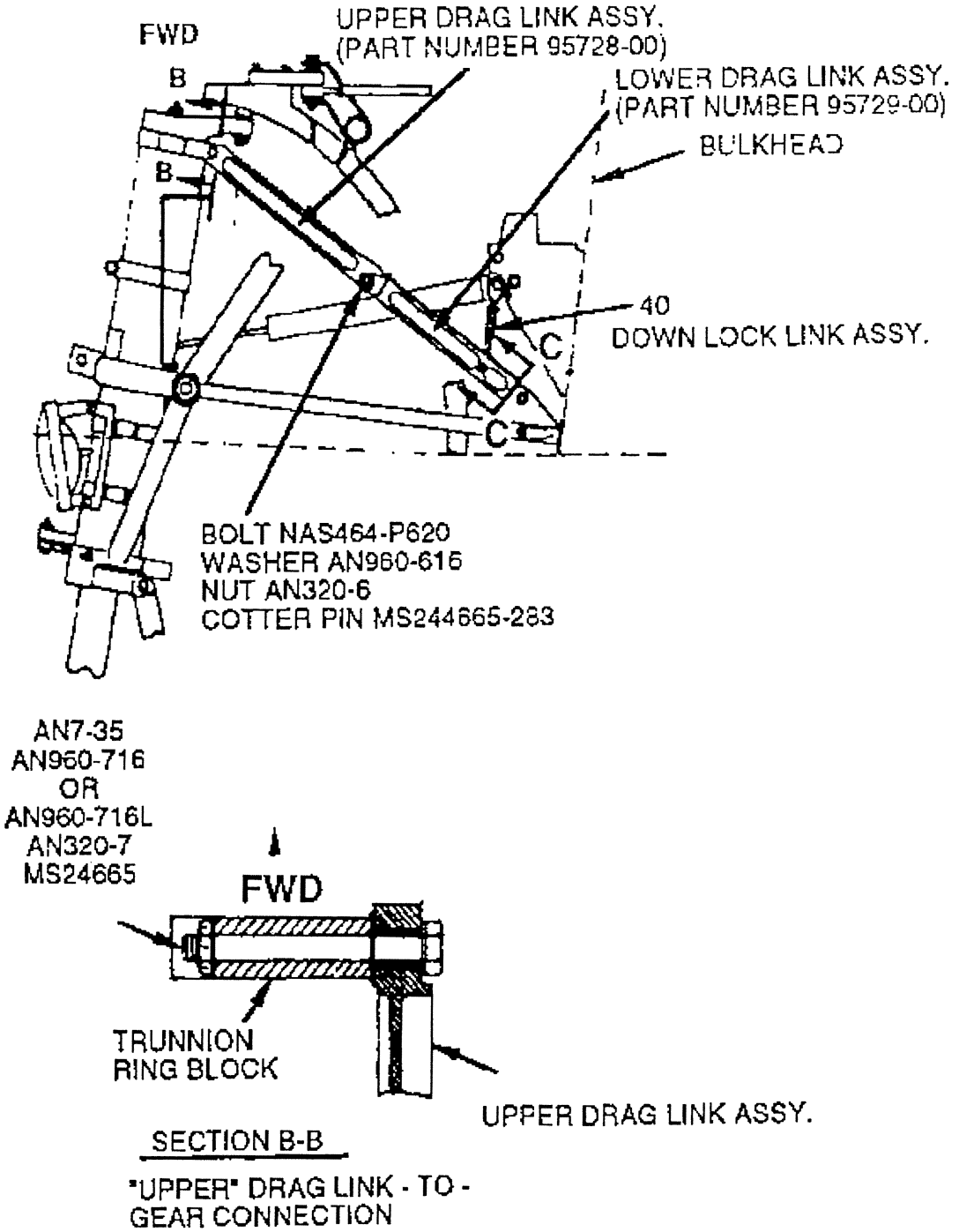

Figure 1.

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Note 1: Paragraph 2. Modified Components of the INSTRUCTIONS section of The New Piper Aircraft, Inc. Service Bulletin No. 1123A, dated November 30, 2004, specifies modified parts that you may install for improved service life.

Note 2: The Actions column of the table in paragraph (e) of this AD may include one or a combination of these actions: replacement, repair, adjustment, alignment, cleaning, lubricating, or other action.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Atlanta Aircraft Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact Hassan Amini, Aerospace Engineer, FAA, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6080; facsimile: (770) 703–6097.

Does This AD Incorporate Any Material by Reference?

(g) You must do the actions required by this AD following the instructions in The New Piper Aircraft, Inc. Service Bulletin No. 1123A, dated November 30, 2004. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960. To review copies of this 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–2004–19960; Directorate Identifier 2004–CE–47–AD.

Issued in Kansas City, Missouri, on June 15, 2005.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12176 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19837; Directorate Identifier 2004–CE–43–AD; Amendment 39–14149; AD 2005–13–12]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–402, AT–602, AT–802, and AT–802A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Air Tractor, Inc. (Air Tractor) Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–402, AT–602, AT–802, and AT–802A airplanes. This AD requires you to repetitively tighten the four eyebolts that attach the front and rear spar of the horizontal stabilizer to the respective stabilizer strut to the specified torque, and repetitively replace at specified intervals any eyebolts that attach the front and rear spar of the horizontal stabilizer to the respective stabilizer strut. An option for replacing the steel brace assembly inside the stabilizer with a new steel brace assembly with larger bushings and stronger eyebolts that increases the interval for replacement of eyebolts for AT–602, AT–802, and AT–802A airplanes is also included in this AD. This AD results from reports of failures of the subject eyebolt. We are issuing this AD to detect, correct, and prevent future fatigue failure in any eyebolt that attaches the front and rear spar of the horizontal stabilizer to the respective stabilizer strut. Failure of the eyebolt could lead to an abrupt change or complete loss of pitch control and/or the airplane departing from controlled flight.

DATES: This AD becomes effective on August 5, 2005.

As of August 5, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374.

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–2004–19837; Directorate Identifier 2004–CE–43–AD.

FOR FURTHER INFORMATION CONTACT: Andrew D. McAnaul, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office (ACO), ASW–150, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. Current duty station: San Antonio Manufacturing Inspection District Office (MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? In December 1985, Snow Engineering Co. issued Service Letter #62 to recommend the inspection of eyebolts. This was in response to several reports of eyebolt failures on Models AT–301 and AT–400 airplanes.

In response to another failure of an eyebolt on an AT–400 airplane, Snow Engineering Co. issued Service Letter #129 in September 1994. This service letter recommended eyebolt replacement every 2,000 hours time-in-service (TIS) for Models AT–301 and AT–400 airplanes. After a report of an eyebolt failure on a Model AT–602 airplane, Snow Engineering Co. revised Service Letter #129 in November 2003 to recommend replacing eyebolts for Models AT–602, AT–802, and AT–802A airplanes every 1,350 hours TIS.

In December 2003, FAA issued Special Airworthiness Information Bulletin (SAIB) CE–04–23. This SAIB recommended periodic eyebolt replacement following Snow Engineering Co. Service Letter #129.

In April 2004, we received a report of both eyebolts that attach the left hand stabilizer failing in flight on a Model AT–602 airplane. These eyebolts had accumulated 1,675 hours TIS.

Engineering analysis concludes that the eyebolts failed as a result of high-cycle, low-nominal stress. This is most likely due to the loss of torque during service.

Air Tractor has since redesigned the horizontal stabilizer structure for Models AT–802 and AT–602 airplanes to accommodate a new, stronger eyebolt.

Snow Engineering Co. also revised Service Letter #129 with new eyebolt replacement intervals and issued Service Letter #129A to include procedures for optional replacement of the steel brace assembly inside the stabilizer with a new steel brace assembly with larger bushings to accommodate new stronger eyebolts on

existing Models AT–602, AT–802, and AT–802A airplanes. This modification provides for increased safety and extends eyebolt replacement intervals.

What is the potential impact if FAA took no action? Failure of an eyebolt could lead to an abrupt change or complete loss of pitch control and/or aircraft departure from controlled flight.

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 certain Air Tractor, Inc. (Air Tractor) Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–402, AT–602, AT–802, and AT–802A airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 4, 2005 (70 FR 10513). The NPRM proposed to require you to repetitively tighten the four eyebolts that attach the front and rear spar of the horizontal stabilizer to the respective stabilizer strut to the specified torque, and repetitively replace at specified intervals any eyebolts that attach the front and rear spar of the horizontal stabilizer to the respective stabilizer strut. An option for replacing the steel brace assembly inside the stabilizer with a new steel brace assembly with larger bushings and stronger eyebolts that increases the interval for replacement of eyebolts for AT–602, AT–802, and AT–802A airplanes was also included in this proposed 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: Correct the Date for Service Letter #129 in Discussion

What is the commenter's concern? One commenter writes that the original date of Snow Engineering Co. Service Letter #129 is September 1994 (not September 1995) and requests use of the correct date in the Discussion section.

What is FAA's response to the concern? We concur. We will correct all reference in the final rule of the service letter to read, ''Snow Engineering Co. issued Service Letter #129 in September 1994.''

Comment Issue No. 2: Cases of Cracks in Model AT–802 Airplane Eyebolts

What is the commenter's concern? Mr. Leland Snow, Air Tractor, Inc., writes that the Discussion section of the NPRM is incorrect in reporting, ''The FAA also received two service difficulty reports (SDRs) in November 2003. Both SDRs referenced Model AT–802 airplane eyebolt cracks.'' Also, Mr. Snow notes that Air Tractor inspected eyebolts that were reported to be cracked and found that the eyebolts were not cracked but instead had a groove caused by washer edge contact.

What is FAA's response to the concern? The FAA is not able to verify with certainty that the eyebolts that Air Tractor inspected are the same or not as those eyebolts identified in the two SDRs. However, both the eyebolts Air Tractor inspected and the eyebolts reported to FAA were from the same sources, making Air Tractor's claim a strong possibility.

We have deleted the reference to the two SDRs from the Discussion section of the final rule.

Comment Issue No. 3: Initial and Repetitive Tightening of the Eyebolts

What is the commenter's concern? Mr. Leland Snow, Air Tractor, requests that the compliance times for initial and repetitive tightening of the eyebolts follow the times required in Snow Engineering Service Letter #129, initial inspection and tightening of the eyebolts within 100 hours TIS, and repetitively tighten the eyebolts every 12 calendar months thereafter.

What is FAA's response to the concern? We agree to add the requirement to initially inspect within 100 hours TIS after the effective date of the AD. However, we will retain the initial 12 calendar months requirement with whichever occurs first as the prevalent time. We agree the repetitive inspections should remain every 12 calendar months thereafter.

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

How many airplanes does this AD impact? We estimate that this AD affects 1,011 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to do the tightening of the four eyebolt nuts to the specified torque:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × $65 per hour = $65	No parts required	$65	$65 × 1,011= $65,715

We estimate the following costs to do any necessary replacement of the four eyebolts for the Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–402 AT–602, AT–802, and AT–802A airplanes:

Average labor cost	Average parts cost	Average total cost per airplane	Average total cost on U.S. operators
1 workhour × $65 per hour = $65	$186.30	$251.30	1,011 × $251.30 = $254,064.30

We estimate the following costs to do any necessary replacement of the steel brace assembly inside the stabilizer with a new steel brace assembly with larger bushings on existing Models AT–602, AT–802, and AT–802A airplanes:

Average labor cost	Average parts cost	Average total cost per airplane	Average total cost on U.S. operators
22 workhours × $65 per hour = $1,430	$901.65	$2,331.65	312 × $2,331.65 = $727,474.80

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–2004–19837; Directorate Identifier 2004-CE–43-AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the 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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–13–12 Air Tractor, Inc.: Amendment 39–14149; Docket No. FAA–2004–19837; Directorate Identifier 2004–CE–43–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on August 5, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

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

Models	Serial Nos.
AT–300, AT–301, AT–302, AT–400, and AT–400A.	All serial numbers.
AT–401/AT–402	All through 401–0700.
AT–602	All through 602–0695 that have any 7/16-inch eyebolt (part number (P/N) AN47–22A) installed; all beginning with 602–0703; and all that have any 9/16-inch eyebolt (P/N 30774–1) installed.
AT–802 and AT–802A	All through 802A–0188 that have any 7/16-inch eyebolt (P/N AN47–30A) installed; all beginning with 802A–0189; and all that have any 9/16-inch eyebolt (P/N 30775–1) installed.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of reports of failures of the subject eyebolt. The actions specified in this AD are intended to detect, correct, and prevent future fatigue failure in any eyebolt that attaches the front and rear spar of the horizontal stabilizer to the respective stabilizer strut. Failure of the eyebolt could lead to an abrupt change or complete loss of pitch control and/or the airplane departing from controlled flight.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Tighten the four eyebolts that attach the front and rear spar of the horizontal stabilizer to the respective stabilizer strut using the torque values referenced in Snow Engineering Co. Service Letter #129, revised October 21, 2004.	Within the next 100 hours time-in-service (TIS) or 12 calendar months after August 5, 2005 (the effective date of this AD), whichever occurs first, unless already done. Repetitively tighten thereafter at every 12 calendar months after the date of the initial tightening to the specified torque.	Follow Snow Engineering Co. Service Letter #129, Issued September 26, 1994, Revised October 21, 2004.

Actions	Compliance	Procedures
(2) Repetitively replace any eyebolts that attach the front and rear spar of the horizontal stabilizer to the respective stabilizer strut.	Initially replace upon accumulating the applicable number of hours TIS referenced in Snow Engineering Co. Service Letter #129, revised October 21, 2004, or within 50 hours TIS after August 5, 2005 (the effective date of this AD), whichever occurs later. Replace repetitively thereafter at the intervals referenced in Snow Engineering Co. Service Letter #129, revised October 21, 2004.	Follow Snow Engineering Co. Service Letter #129, Issued September 26, 1994, Revised October 21, 2004.
(3) *For Model AT–602 airplanes through serial number 602–0695 and AT–802, and 802A airplanes through serial number 802A–0188:* As an alternative in order to use the increased replacement compliance times in paragraph (e)(2) of this AD, you may replace the steel brace assembly inside the stabilizer with a new steel brace assembly with larger bushings, and (i) *For the Model AT–602 airplane:* replace any 7/16-inch eyebolt with the 9/16-inch eyebolt (P/N 30774–1) (ii) *For the Model AT–802 and AT–802A airplanes:* replace any 7/16-inch eyebolt with the 9/16-inch eyebolt (P/N 30775–1)	At any time after August 5, 2005 (the effective of this AD). Use the applicable time in Snow Engineering Co. Service Letter #129A, dated August 7, 2004. The repetitive replacement of paragraph (e)(2) of this AD is still required.	Follow Snow Engineering Co. Service Letter #129A, Dated August 7, 2004.
(4) Do not install any 5/16-inch eyebolt (P/N AN44–17A or AN44–21A), 7/16-inch eyebolt (AN47–22A or AN47–30A), or 9/16-inch eyebolt (P/N 30774–1 or 30775–1) that exceeds the corresponding cumulative hours TIS specified in paragraphs (e)(2) or (e)(3) of this AD.	As of August 5, 2005 (the effective date of this AD).	Not Applicable.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Fort Worth Airplane Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact Andrew D. McAnaul, Aerospace Engineer, FAA, Fort Worth ACO, ASW–150, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. Current duty station: San Antonio Manufacturing Inspection District Office (MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

Does This AD Incorporate Any Material by Reference?

(g) You must do the actions required by this AD following the instructions in Snow Engineering Co. Service Letter #129, Issued September 26, 1994, Revised October 21, 2004, and Snow Engineering Co. Service Letter #129A, dated August 7, 2004. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374. To review copies of this 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–2004–19837; Directorate Identifier 2004–CE–43–AD.

Issued in Kansas City, Missouri, on June 14, 2005.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12177 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18958; Directorate Identifier 2004–NE–32–AD; Amendment 39–14137; AD 2005–13–01]

RIN 2120–AA64

Airworthiness Directives; [Hoffmann Propeller GmbH & Co KG Models HO–V343 and HO–V343K Propellers]

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Hoffmann Propeller GmbH & Co KG Models HO–V343 and HO–V343K propellers. That AD currently requires initial and repetitive visual inspections of propeller blades for blade shake and blade nut preload. That AD also requires initial and repetitive eddy current inspections of blade hubs for damage and cracks. This AD requires an ultrasonic inspection of the propeller hub and an eddy current inspection of the propeller hub if any cracks are discovered during ultrasonic inspection.

Additionally, this AD requires sending a hub inspection report to the manufacturer. This AD also requires replacement of the propeller if any signs of blade shake, cracks, or other damage to the propeller hub outside serviceable limits are detected during the inspections. This AD results from the discovery of a propeller blade separation due to a possible hub failure. We are issuing this AD to prevent propeller hub failure and blade separation due to an unknown root cause, leading to damage and possible loss of control of the airplane.

DATES: Effective July 7, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of July 7, 2005.

We must receive any comments on this AD by August 22, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Hoffmann Propeller GmbH & Co KG, Küpferlingstraβe 9, D–83022 Rosenheim, Germany, telephone ++49–(0)8031–1878–0; fax ++49–(0)8031–1878–78 for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7158; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On August 24, 2004, the FAA issued AD 2004–18–01, Amendment 39–13778 (69 FR 53603, September 2, 2004). That AD requires initial and repetitive visual inspections of propeller blades for blade shake and blade nut preload. That AD also requires initial and repetitive eddy current inspections of blade hubs for damage and cracks. That AD resulted from a report of a blade separating from either a model HO–V343 or HO–V343K propeller. That condition, if not corrected, could result in propeller hub failure and blade separation due to an unknown root cause, leading to damage and possible loss of control of the airplane.

Actions Since AD 2004–18–01 Was Issued

Since that AD was issued, the Luftfahrt-Bundesamt (LBA), which is the aviation authority for Germany, notified us that an unsafe condition might still exist on Hoffmann propeller models HO–V343 and HO–V343K propellers. The LBA advises that another instance of a propeller blade separation due to possible hub failure has been reported. The root cause of the failure is not known and is still under investigation. This AD requires an ultrasonic inspection of the propeller hub and eddy current inspection of the propeller hub if any cracks are discovered during ultrasonic inspection. Additionally, this AD requires sending a hub inspection report to the manufacturer. This AD also requires replacement of the propeller if any signs of blade shake, cracks, or other damage to the propeller hub outside serviceable limits are detected during the inspections. We certificated these propellers for use in the U.S. in 1997 and it is possible that some U.S. airplanes have acquired sufficient service hours for the propellers to be subject to the failure mode. We are issuing this AD to prevent propeller hub failure and blade separation due to an unknown root cause, leading to damage and possible loss of control of the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of Hoffmann Propeller GmbH & Co KG Service Instruction (SI) No. 61–10–05 SI E 4D, dated March 16, 2005. This SI describes procedures for initial and repetitive visual inspections of propeller blades for blade shake, blade nut preload, and inspection of blade retaining threads for cracks. This service instruction also describes procedures for initial and repetitive ultrasonic and eddy current inspections of blade hubs for damage or cracks. The LBA classified this service instruction as mandatory and issued AD D–2004–352R4 in order to ensure the airworthiness of these Hoffmann Propeller GmbH & Co KG propellers in Germany.

Bilateral Airworthiness Agreement

This propeller model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. We have examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other Hoffmann Propeller GmbH & Co KG Models HO–V343 and HO–V343K propellers of the same type design. We are issuing this AD to prevent propeller hub failure and blade separation due to an unknown root cause, leading to damage and possible loss of control of the airplane.

This AD requires initial and repetitive visual inspections of propeller blades for blade shake and blade nut preload. This AD also requires an ultrasonic inspection of the propeller hub and an eddy current inspection of the propeller hub if any cracks are discovered during ultrasonic inspection. Additionally, this AD requires sending a hub inspection report to the manufacturer. This AD also requires replacement of the propeller if any signs of blade shake, cracks, or other damage to the propeller hub outside serviceable limits are detected during the inspections. You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Interim Action

These actions are interim actions and we may take further rulemaking actions in the future.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or

arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. FAA–2004–18958; Directorate Identifier 2004–NE–32–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES.** Comments will be available in the AD docket shortly after the DMS receives them.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2004–NE–32–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ 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 Amendment 39–13778 (69 FR 53603, September 2, 2004), and by adding a new airworthiness directive, Amendment 39–14137, to read as follows:

2005–13–01 Hoffmann Propeller GmbH & Co KG: Amendment 39–14137. Docket No. FAA–2004–18958; Directorate Identifier 2004–E–32–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 7, 2005.

Affected ADs

(b) This AD supersedes AD 2004–18–01, Amendment 39–13778.

Applicability

(c) This AD applies to Hoffmann Propeller GmbH & Co KG (Hoffmann Propeller) models HO–V343 and HO–V343K propellers. These propellers are installed on, but not limited to, general aviation airplanes possibly having an FAA-approved Supplemental Type Certificate.

Unsafe Condition

(d) This AD results from a report of a blade separating from either a model HO–V343 or HO–V343K propeller. We are issuing this AD to prevent propeller hub failure and blade separation due to an unknown root cause, leading to damage and possible loss of control of the airplane.

Compliance

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

Propeller Blade Shake Inspection During Preflight Inspection

(f) For all propellers, perform an inspection for propeller blade shake at each preflight inspection. If you have any blade shake, replace the propeller assembly.

Propeller Blade Nut Preload Inspection

(g) For all propellers, use paragraph 2.1 of the Accomplishment Instructions of Hoffmann Propeller Service Instruction (SI) No. 61–10–05 SI E 4D, dated March 16, 2005, to inspect blade nut preload at the following intervals:

(1) Before further flight after the effective date of this AD.

(2) Inspect within 50 flight hours (FH) time-since-initial inspection.

(3) Thereafter, inspect within 100 FH time-since-last inspection (TSLI).

(h) If the blade nut preload inspection shows a loss of the blade nut preload, before further flight perform an ultrasonic inspection (UI) as specified in paragraph (i) of this AD.

Ultrasonic Inspection

(i) If the propeller meets any of the conditions detailed in subparagraphs (1) and (2) below, before further flight, calibrate the ultrasonic probe and conduct an ultrasonic inspection of the propeller hub blade retaining threads for cracks inserting the probe in each hub arm bore. Use paragraph 2.2 of the Accomplishment Instructions of Hoffmann Propeller Service Instruction (SI) No. 61–10–05 SI E 4D, dated March 16, 2005, to perform the inspection.

(1) The propeller hub has accumulated 500 or more FH time-since-new (TSN), and has not been inspected using an ultrasonic or eddy current method, or

(2) The blade nut preload and final retorque force inspection called for in paragraph (g) of this AD indicates a loss of blade retention nut preload torque below allowable limits.

(j) For propellers with hubs that have accumulated 500 or more FH TSN repeat the ultrasonic inspection within intervals of 100 FH TSLI.

Eddy Current Inspection

(k) If the ultrasonic inspection shows any signs of cracks or damage, conduct an eddy current inspection of the threads in the hub bore before further flight. Use paragraph 2.3 of the Accomplishment Instructions of Hoffmann Propeller Service Instruction (SI) No. 61–10–05 SI E 4D, dated March 16, 2005, to perform this inspection.

(l) If you find any signs of cracks or damage to the propeller hub outside serviceable limits during the eddy current inspection, repair or replace the propeller before further flight.

Credit for Previous Inspections

(m) Previous credit is allowed for propeller hub inspections performed under the requirements of AD 2004–18–01.

Hub Inspection Report

(n) Complete Hoffmann Hub Inspection Report HO–V343 detailing any blade shake, blade nut preload history and final blade nut retorque force and forward report to Hoffmann Propeller GmbH & Co KG, Küpferlingstraße 9, D–83022 Rosenheim, Germany, telephone ++49–(0)8031–1878–0; fax ++49–(0)8031–1878–78.

Alternative Methods of Compliance (AMOCs)

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

Material Incorporated by Reference

(p) You must use Hoffmann Propeller Service Instruction No. 61–10–05 SI E 4D, dated March 16, 2005, to perform the checks and inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from Hoffmann Propeller GmbH & Co KG, Küpferlingstraße 9, D–83022 Rosenheim, Germany, telephone ++49–(0)8031–1878–0; fax ++49–(0)8031–1878–78; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Related Information

(q) LBA airworthiness directive D–2004–352R4, dated April 10, 2005, which holds EASA Approval No. 2005–2514, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on June 13, 2005.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–12172 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21598; Directorate Identifier 2005–NM–121–AD; Amendment 39–14159; AD 2005–13–22]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 Airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to all EMBRAER Model EMB–135 and –145 airplanes. The existing AD currently requires repetitive inspections of the electrical connectors of the electric fuel pumps to detect discrepancies, application of anti-corrosion spray, replacement of all fuel pumps with improved fuel pumps, repetitive inspections after all six fuel pumps are replaced, and applicable corrective actions. This new AD retains those requirements but revises the initial compliance time for an inspection for certain airplanes. This new AD is prompted by the need to correct a compliance time in the existing AD. We are issuing this AD to prevent an ignition source in the fuel tank or adjacent dry bay, which could result in fire or explosion.

DATES: Effective July 7, 2005.

On May 19, 2005 (70 FR 19685, April 14, 2005), the Director of the Federal Register approved the incorporation by reference of EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001.

On October 3, 2000 (65 FR 56233, September 18, 2000), the Director of the Federal Register approved the incorporation by reference of EMBRAER Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000.

We must receive any comments on this AD by August 22, 2005.

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

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

For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21598; the directorate identifier for this docket is 2005–NM–121–AD.

Examining the Docket

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: On April 1, 2005, the FAA issued AD 2005–08–02, amendment 39–14054 (70 FR 19685, April 14, 2005). That AD applies to all EMBRAER Model EMB–135 and –145 series airplanes. That AD requires repetitive inspections of the electrical connectors of the electric fuel pumps to detect discrepancies, follow-on corrective actions, replacement of discrepant fuel pumps under certain conditions, application of anti-corrosion spray, eventual replacement of all fuel pumps with improved fuel pumps; and repetitive inspections after all six fuel pumps are replaced. That AD was prompted by the manufacturer's development of a new modification that

addresses the unsafe condition. The actions specified in that AD are intended to prevent an ignition source in the fuel tank or adjacent dry bay, which could result in fire or explosion.

Actions Since AD Was Issued

Since we issued that AD, we have learned that paragraph (i)(2), as published in AD 2005–08–02, includes an incorrect compliance time. That AD incorrectly identified the compliance times in terms of ''flight cycles'' instead of ''flight hours.'' The inadvertent transposition occurred during the preparation of the final rule.

Explanation of Change to Applicability

The FAA has revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

FAA's Determination and Requirements of This AD

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

We are issuing this AD to supersede AD 2005–08–02. This new AD retains the requirements of the existing AD, with the sole change to the compliance time in paragraph (i)(2) described previously.

FAA's Determination of the Effective Date

Providing notice and opportunity for public comment before the AD is issued is unnecessary as the substance of the AD is unchanged, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–21598; Directorate Identifier 2005–NM–121–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–14054 (70 FR 19685, April 14, 2005) and adding the following new AD:

2005–13–22 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2005–21598; Directorate Identifier 2005–NM–121–AD; Amendment 39–14159.

Effective Date

(a) This AD becomes effective July 7, 2005.

Affected ADs

(b) This AD supersedes AD 2005–08–02, amendment 39–14054.

Applicability: (c) This AD applies to all EMBRAER Model EMB–135BJ, –135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, and –145LR airplanes; certificated in any category.

Unsafe Condition

(d) This AD was prompted by the need to correct a compliance time in the existing AD. We are issuing this AD to prevent an ignition source in the fuel tank or adjacent dry bay, which could result in fire or explosion.

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

Repetitive Inspections

(f) Perform a general visual inspection of the electrical connectors of the fuel pumps in the right- and left-hand wings to detect discrepancies (including blackened connector pins, damage to electrometric insert, cracks, erosion, or charring), in accordance with EMBRAER Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000, at the times specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, as applicable. Repeat the inspection thereafter at intervals not to exceed 400 flight hours until the inspection required by paragraph (i) of this AD is done.

(1) For airplanes having 1,200 total flight hours or less as of October 3, 2000 (the effective date of AD 2000–19–02, amendment 39–11903): Prior to the accumulation of 1,600 total flight hours.

(2) For airplanes having more than 1,200 total flight hours, but less than 4,000 total flight hours, as of October 3, 2000: Within 400 flight hours after October 3, 2000.

(3) For airplanes having 4,000 total flight hours or more as of October 3, 2000: Prior to the accumulation of 4,400 total flight hours, or within 50 flight hours after October 3, 2000, whichever occurs later.

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

Follow-On Corrective Actions

(g) If any discrepancy (including blackened connector pins, damage to electrometric insert, cracks, erosion, or charring) is detected after accomplishment of any inspection required by paragraph (f) of this AD: Before further flight, replace the fuel pump and its mating airplane connector in accordance with EMBRAER Alert Service Bulletin S.B. 145–28-A013, dated August 16, 2000.

(h) After accomplishment of the replacement required by paragraph (g) of this AD: Before further flight, perform a general visual inspection of the electrical connectors adjacent to the fuel pump to detect damage (visible cracks, erosion, or charring), in accordance with EMBRAER Alert Service Bulletin S.B. 145–28-A013, dated August 16, 2000, and accomplish the requirements in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) If any damage is detected, before further flight, replace the connectors with new ones in accordance with the alert service bulletin.

(2) If no damage is detected, before further flight, replace only the socket contacts with new contacts in accordance with the alert service bulletin.

Inspections

(i) Do a general visual inspection of the electrical connectors of the fuel pumps in the right- and left-hand wings to detect discrepancies (including any corrosion, surface irregularities, damaged plating, blackened pins, damaged elastomeric inserts, cracks, erosion, or charring of the connector). Do the first inspection at the applicable time in paragraph (i)(1), (i)(2), or (i)(3) of this AD, in accordance with Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001. Repeat the inspection thereafter at intervals not to exceed 1,200 flight hours until all six fuel pumps are replaced with pumps having part number (P/N) 2C7–4. When all six fuel pumps have been replaced with P/N 2C7–4 pumps, repeat the inspection thereafter at intervals not to exceed 8,000 flight hours. Doing the initial inspection required by this paragraph terminates the repetitive inspections required by paragraph (f) of this AD.

(1) For airplanes that were inspected in accordance with paragraph (f) of this AD on or before May 19, 2005 (the effective date of AD 2005–08–02), but did not have all six P/N 2C7–4 pumps as of May 19, 2005: Within 1,200 flight hours since the most recent inspection done in accordance with paragraph (f) of this AD.

(2) For airplanes that were inspected in accordance with paragraph (f) of this AD on or before May 19, 2005, that had all six P/N 2C7–4 pumps as of May 19, 2005: Within 8,000 flight hours since replacement of all six pumps with P/N 2C7–4 pumps, or within 2,000 flight hours after the effective date of this AD, whichever occurs later.

(3) For airplanes that were not inspected in accordance with paragraph (f) of this AD on or before May 19, 2005: Within 1,200 flight hours after May 19, 2005.

Corrective Action If No Discrepancy Is Found

(j) If there is no evidence of a discrepancy found during any inspection required by paragraph (i) of this AD: Before further flight, apply anti-corrosion spray on the male contacts of the fuel pump electrical connectors in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001.

Replacement if Any Discrepancy Is Found

(k) If any evidence of a discrepancy is found during any inspection required by paragraph (i) of this AD: Before further flight, replace the electric fuel pump with a serviceable pump in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001. After the replacement, repeat the inspection required by paragraph (i) of this AD at the applicable interval in that paragraph.

Inspection and Corrective Actions

(l) Before further flight after replacing a fuel pump, as required by paragraph (k) of this AD: Do a general visual inspection for damage of the mating aircraft connectors; and do the applicable corrective action in paragraph (l)(1) or (l)(2) of this AD; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001.

(1) If there is any sign of damage to the mating aircraft connectors: Replace the affected connector with a new connector, and apply anti-corrosion spray on the male contacts of the fuel pump electric connectors.

(2) If there is no sign of damage to the mating aircraft connectors: Replace only the socket contacts with new socket contacts, and apply anti-corrosion spray on the male contacts of the fuel pump electric connectors.

Master Minimum Equipment List (MMEL)

(m) The inspections required by paragraphs (f) and (i) of this AD apply to the six electric fuel pumps in the right- and left-hand wings (three pumps in each wing). For pump replacement planning purposes, the airplane may be operated in accordance with the provisions and limitations specified in an operator's FAA-approved MMEL, provided that no more than one fuel pump on each wing on the airplane is inoperative.

Note 2: When operating under the MMEL, operators must comply with the unusable fuel quantity as referenced in the Limitations section of the appropriate FAA-approved Airplane Flight Manual.

Alternative Methods of Compliance (AMOCs)

(n)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) Alternative methods of compliance, approved previously per AD 2000–19–02, amendment 39–11903, are not approved as alternative methods of compliance with this AD.

Related Information

(o) Brazilian airworthiness directive 2000–08–01R2, dated February 13, 2002, also addresses the subject of this AD.

Material Incorporated by Reference

(p) Unless the AD specifies otherwise, you must use EMBRAER Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000; and EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001; as applicable; to perform the actions that are required by this AD.

(1) The incorporation by reference of EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001, was approved previously by the Director of the Federal Register as of May 19, 2005 (70 FR 19685, April 14, 2005).

(2) The incorporation by reference of EMBRAER Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000, was approved previously by the Director of the Federal Register as of October 3, 2000 (65 FR 56233, September 18, 2000).

(3) To get copies of the service information, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. 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 the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on June 15, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12301 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20617; Airspace Docket No. 05–AAL–12]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Routes; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a low altitude area navigation (RNAV) route T–270 in Alaska to support the Alaskan Capstone Program. The FAA is taking this action to enhance safety and improve the efficient use of the navigable airspace in Alaska.

DATES: 0901 UTC, September 1, 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 April 11, 2005, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish a low altitude RNAV route in Alaska (70 FR 18335). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Related Rulemaking

On April 8, 2003, the FAA published the Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes, and Reporting Points rule in the **Federal Register** (68 FR 16943). This rule adopted certain amendments proposed in Notice No. 02–20, Area Navigation (RNAV) and Miscellaneous Amendments. The rule adopted and revised several definitions in FAA regulations, including Air Traffic Service Routes, to be in concert with International Civil Aviation Organization definitions; and reorganized the structure of FAA regulations concerning the designation of Class A, B, C, D, and E airspace areas, airways, routes, and reporting points. The purpose of the rule was to facilitate the establishment of RNAV routes in the National Airspace System for use by aircraft with advanced navigation system capabilities.

On May 9, 2003, the FAA published the Establishment of Area Navigation Routes (RNAV) rule in the **Federal Register** (68 FR 24864).

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing T–270 RNAV in Alaska within the airspace assigned to the Anchorage Air Route Control Center (ARTCC). This route was developed as part of the Capstone Program. This action will enhance safety, and facilitate the more flexible and efficient use of the navigable airspace for enroute instrument flight rules (IFR) operations within Alaska.

Low altitude RNAV routes are published in paragraph 2006 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 low altitude RNAV 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 rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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 2006 Area Navigation Routes

* * * * * * *

T–270 OAY to SHH [New]

OAY	NDB	(lat. 64°41′46″ N., long. 162°03′46″ W.)
HEXOG	WP	(lat. 65°28′25″ N., long. 163°57′20″ W.)
SHH	NDB	(lat. 66°15′29″ N., long. 166°03′09″ W.)

* * * * * * *

Issued in Washington, DC, on June 16, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–12365 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20413; Airspace Docket No. 05–AAL–03]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Routes; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes eight high altitude area navigation (RNAV) routes in Alaska to support the Alaskan Region's Capstone Program. The Capstone Program is a Safety Program which seeks near term safety and efficiency gains by accelerating the implementation and use of modern technology. The FAA is taking this action to enhance safety and to improve the efficient use of the navigable airspace in Alaska.

DATES: 0901 UTC, September 1, 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 March 15, 2005, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish high altitude RNAV Routes in Alaska (70 FR 12619). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Five comments were received.

Three commenters supported the proposal. Two other commenters supported the proposal but questioned the methodology used to determine the new routings. The comments critical of the proposal, involved concerns about the potential safety of the proposed routes and whether or not the proposed routes were up to FAA standards. The existing high altitude route structure has evolved over several years to connect the populated areas of Alaska while taking into consideration the limited radar, communication and navigational aid infrastructure. These limitations often required aircraft to file circuitous routes that resulted in increased costs. The proposed RNAV routes were developed to allow properly equipped aircraft to navigate more directly without the need for radar vectors from air traffic control. The new routes allow direct point-to-point travel or a shorter route around special use airspace.

All comments were fully considered before proceeding with this final rule. With the exception of editorial changes, this amendment is the same as that proposed in the notice.

Related Rulemaking

On April 8, 2003, the FAA published the Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes, and Reporting Points rule in the **Federal Register** (68 FR 16943). This rule adopted certain amendments proposed in Notice No. 02–20, RNAV and Miscellaneous Amendments. The rule adopted and revised several definitions in FAA regulations, including Air Traffic Service Routes, to be in concert with ICAO definitions; and reorganized the structure of FAA regulations concerning the designation of Class A, B, C, D, and E airspace areas; Air Traffic Service Routes; and reporting points. The purpose of the rule was to facilitate the establishment of RNAV routes in the NAS for use by aircraft with advanced navigation system capabilities.

On May 9, 2003, the FAA published the Establishment of RNAV rule in the **Federal Register** (68 FR 24864).

The Rule

The FAA amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing eight RNAV routes in Alaska within the airspace assigned to the Anchorage Air Route Control Center (ARTCC). These routes were developed as part of the Capstone Program. This action will enhance safety, and facilitate the more flexible and efficient use of the navigable airspace for en route instrument flight rules (IFR) operations within Alaska.

High altitude RNAV routes are published in paragraph 2006 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 high altitude RNAV routes 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.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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 2006—Area Navigation Routes

* * * * * * *

Q–6 TKA to BRW [New]

TKA	VOR/DME	(Lat. 62°17′55″ N., long. 150°06′20″ W.)
JOKAP	WP	(Lat. 63°54′46″ N., long. 150°58′29″ W.)
KUTDE	WP	(Lat. 66°19′20″ N., long. 152°29′01″ W.)
LACIL	WP	(Lat. 69°30′18″ N., long. 155°00′34″ W.)
BRW	VOR/DME	(Lat. 71°16′24″ N., long. 156°47′17″ W.)

* * * * * * *

Q–8 ANC to GAL [New]

ANC	VOR/DME	(Lat. 61°09′03″ N., long. 150°12′24″ W.)
WEBIK	WP	(Lat. 63°07′48″ N., long. 155°29′18″ W.)
GAL	VORTAC	(Lat. 64°44′17″ N., long. 156°46′38″ W.)

* * * * * * *

Q–10 ENM to ULL [New]

ENM	VOR/DME	(Lat. 62°47′00″ N., long. 164°29′16″ W.)
ULL	VOR/DME	(Lat. 63°41′32″ N., long. 170°28′12″ W.)

* * * * * * *

Q–12 OTZ to SCC [New]

OTZ	VOR/DME	(Lat. 66°53′08″ N., long. 162°32′24″ W.)
SCC	VOR/DME	(Lat. 70°11′57″ N., long. 148°24′58″ W.)

* * * * * * *

Q–14 ODK to JOH [New]

ODK	VORTAC	(Lat. 57°46′30″ N., long. 152°20′23″ W.)
WUXAN	WP	(Lat. 59°53′00″ N., long. 149°00′00″ W.)
JOH	VOR/DME	(Lat. 60°28′51″ N., long. 146°35′58″ W.)

* * * * * * *

Q–16 ODK to MDO [New]

ODK	VORTAC	(Lat. 57°46′30″ N., long. 152°20′23″ W.)
ZAXUM	WP	(Lat. 58°41′15″ N., long. 147°53′26″ W.)
MDO	VOR/DME	(Lat. 59°25′19″ N., long. 146°21′00″ W.)

Q–17 HOM to MDO [New]

HOM	VOR/DME	(Lat. 59°42′34″ N., long. 151°27′24″ W.)
WUXAN	WP	(Lat. 59°53′00″ N., long. 149°00′00″ W.)
MDO	VOR/DME	(Lat. 59°25′19″ N., long. 146°21′00″ W.)

Q–18 GAL to BRW [New]

GAL	VORTAC	(Lat. 64°44′17″ N., long. 156°46′38″ W.)
BRW	VOR/DME	(Lat. 71°16′24″ N., long. 156°47′17″ W.)

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Issued in Washington, DC, on June 16, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–12360 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20446; Airspace Docket No. 05–AAL–04]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Routes; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes 33 low altitude area navigation (RNAV) routes in Alaska to support the Alaskan Capstone Program. The FAA initially proposed 39 RNAV routes; however, 6 routes subsequently have been canceled to reduce chart clutter. The FAA is taking this action to enhance safety and improve the efficient use of the navigable airspace in Alaska.

DATES: *Effective Date:* 0901 UTC, September 1, 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 March 14, 2005, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish 39 low altitude RNAV routes in Alaska (70 FR 12423). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Three comments were received.

Two commenters were concerned about chart clutter from the additional route structure published on the low altitude IFR charts.

The FAA agrees with the comment. To reduce chart clutter, six routes from the proposal that overlaid existing airways have been canceled due to the close proximity of new waypoints to existing intersections.

The Aircraft Owners and Pilots Association (AOPA) raised several issues concerning aircrew/pilot qualifications and navigation systems that will support the new RNAV routes in Alaska. Specifically, AOPA has concerns regarding Special Aircraft and Aircrew Authorization Required

(SAAAR) criteria, and Wide Area Augmentation System (WAAS), and also suggests the need for pilot and controller education resources.

SAAAR will not be required to operate on the T and Q routes in Alaska. The routes will be public routes and published on charts with appropriate notation regarding required equipage. Special Federal Aviation Regulation No. 97 (SFAR 97) (68 FR 14072), which is applicable only in Alaska, allows navigation with GPS Technical Standard Order (TSO) 145/146 WAAS-compliant avionics without reference to ground based Navigational Aids (NAVAIDs). SFAR 97 allows development of Minimum Enroute Altitudes (MEAs) that are based upon communications and obstacle clearance criteria only, without regard to ground based NAVAID signal reception.

The Alaska region was granted an Air Traffic Control authorization to use GPS, including TSO C129 receivers, without radar monitoring to navigate from published waypoint to published waypoint within the state. This authorization does not allow use of MEAs below service volume that are allowed only by SFAR 97 to aircraft equipped with GPS TSO 145/146 WAAS-compliant avionics.

The T routes will be depicted only on low altitude charts. Routes developed above FL180 are designated with the letter Q and will appear on high altitude charts. Airway dimensions are 4 nautical miles either side of centerline.

Pilot education is ongoing to prepare pilots of technically advanced aircraft to navigate in the National Airspace System (NAS) as it evolves from ground-based navigation. The FAA/Industry Training Standards (FITS) program helps pilots of technically advanced aircraft, which have more automation and often have greater performance capabilities, develop the risk-management skills and in-depth systems knowledge needed to safely operate and maximize the capability of these aircraft within the NAS. The Alaska Capstone Program is providing individual pilot training to pilots flying aircraft equipped with Capstone avionics.

With the exception of editorial changes and the removal of six routes, this amendment is the same as that proposed in the notice.

Related Rulemaking

On April 8, 2003, the FAA published the Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes, and Reporting Points rule in the **Federal Register** (68 FR 16943). This rule adopted certain amendments proposed in Notice No. 02–20, Area Navigation (RNAV) and Miscellaneous Amendments. The rule adopted and revised several definitions in FAA regulations, including Air Traffic Service Routes, to be in concert with International Civil Aviation Organization definitions; and reorganized the structure of FAA regulations concerning the designation of Class A, B, C, D, and E airspace areas; airways; routes; and reporting points. The purpose of the rule was to facilitate the establishment of RNAV routes in the NAS for use by aircraft with advanced navigation system capabilities.

On May 9, 2003, the FAA published the Establishment of Area Navigation Routes (RNAV) rule in the **Federal Register** (68 FR 24864).

The Rule

The FAA amends Title 14 Code of Federal Regulations (14 CFR) part 71 and establishes 33 RNAV routes in Alaska, within the airspace assigned to the Anchorage Air Route Control Center (ARTCC). These routes were developed as part of the Capstone Program. This action will enhance safety, and facilitate the more flexible and efficient use of the navigable airspace for enroute instrument flight rules (IFR) operations within Alaska.

Low altitude RNAV routes are published in paragraph 2006 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 low altitude RNAV routes 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 proposed 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.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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 2006 Area Navigation Routes.

* * * * *

T–219 IIK to AIX [New]

IIK	VOR/DME	(Lat. 59°56′34″ N., long. 164°02′04″ W.)
AIX	NDB/DME	(Lat. 60°23′06″ N., long. 166°12′53″ W.)

T–222 FAI to ADK NDB [New]

FAI	VORTAC	(Lat. 64°48′00″ N., long. 148°00′43″ W.)
ENN	VORTAC	(Lat. 64°35′24″ N., long. 149°04′22″ W.)
MCG	VORTAC	(Lat. 62°57′04″ N., long. 155°36′41″ W.)
BET	VORTAC	(Lat. 60°47′05″ N., long. 161°49′27″ W.)

IIK	VOR/DME	(Lat. 59°56′34″ N., long. 164°02′04″ W.)
SPY	NDB/DME	(Lat. 57°09′28″ N., long. 170°13′51″ W.)
ADK	NDB/DME	(Lat. 51°52′19″ N., long. 176°40′34″ W.)

T–223 ANC to EHM [New]

ANC	VOR/DME	(Lat. 61°09′03″ N., long. 150°12′24″ W.)
BLUGA	WP	(Lat. 60°46′22″ N., long. 151°55′07″ W.)
NONDA	WP	(Lat. 60°19′15″ N., long. 153°47′57″ W.)
FAGIN	WP	(Lat. 59°51′56″ N., long. 155°32′43″ W.)
DLG	VOR/DME	(Lat. 58°59′39″ N., long. 158°33′08″ W.)
EHM	NDB	(Lat. 58°39′21″ N., long. 162°04′33″ W.)

T–225 HPB to FAI [New]

HPB	VOR/DME	(Lat. 61°30′52″ N., long. 166°08′04″ W.)
UNK	VOR/DME	(Lat. 63°53′31″ N., long. 160°41′04″ W.)
GAL	VORTAC	(Lat. 64°44′17″ N., long. 156°46′38″ W.)
TAL	VOR/DME	(Lat. 65°10′38″ N., long. 152°10′39″ W.)
FAI	VORTAC	(Lat. 64°48′00″ N., long. 148°00′43″ W.)

T–226 JOH to FYU [New]

JOH	VOR/DME	(Lat. 60°28′51″ N., long. 146°35′58″ W.)
FIDAL	WP	(Lat. 60°44′03″ N., long. 146°26′00″ W.)
ROBES	WP	(Lat. 61°05′51″ N., long. 146°11′25″ W.)
KLUNG	WP	(Lat. 61°45′32″ N., long. 145°43′58″ W.)
GKN	VOR/DME	(Lat. 62°09′09″ N., long. 145°27′01″ W.)
DOZEY	WP	(Lat. 62°25′04″ N., long. 145°29′11″ W.)
PAXON	WP	(Lat. 62°58′54″ N., long. 145°33′56″ W.)
DONEL	WP	(Lat. 63°40′22″ N., long. 145°39′54″ W.)
BIG	VORTAC	(Lat. 64°00′16″ N., long. 145°43′02″ W.)
HEXAX	WP	(Lat. 65°59′40″ N., long. 145°23′01″ W.)
FYU	VORTAC	(Lat. 66°34′27″ N., long. 145°16′36″ W.)

T–227 CD to SYA [New]

CD	NDB	(Lat. 55°17′46″ N., long. 162°47′21″ W.)
CIPIM	WP	(Lat. 54°52′50″ N., long. 165°03′15″ W.)
DUT	NDB/DME	(Lat. 53°54′19″ N., long. 166°32′57″ W.)
ADK	NDB/DME	(Lat. 51°52′19″ N., long. 176°40′34″ W.)
JANNT	WP	(Lat. 52°04′18″ N., long. 178°15′37″ W.)
SYA	NDB	(Lat. 52°43′19″ N., long. 174°03′37″ W.)

T–228 EHM to SHH [New]

EHM	NDB	(Lat. 58°39′21″ N., long. 162°04′33″ W.)
IIK	VOR/DME	(Lat. 59°56′34″ N., long. 164°02′04″ W.)
HPB	VOR/DME	(Lat. 61°30′52″ N., long. 166°08′04″ W.)
OME	VOR/DME	(Lat. 64°29′06″ N., long. 165°15′11″ W.)
HIKAX	WP	(Lat. 65°36′20″ N., long. 165°44′44″ W.)
SHH	NDB	(Lat. 66°15′29″ N., long. 166°03′09″ W.)

T–229 FAI to PHO [New]

FAI	VORTAC	(Lat. 64°48′00″ N., long. 148°00′43″ W.)
TAL	VOR/DME	(Lat. 65°10′38″ N., long. 152°10′39″ W.)
HSL	VOR/DME	(Lat. 65°42′22″ N., long. 156°22′14″ W.)
WLK	VOR/DME	(Lat. 66°36′00″ N., long. 159°59′30″ W.)
OTZ	VOR/DME	(Lat. 66°53′08″ N., long. 162°32′24″ W.)
PHO	NDB	(Lat. 68°20′41″ N., long. 166°47′51″ W.)

T–230 AK to SPY [New]

AK	NDB	(Lat. 58°44′14″ N., long. 156°46′40″ W.)
SPY	NDB/DME	(Lat. 57°09′28″ N., long. 170°13′51″ W.)

T–231 FAI to OTZ [New]

FAI	VORTAC	(Lat. 64°48′00″ N., long. 148°00′43″ W.)
SIGME	WP	(Lat. 65°05′48″ N., long. 149°30′00″ W.)
ZUTUL	WP	(Lat. 66°28′24″ N., long. 158°30′00″ W.)
OTZ	VOR/DME	(Lat. 66°53′08″ N., long. 162°32′24″ W.)

T–232 OLARU to BRW [New]

OLARU	WP	(Lat. 62°28′16″ N., long. 141°00′00″ W.)
ORT	VORTAC	(Lat. 62°56′50″ N., long. 141°54′46″ W.)
BIG	VORTAC	(Lat. 64°00′16″ N., long. 145°43′02″ W.)
FAI	VORTAC	(Lat. 64°48′00″ N., long. 148°00′43″ W.)
BTT	VOR/DME	(Lat. 66°54′18″ N., long. 151°32′09″ W.)
BRONX	WP	(Lat. 70°04′03″ N., long. 155°06′34″ W.)
BRW	VOR/DME	(Lat. 71°16′24″ N., long. 156°47′17″ W.)

T–233 EAV to AMF [New]

EAV	NDB	(Lat. 66°53′36″ N., long. 151°33′49″ W.)
ENCOR	WP	(Lat. 66°55′58″ N., long. 152°19′54″ W.)
KORKY	WP	(Lat. 67°05′33″ N., long. 157°00′01″ W.)
AMF	NDB/DME	(Lat. 67°06′24″ N., long. 157°51′29″ W.)

T–234 FAI to RAMPA [New]

FAI	VORTAC	(Lat. 64°48′00″ N., long. 148°00′43″ W.)
TOLLO	WP	(Lat. 65°06′12″ N., long. 148°58′34″ W.)
RAMPA	WP	(Lat. 65°21′55″ N., long. 149°50′41″ W.)
T–235 ATK to UQS [New]		
ATK	NDB	(Lat. 70°28′09″ N., long. 157°25′39″ W.)
UQS	NDB	(Lat. 70°12′45″ N., long. 151°00′00″ W.)
T–236 ENN to RAMPA [New]		
ENN	VORTAC	(Lat. 64°35′24″ N., long. 149°04′22″ W.)
RAMPA	WP	(Lat. 65°21′55″ N., long. 149°50′41″ W.)
T–237 HOM to MDO [New]		
HOM	VOR/DME	(Lat. 59°42′34″ N., long. 151°27′24″ W.)
WUXAN	WP	(Lat. 59°53′00″ N., long. 149°00′00″ W.)
MDO	VOR/DME	(Lat. 59°25′18″ N., long. 146°21′00″ W.)
T–238 RAMPA to BTT [New]		
RAMPA	WP	(Lat. 65°21′55″ N., long. 149°50′41″ W.)
BTT	VOR/DME	(Lat. 66°54′18″ N., long. 151°32′09″ W.)
T–239 GAM to ULL [New]		
GAM	NDB/DME	(Lat. 63°46′55″ N., long. 171°44′12″ W.)
ULL	VOR/DME	(Lat. 63°41′32″ N., long. 170°28′12″ W.)
T–240 BTT to SCC [New]		
EAV	NDB	(Lat. 66°53′36″ N., long. 151°33′49″ W.)
NAMRE	WP	(Lat. 69°06′29″ N., long. 149°34′00″ W.)
SCC	VOR/DME	(Lat. 70°11′57″ N., long. 148°24′58″ W.)
T–241 LATCH to LVD [New]		
LATCH	WP	(Lat. 56°00′45″ N., long. 134°35′54″ W.)
LVD	VOR/DME	(Lat. 56°28′04″ N., long. 133°04′59″ W.)
T–242 TKA to BRW [New]		
TKA	VOR/DME	(Lat. 62°17′55″ N., long. 150°06′20″ W.)
JOKAP	WP	(Lat. 63°54′46″ N., long. 150°58′29″ W.)
KUTDE	WP	(Lat. 66°19′20″ N., long. 152°29′01″ W.)
LACIL	WP	(Lat. 69°30′18″ N., long.155°00′34″ W.)
BRW	VOR/DME	(Lat. 71°16′24″ N., long. 156°47′17″ W.)
T–244 ANC to OME [New]		
ANC	VOR/DME	(Lat. 61°09′03″ N., long. 150°12′24″ W.)
CAKAD	WP	(Lat. 61°18′24″ N., long. 150°43′12″ W.)
CEXIX	WP	(Lat. 61°29′52″ N., long. 151°21′58″ W.)
BETPE	WP	(Lat. 62°21′01″ N., long. 154°29′43″ W.)
CHEFF	WP	(Lat. 63°02′10″ N., long. 157°22′49″ W.)
CONFI	WP	(Lat. 63°49′03″ N., long. 161°13′59″ W.)
OME	VOR/DME	(Lat. 64°29′06″ N., long. 165°15′11″ W.)
T–246 ANC to GAL [New]		
ANC	VOR/DME	(Lat. 61°09′03″ N., long. 150°12′24″ W.)
WEBIK	WP	(Lat. 63°07′48″ N., long. 155°29′18″ W.)
GAL	VORTAC	(Lat. 64°44′17″ N., long. 156°46′38″ W.)
T–248 ENM to ULL [New]		
ENM	VOR/DME	(Lat. 62°47′00″ N., long. 164°29′16″ W.)
BICAP	WP	(Lat. 63°37′23″ N., long. 169°55′52″ W.)
ULL	VOR/DME	(Lat. 63°41′32″ N., long. 170°28′12″ W.)
T–250 BET to ULL [New]		
BET	VOR/DME	(Lat. 60°47′05″ N., long. 161°49′27″ W.)
BANAT	WP	(Lat. 62°12′49″ N., long. 165°40′01″ W.)
ULL	VOR/DME	(Lat. 63°41′32″ N., long. 170°28′12″ W.)
T–252 OTZ to SCC [New]		
OTZ	VOR/DME	(Lat. 66°53′08″ N., long. 162°32′24″ W.)
PERCI	WP	(Lat. 67°01′16″ N., long. 162°06′40″ W.)
WARRT	WP	(Lat. 69°21′10″ N., long. 153°00′00″ W.)
SCC	VOR/DME	(Lat. 70°11′57″ N., long. 148°24′58″ W.)
T–256 GAL to BRW [New]		
GAL	VORTAC	(Lat. 64°44′17″ N., long. 156°46′38″ W.)
MEESE	WP	(Lat. 66°00′01″ N., long. 156°46′44″ W.)
NITTI	WP	(Lat. 67°00′01″ N., long. 156°46′49″ W.)
PANNT	WP	(Lat. 68°30′01″ N., long. 156°46′58″ W.)
OSSON	WP	(Lat. 69°35′59″ N., long. 156°47′05″ W.)
BRW	VOR/DME	(Lat. 71°16′24″ N., long. 156°47′17″ W.)
T–258 SHH to PHO [New]		
SHH	NDB	(Lat. 66°15′29″ N., long. 166°03′09″ W.)
PHO	NDB	(Lat. 68°20′41″ N., long. 166°47′51″ W.)
T–260 TNC to PHO [New]		
TNC	NDB/DME	(Lat. 65°33′43″ N., long. 167°55′27″ W.)

COGNU	WP	(Lat. 65°48′29″ N., long. 167°50′06″ W.)
PHO	NDB	(Lat. 68°20′41″ N., long. 166°47′51″ W.)
T–262 ODK to JOH [New]		
ODK	VORTAC	(Lat. 57°46′30″ N., long. 152°20′23″ W.)
WUXAN	WP	(Lat. 59°53′00″ N., long. 149°00′00″ W.)
JOH	VOR/DME	(Lat. 60°28′51″ N., long. 146°35′58″ W.)
T–264 ODK to MDO [New]		
ODK	VORTAC	(Lat. 57°46′30″ N., long. 152°20′23″ W.)
ZAXUM	WP	(Lat. 58°41′15″ N., long. 147°53′26″ W.)
MDO	VOR/DME	(Lat. 59°25′18″ N., long. 146°21′00″ W.)
T–266 CGL to FPN [New]		
CGL	NDB	(Lat. 58°21′33″ N., long. 134°41′58″ W.)
FPN	NDB	(Lat. 56°47′32″ N., long. 132°49′15″ W.)
T–268 FPN to ICK [New]		
FPN	NDB	(Lat. 56°47′32″ N., long. 132°49′15″ W.)
ICK	NDB	(Lat. 55°04′15″ N., long. 131°36′18″ W.)

* * * * *

Issued in Washington, DC, on June 16, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–12366 Filed 6–21–05; 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; correction.

SUMMARY: This action corrects an error in the airspace description of a notice of a final rule that was published in the **Federal Register** on May 6, 2005 (70 FR 23934), Airspace Docket No. 04–AAL–13.

DATES: *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 May 6, 2005, Airspace Docket No. 04–AAL–13, was published in the **Federal Register** (70 FR 23934), revising Jet Route 133 (J–133), AK. In that rule, the airspace description was incomplete. This action corrects that error.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the legal description for J–133, as published in the **Federal Register** on May 6, 2005 (70 FR 23934), on page 23934 and incorporated by reference in 14 CFR 71.1, is corrected as follows:

PART 71—[AMENDED]

§ 71.1 [Amended]

Paragraph 2004—Jet Airways

* * * * *

J–133 [Corrected]

J–133: From Sitka, AK NDB; via INT Sitka, AK NDB 308° and Orca Bay, AK, NDB 114°; Orca Bay, AK; Johnstone Point, AK; Anchorage, AK; to Galena AK.

* * * * *

Issued in Washington, DC, on June 10, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–12126 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. FAA–2004–18477; Amendment Nos. 121–312; 135–98]

Aircraft Assembly Placard Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; Notice of Office of Management and Budget approval for information collection and addition of amendment numbers.

SUMMARY: This notice announces the Office of Management and Budget's (OMB) approval of the information collection requirement in the final rule published on June 29, 2004 (FR 69 39292). This notice also provides the amendment numbers for the final rule that were absent when it was published.

DATES: Final rule; Aircraft Assembly Placard Requirement was published in the **Federal Register** on June 29, 2004. FAA received OMB approval for the information collection requirement on November 8, 2004. The final rule becomes effective June 22, 2005.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Flight Standards Service, Air Transportation Division, AFS–201A, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8166; facsimile (202) 267–5229; e-mail: *gary.davis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 29, 2004, the FAA published the Final Rule, Aircraft Assembly Placard Requirements, as instructed by an act of Congress. The rule instructed affected air carriers to display a placard with information on where the aircraft was assembled. We instructed air carriers to provide that information in one sentence on the seat-pocket cards that inform passengers of emergency procedures.

As noted in the preamble, the final rule would not become effective until the FAA received approval from OMB for the information collection that was required in the rule. In the **DATES** section of the final rule, we said that when that approval was received we would publish a notice in the **Federal Register** announcing the effective date.

In accordance with the Paperwork Reduction Act, OMB approved the FAA's request for new information collection on November 8, 2004. Please note that an agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection is 2120–0691. The request was approved by OMB without change and expires on November 30, 2007.

Additionally, the Final Rule was published without amendment numbers. This notice adds those amendment numbers as shown in the heading.

49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105, grants authority to the Administrator to publish this notice. The final rule (FR 69 39292) is effective immediately.

Issued in Washington, DC, on June 15, 2005.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 05–12239 Filed 6–17–05; 11:35 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 2002F–0160]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D_3

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correcting amendments.

SUMMARY: The Food and Drug Administration (FDA) is responding to objections and is denying requests that it has received for a hearing on the final rule that amended the food additive regulations authorizing the use of vitamin D_3 as a nutrient supplement in calcium-fortified fruit juices and fruit drinks, excluding fruit juices and fruit juice drinks specially formulated or processed for infants, at levels not to exceed 100 International Units (IU) per serving. (In the final rule, FDA used the term ''fruit drink;'' however, the common or usual name of the product is ''fruit juice drink.'' Therefore, FDA is replacing the term ''fruit drink'' with ''fruit juice drink.'') In response to one of the objections, FDA is amending the vitamin D_3 regulation to replace the current 100 IU per serving limits on the vitamin D_3 fortification of fruit juices and fruit juice drinks with limits of 100 IU per 240 milliliters (mL). This document also corrects three errors that appeared in the codified portion of the vitamin D_3 final rule.

DATES: This rule is effective June 22, 2005. Submit written or electronic objections and requests for a hearing by July 22, 2005. See section IX of this document for information on the filing of objections.

ADDRESSES: You may submit written or electronic objections and requests for a hearing, identified by Docket No. 2002F–0160, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.
- E-mail: *fdadockets@oc.fda.gov*. Include Docket No. 2002F–0160 in the subject line of your e-mail message.
- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All objections received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or objections received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Judith L. Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1071.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of April 25, 2002 (67 FR 20533), FDA published a notice announcing the filing of a food additive petition (FAP 2A4734) by the Minute Maid Co. (Minute Maid), to amend the food additive regulations in part 172 *Food Additives Permitted for Direct Addition to Food for Human Consumption* (21 CFR part 172) to provide for the safe use of vitamin D_3 as a nutrient supplement in calcium-fortified fruit juices and fruit juice drinks. In response to FAP 2A4734, in the **Federal Register** of February 27, 2003 (68 FR 9000), FDA issued a final rule permitting the safe use of vitamin D_3 as a nutrient supplement in calcium-fortified fruit juices and fruit juice drinks[1], excluding fruit juices and fruit juice drinks specially formulated or processed for infants, at levels not to exceed 100 IU per serving. This regulation was codified in § 172.380. FDA based its decision on data contained in the petition and in its files.

The preamble to the final rule advised that objections to the final rule and requests for a hearing were due within 30 days of the publication date, by March 31, 2003. FDA received several submissions within the 30-day objection period. Some of the submissions sought revocation of the final rule and requested a hearing. In response to one of the objections received during the 30-day objection period, FDA is amending the food additive regulation to replace those portions of the vitamin D_3 regulation that prescribe limits on vitamin D_3 fortification of fruit juices and fruit juice drinks of 100 IU per serving with limits of 100 IU per 240 mL. This document also corrects three errors that appeared in the codified portion of the vitamin D_3 final rule.

II. Objections and Requests for a Hearing

Section 409(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(f)), provides that, within 30 days after publication of an order relating to a food additive regulation, any person adversely affected by such order may file objections, specifying with particularity the provisions of the order ''* * * deemed objectionable, stating reasonable grounds therefore, and requesting a public hearing [based] upon such objections.'' FDA may deny a hearing request if the objections to the regulation do not raise genuine and substantial issues of fact that can be resolved at a hearing.

Under 21 CFR 171.110 of the food additive regulations, objections and requests for a hearing are governed by part 12 (21 CFR part 12) of FDA's regulations. Under § 12.22(a) each

[1] In the final rule (68 FR 9000), FDA used the term ''fruit drink.'' In 21 CFR 102.33, the common or usual name of the product is ''fruit juice drink.'' To be consistent with § 102.33, FDA is replacing the term ''fruit drink'' with ''fruit juice drink'' in § 172.380(d) and elsewhere in this document.

objection must: (1) Be submitted on or before the 30th day after the date of publication of the final rule; (2) be separately numbered; (3) specify with particularity the provision of the regulation or proposed order objected to; (4) specifically state the provision of the regulation or proposed order on which a hearing is requested; failure to request a hearing on an objection constitutes a waiver of the right to a hearing on that objection; and (5) include a detailed description and analysis of the factual information to be presented in support of the objection if a hearing is requested; failure to include a description and analysis for an objection constitutes a waiver of the right to a hearing on that objection.

III. Standards for Granting a Hearing

Specific criteria for deciding whether to grant or deny a request for a hearing are set out in § 12.24(b). Under that regulation, a hearing will be granted if the material submitted by the requester shows, among other things, that: (1) There is a genuine and substantial factual issue for resolution at a hearing; a hearing will not be granted on issues of policy or law; (2) the factual issue can be resolved by available and specifically identified reliable evidence; a hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions and contentions; (3) the data and information submitted, if established at a hearing, would be adequate to justify resolution of the factual issue in the way sought by the requester; a hearing will be denied if the data and information submitted are insufficient to justify the factual determination urged, even if accurate; and (4) resolution of the factual issue in the way sought by the person is adequate to justify the action requested; a hearing will not be granted on factual issues that are not determinative with respect to the action requested (e.g., if the action would be the same even if the factual issue were resolved in the way sought).

A party seeking a hearing is required to meet a ''threshold burden of tendering evidence suggesting the need for a hearing'' (*Costle* v. *Pacific Legal Foundation*, 445 U.S. 198, 214–215 (1980), *reh. denied*, 446 U.S. 947 (1980), citing *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620–621 (1973)). An allegation that a hearing is necessary to ''sharpen the issues'' or to ''fully develop the facts'' does not meet this test (*Georgia Pacific Corp.* v. *EPA*, 671 F.2d 1235, 1241 (9th Cir. 1982)). If a hearing request fails to identify any factual evidence that would be the subject of a hearing, there is no point in holding one. In judicial proceedings, a court is authorized to issue summary judgment without an evidentiary hearing whenever it finds that there are no genuine issues of material fact in dispute, and a party is entitled to judgment as a matter of law (see Rule 56, Federal Rules of Civil Procedure). The same principle applies in administrative proceedings (see § 12.28).

A hearing request must not only contain evidence, but that evidence should raise a material issue of fact concerning which a meaningful hearing might be held (*Pineapple Growers Ass'n* v. *FDA*, 673 F.2d 1083, 1085 (9th Cir. 1982)). Where the issues raised in the objection are, even if true, legally insufficient to alter the decision, the agency need not grant a hearing (see *Dyestuffs and Chemicals, Inc.* v. *Flemming*, 271 F.2d 281 (8th Cir. 1959), *cert. denied*, 362 U.S. 911 (1960)). FDA need not grant a hearing in each case where an objector submits additional information or posits a novel interpretation of existing information (see *United States* v. *Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971)). In other words, a hearing is justified only if the objections are made in good faith and if they ''draw in question in a material way the underpinnings of the regulation at issue.'' (*Pactra Industries* v. *CPSC*, 555 F.2d 677 (9th Cir. 1977)). Finally, courts have uniformly recognized that a hearing need not be held to resolve questions of law or policy (see *Citizens for Allegan County, Inc.* v. *FPC*, 414 F.2d 1125 (D.C. Cir. 1969); *Sun Oil Co.* v. *FPC*, 256 F.2d 233, 240 (5th Cir.), *cert. denied*, 358 U.S. 872 (1958)).

Even if the objections raise material issues of fact, FDA need not grant a hearing if those same issues were adequately raised and considered in an earlier proceeding. Once an issue has been so raised and considered, a party is estopped from raising that same issue in a later proceeding without new evidence. The various judicial doctrines dealing with finality can be validly applied to the administrative process. In explaining why these principles ''self-evidently'' ought to apply to an agency proceeding, the U.S. Court of Appeals for the District of Columbia Circuit wrote:

> The underlying concept is as simple as this: Justice requires that a party have a fair chance to present his position. But overall interests of administration do not require or generally contemplate that he will be given more than a fair opportunity.

Retail Clerks Union, Local 1401 v. *NLRB*, 463 F.2d 316, 322 (D.C. Cir. 1972). (See *Costle* v. *Pacific Legal Foundation*, supra at 215–220. See also *Pacific Seafarers, Inc.* v. *Pacific Far East Line, Inc.*, 404 F.2d 804 (D.C. Cir. 1968), *cert. denied*, 393 U.S. 1093 (1969).)

In summary, a hearing request must present sufficient credible evidence to raise a material issue of fact and the evidence must be adequate to resolve the issue as requested and to justify the action requested.

IV. Analysis of Objections and Response to Hearing Requests

Objections to the vitamin D_3 final rule can be grouped into five broad categories that include the following: (1) Inconsistencies between the codified language and the intent of the petitioner; (2) the use of an animal-derived food additive; (3) the effect on milk consumption and obesity; (4) hypercalcemia concerns; and (5) inconsistency with FDA's fortification policy[2]. FDA addresses each of the objections listed in this document, as well as the evidence and information filed in support of each. If a hearing was requested, we compared each objection and the information submitted to support it to the standards for granting a hearing in § 12.24.

A. Inconsistencies Between Codified Language and Intent of Petitioner

One submission, from Unilever United States, Inc. (Unilever), objected to vitamin D_3 fortification limits based on serving size rather than reference amount customarily consumed (RACC). The RACC, a fixed amount established by regulation § 101.12 (21 CFR 101.12), is to be used as the basis for determining serving sizes for specific products. Serving sizes, however, may vary depending on how a product is packaged (§ 101.9(b)).

Unilever pointed out that the fortification levels based on serving size, rather than RACC, will result in levels of vitamin D_3 in fortified fruit juices and fruit juice drinks that are inconsistent, on a per-mL basis, with the levels of vitamin D_3 in milk and also with the levels of vitamin D_3 in differently sized containers of fortified fruit juices and fruit juice drinks. According to Unilever, this would not be consistent with the intent of the petition that initiated the rulemaking and also would be confusing to consumers. Unilever stated that the intent of the petition is achieved when the fruit juice and fruit juice drinks are fortified with vitamin

[2] FDA received several letters within the 30-day objection period that expressed general opposition to the use of vitamin D_3 in fruit juices and fruit juice drinks. These letters identified no substantive issue to which the agency can respond, and did not request a hearing. These submissions will not be discussed further.

D_3 at 100 IU per RACC value of 240 mL, rather than 100 IU per serving. As explained in the preamble to the vitamin D_3 final rule (68 FR 9000), the RACC for fruit juices and fruit juice drinks intended for the general population is 240 mL.

FDA has reviewed the issues raised by Unilever. FDA determined that the petitioned uses of vitamin D_3 are safe based on a fortification level of 100 IU of vitamin D_3 per RACC (240 mL) of fruit juice and fruit juice drinks and had intended to establish such a limit but inappropriately used the term ''serving'' as a synonym for RACC. There will be no adverse effect on the public health if the term ''serving'' is replaced with the RACC value ''240 mL.'' Therefore, the agency concludes that replacing ''100 IU per serving'' with ''100 IU per 240 mL'' is consistent with the record for this petition as evidenced by both the petitioner's intentions and FDA's safety evaluation of FAP 2A4734. For the foregoing reasons, under § 12.26, FDA is replacing the term ''serving'' with ''240 mL'' in § 172.380(c) and (d). As discussed in section VI of this document, § 172.380 limits the vitamin D_3 fortification of fruit juices to those with greater than or equal to 33 percent of the Reference Daily Intake (RDI) of calcium per RACC and, for fruit juice drinks, to those with greater than or equal to 10 percent of the RDI of calcium per *RACC* (emphasis added). To be consistent with specifying the vitamin D_3 fortification limits in terms of the RACC value of 240 mL, FDA also is replacing the terms ''Reference Amount Customarily Consumed'' and ''RACC'' as used in § 172.380(c) and (d) with ''240 mL.''

B. Animal-Derived Food Additive

FDA received several letters from vegetarians and vegans expressing opposition to the rule because vitamin D_3 can be derived from fish liver oil. Some of these objectors stated that, because vitamin D_3 may be derived from an animal source, its addition to fruit juices and fruit juice drinks would limit their food choices. Others objected to the rule because listing the ingredient as vitamin D_3 will not make it apparent that the vitamin D_3-fortified fruit juices and fruit juice drinks may contain an animal product. One objector requested that FDA require a label statement alerting consumers that the additive is derived from an animal product.

The final rule permits the use of vitamin D_3 only in calcium-fortified fruit juices and fruit juice drinks. Data from the U.S. Department of Agriculture (USDA) Continuing Survey of Food Intake by Individuals conducted from 1994 through 1996 indicate that only a small fraction (approximately less than 5 percent) of the fruit juices and fruit juice drinks available to consumers is fortified with calcium. More recent data, however, indicate that the percentage of calcium-fortified fruit juices and fruit juice drinks could be somewhat higher (approximately 20 percent to 30 percent market share) due to the increasing demand and marketability of calcium-fortified products (Ref. 1). Nevertheless, there remains a relatively large percentage of fruit juices and fruit juice drinks that will not be fortified with vitamin D_3. Additionally, all food ingredients are required to be listed on the label of the product; therefore, consumers can choose to avoid a product that contains a specific ingredient.

To justify a revocation of the food additive regulation, an objector must establish that FDA failed to conduct a fair evaluation of the evidence in the record and, thus, erroneously concluded that the use is safe (see section 409(c)(3) of the act (21 U.S.C. 348(c)(3)). The objections summarized previously in this document cited no data or information relevant to FDA's safety evaluation. Because these objections cited no data or information to demonstrate that the use of an animal-derived food additive is not safe, FDA has concluded that there is no basis to modify or revoke the food additive regulation for vitamin D_3.

Some of the objections summarized previously in this document requested a hearing on the subject but did not point to any specific aspect of the rule that they sought to challenge. Because no evidence was submitted to support these objections, they raise no factual issue for resolution and, therefore, do not justify a hearing (§ 12.24(b)(1)).

C. Effect on Milk Consumption and Obesity

FDA received objections from the American Academy of Pediatrics (AAP), the National Dairy Council (NDC) and the University of California at Davis, Department of Nutrition (UC-Davis), that assert FDA did not consider the effect that vitamin D_3 fortification of fruit juices and fruit juice drinks would have on consumption of these beverages. They were concerned that vitamin D_3 fortification of fruit juices and fruit juice drinks would promote increased intake of these drinks, and that higher intakes of these beverages may be a contributing factor in childhood obesity. These objectors also expressed concern that fortified fruit juices and fruit juice drinks would likely result in decreased consumption of milk and the associated vitamins and minerals in that food. The NDC expressed a concern that fortification of fruit juice drinks with vitamin D is inconsistent with Dietary Guidelines for Americans and the USDA Food Guide Pyramid because these guidelines recommend limiting the intake of sugar from foods and beverages, including fruit juice drinks. The NDC contends that the vitamin D_3 rule should be stayed until the issues they raised have been resolved. The AAP requested a hearing on its objections.

As a basis for their objections, AAP and UC-Davis cited a report from the National Institute of Child Health and Human Development that reviewed evidence supporting a role for dietary calcium and, possibly, dairy intake in the regulation of body adiposity. The report concluded that the available, limited, data support a conclusion that dietary calcium *may* (emphasis added) play a role in body weight regulation and lend support to the hypothesis that increasing dietary calcium or dairy intake may be associated with reduced incidence of adiposity. The report recommended that well-designed, population-based clinical trials be carried out to determine the actual mechanism involved.

The subject of the vitamin D_3 rulemaking is whether the use of the additive in fruit juices and fruit juice drinks, within the limits provided, is safe. As stated in § 12.24(b)(1), a hearing will not be granted on issues of policy or law. Therefore, FDA is denying AAP's request for a hearing. Additionally, FDA has concluded that there is no basis in NDC's objections to stay the food additive regulation for vitamin D_3.

Furthermore, FDA notes that objectors did not submit any evidence that demonstrates that vitamin D_3 fortification of fruit juices and fruit juice drinks will lead to an increased consumption of these beverages or that such fortification will lead to a decrease in milk consumption. Additionally, these objectors also provided no evidence that demonstrates that there is a link between increased fruit juice and fruit juice drink consumption and childhood obesity.

D. Hypercalcemia

Another issue raised by AAP was that FDA did not evaluate the potential effects of exposure to calcium from vitamin D_3 fortification of calcium-fortified fruit juices and fruit juice drinks. They stated that, while the potential for adverse effects from excess vitamin D or calcium is minimal, there are not sufficient consumption data

available for assessing children's risk of higher combined intakes of these two nutrients. The AAP asserts that individuals with renal disease might be at special risk due to hypercalcemia associated with hypervitaminosis D.

FDA explicitly considered the issue of hypercalcemia, as reflected in the record. In addressing the issue of hypercalcemia, the agency relied upon upper tolerable daily intake levels (ULs) for vitamin D established by the Institute of Medicine (IOM) in 1997, as well as publications on vitamin D that appeared in the literature subsequent to the 1997 IOM report. IOM established the ULs based on multiple factors, including the significant dose-dependent increases in serum calcium concentration followed by daily supplementation of vitamin D, sensitive individuals, short duration of available studies, and limited sample sizes. Studies published after the 1997 IOM report support that vitamin D supplementation is without adverse effects at the IOM UL of 2,000 IU for adults, including elderly women and adults with osteoporosis. The IOM stated that the adult UL is appropriate for children based on increased rates of bone formation in children and because no data indicated difficulties in renal clearance by 1 year of age. No new reported studies on the effects of vitamin D supplementation in children have been published since 1997.

The agency agrees that hypercalcemia could result from excessive consumption of vitamin D-fortified foods and was the primary basis for the 1985 final rule affirming the use of vitamin D as GRAS with specific limitations as a direct human food ingredient (50 FR 30149, July 24, 1985). In the final rule, FDA concluded that ''* * * a petition for new food uses of vitamin D is necessary so that the agency can assure that total dietary exposure will not increase significantly, and that any increase in exposure is safe.'' As with any food additive, FDA will re-evaluate the safety of vitamin D-fortification of foods as new data become available.

The agency recognizes that hypercalcemia may accelerate the progression of renal disease. While there are individuals that must carefully monitor or limit the amount of calcium intake for medical reasons, both vitamin D and calcium must be declared on the label if they are added to foods. Listing these on the food label makes it possible for people to avoid these ingredients, if necessary. The AAP has not pointed to any evidence that supports that FDA failed to consider potential safety effects of combined exposure to vitamin D and calcium.

E. Inconsistency With FDA's Fortification Policy

In its objections, NDC questions whether the fortification of fruit juices and fruit juice drinks is consistent with the principles in § 104.20(b)(1) (21 CFR 104.20(b)(1)). Section 104.20(b)(1) states that the nutrients listed in § 104.20(d)(3) may be appropriately added to a food to correct a dietary insufficiency recognized by the scientific community if there is sufficient information available to identify the nutritional problem and the affected population groups, and the food is suitable to act as a vehicle for the added nutrients.

FDA's fortification policy is intended to provide a consistent set of guidelines to be followed when nutrients are added to foods. To preserve a balance of nutrients in the diet, manufacturers who elect to fortify foods are urged to utilize these principles. The policy does not prohibit the addition of nutrients to fruit juices and fruit juice drinks, or to any foods, as long as the proposed use of the additive is safe. The petitioner provided sufficient information for FDA to determine that the use of vitamin D_3 at the petitioned level in calcium-fortified fruit juices and fruit juice drinks is safe. The NDC cited no data or information to suggest that the intended use is not safe.

Moreover, in its submission, the petitioner provided a number of recent publications that identified clinical findings of vitamin D insufficiency and, in some cases, vitamin D deficiency, in several population groups (e.g., the elderly, toddlers, vegetarians, and young men and women during the winter months). Also, as evidence that calcium-fortified fruit juices and fruit juice drinks are suitable vehicles for vitamin D_3, the petitioner provided results of a clinical study that confirmed the bioavailability of vitamin D_3 in juice.

V. Summary and Conclusions

Section 409 of the act requires that a food additive be shown to be safe prior to marketing. Under 21 CFR 170.3(i), a food additive is ''safe'' if there is a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use. In the final rule approving vitamin D_3, FDA concluded that the data presented by the petitioner to establish safety of the additive demonstrate that vitamin D_3 is safe for its intended use in calcium-fortified fruit juices and fruit juice drinks.

The petitioner has the burden to demonstrate the safety of the additive in order to gain FDA approval. Once FDA makes a finding of safety, the burden shifts to an objector, who must come forward with evidence that calls into questions FDA's conclusion (*American Cyanamid Co.* v. *FDA*, 606 F2d. 1307, 1314–1315 (D.C. Cir. 1979)).

Only one objection contained evidence to support a genuine and substantial issue of fact. It should be noted that this objection does not call into question FDA's safety evaluation; it merely addresses an inconsistency between the petitioner's intent and the codified portion of the regulation. As a result of the objection, FDA is amending § 172.380 to replace those portions of the vitamin D_3 regulation that prescribe limits on the vitamin D_3 fortification of fruit juices and fruit juice drinks of 100 IU per serving with limits of 100 IU per 240 mL and to replace the terms ''Reference Amount Customarily Consumed'' and ''RACC'' as used in the regulation with ''240mL.''

VI. FDA's Corrections to the Final Rule (§ 172.380)

In addition to the issues raised by Unilever, FDA discovered three errors in the codified portion of the vitamin D_3 final rule. This document corrects these errors. Section 172.380(c) and (d) prescribes limits on the minimum levels of calcium fortification of fruit juice and fruit juice drinks with added vitamin D_3. In section B of the petition (Use and Purpose) (FAP 2A4734), Minute Maid stated that the proposed use was ''intended for use at levels currently approved for vitamin D-fortified milk, [s]pecifically, 100% fruit juice products fortified with ≥33% of the Recommended Daily Intake (RDI) of calcium per Reference Amount Customarily Consumed (RACC), and juice and juice drinks fortified with ≥10% of the RDI of calcium per RACC, are intended to be fortified with 100 IU (2.5 μg) vitamin D_3 per RACC.'' In Section F of the petition (Proposed Food Additive Regulation) (FAP 2A4734), however, the regulation mistakenly prescribed limits of calcium fortification of fruit juice and fruit juice drinks at ''greater than 33%'' and ''greater than 10%,'' respectively. In the codified section of the final rule, FDA listed the limitations on calcium fortification as ''greater than,'' rather than the petitioner's intention of ''greater than or equal to'' these percentages. FDA is changing the language in § 172.380(c) and (d) to ''greater than or equal to.'' Additionally, in its proposed food additive regulation, the petitioner used the term ''Recommended Daily Intake'' to describe the levels of calcium in fruit juices and fruit juice drinks. The correct

term is ''Reference Daily Intake.'' Reference Daily Intakes are values established by FDA for use in nutrition labeling. Most RDIs are based on the National Academy of Science's Recommended Daily Allowances. In the final rule, FDA inadvertently used the term ''recommended'' instead of ''reference'' to describe daily intake. Therefore, FDA is replacing the term ''Recommended Daily Intake'' in § 172.380(c) and (d) with ''Reference Daily Intake.'' Finally, in § 172.380(d), FDA used the term ''fruit drink.'' Under § 102.33 (21 CFR 102.33), the common or usual name of the product is fruit juice drink. To be consistent with § 102.33, FDA is replacing the term ''fruit drink'' with ''fruit juice drink'' in § 172.380(d).

VII. Environmental Effects

When FAP 2A4734 was filed, it contained a claim of categorical exclusion under 21 CFR 25.32(k). The agency reviewed this claim and found it to be warranted for the petitioned action. As a result, the agency stated in the notice of filing for FAP 2A4734 that neither an environmental assessment nor an environmental impact statement was required. The agency has concluded that the modifications to the regulation in response to the objections as well as the corrections that are being made to the regulation by this document will not change the agency's previous determination that the categorical exclusion in 25.32(k) is warranted.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Objections

Any person who will be adversely affected by this amendment to the regulation may at any time file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

X. References

The following reference has been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m. Monday through Friday.

1. Memorandum from Folmer, Division of Petition Review, Chemistry Review Group, to Kidwell, Division of Petition Review, June 19, 2003.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended to read as follows:

■ 1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

■ 2. Section 172.380 is amended by revising the introductory text and paragraphs (c) and (d) to read as follows:

§ 172.380 Vitamin D_3.

Vitamin D_3 may be used safely in foods as a nutrient supplement defined under § 170.3(o)(20) of this chapter in accordance with the following prescribed conditions:

* * * * *

(c) Vitamin D_3 may be added, at levels not to exceed 100 International Units (IU) per 240 milliliters (mL) to 100 percent fruit juices, as defined under § 170.3(n)(35) of this chapter, excluding fruit juices that are specially formulated or processed for infants, that are fortified with greater than or equal to 33 percent of the Reference Daily Intake (RDI) of calcium per 240 mL.

(d) Vitamin D_3 may be added, at levels not to exceed 100 IU per 240 mL to fruit juice drinks, as defined under § 170.3(n)(35) of this chapter, excluding fruit juice drinks that are specially formulated or processed for infants, that are fortified with greater than or equal to 10 percent of the RDI of calcium per 240 mL.

Dated: June 13, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–12322 Filed 6–21–05; 8:45 am]

BILLING CODE 4160–01–S

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

28 CFR Part 901

[NCPPC 110]

Fingerprint Submission Requirements

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Final rule.

SUMMARY: The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact) Act of 1998, is finalizing a rule amending part 901, which codified the Compact Council's interpretation of the Compact's fingerprint-submission requirements as it relates to the use of the Interstate Identification Index (III) for noncriminal justice record checks during an emergency situation when the health and safety of a specified group may be endangered.

DATES: *Effective Date:* This final rule is effective on June 22, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Donna M. Uzzell, Compact Council Chairman, P.O. Box 1489, Tallahassee, FL 32302, telephone number (850) 410–7100.

SUPPLEMENTARY INFORMATION: This document finalizes the Compact Council's proposed amendments to part 901 published in the **Federal Register** on December 5, 2003, (68 FR 67991). The Compact Council received no written comments on the proposed amendments and is finalizing the amended rule as proposed except for minor edits and clarifications.

Background

The Compact provides that ''Subjects fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.'' *See* 42 U.S.C. 14616, Article V(a). The Compact Council recognizes the extreme reliability of fingerprint-based identifications and requires that fingerprints be submitted contemporaneously with search

requests whenever feasible. However, in promulgating the Fingerprint Submission Requirements Rule (28 CFR part 901, published May 21, 2001), the Council acknowledged that exigent circumstances may exist where time is a critical factor in decision making and the immediate fingerprinting of the subject is not feasible. In such emergency circumstances, the Council interprets the Compact to permit preliminary name-based searches of the III System for noncriminal justice purposes provided that fingerprints are submitted within a time frame specified by the Council. This procedure allows immediate access to criminal history record information during exigent circumstances followed by fingerprint submissions.

Part 901 authorizes state criminal history record repositories and the FBI, upon approval by the Compact Council, to grant access to the III System in emergency situations on a delayed fingerprint submission basis, predicated upon (1) a statute approved by the U.S. Attorney General pursuant to Public Law 92–544 or (2) a Federal statute or Executive Order. Access authorized by the rule shall adhere to (1) the Compact, (2) the Criminal Justice Information Services (CJIS) Security Policy, and (3) applicable state security policies. A State or Federal noncriminal justice agency granted access to the III pursuant to part 901 must also adhere to applicable State or Federal audit protocols.

Proposals requesting delayed fingerprint submission authority pursuant to this rule should be sent to the Compact Council Chairman at the address set out above. Such proposals should include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to the health or safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

Section 901.3(d) of the rule provides that other states or authorized Federal agencies may apply for delayed submission authority consistent with a Compact Council-approved proposal through application to the FBI Compact Officer, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306. For example, a Florida proposal for delayed submission authority involving the emergency placement of children was approved by the Council and published as a notice in the September 19, 2003, **Federal Register**. States and Federal agencies seeking similar access may submit an application to the FBI's Compact Officer rather than to the Council Chairman.

Subsequent to publication of part 901, states authorized to conduct name-based checks articulated varying interpretations of the fingerprint submission time frame requirement. In order to eliminate these disparate interpretations, the Compact Council is amending the rule to define ''time frame'' by adding a sentence at the end of Subsection 901.3(c).

Section 901.3 is also amended by adding paragraph (e) to clarify that part 901 is also applicable to Federal agencies authorized to access criminal history records pursuant to Federal statute or Executive Order for noncriminal justice purposes.

The FBI CJIS Division recently expanded its Audit Unit programs to include reviews of noncriminal justice agencies with direct access to the III System. The Council added Section 901.4 to address audits, identifying the State Compact Officer or the Chief Administrator of the Criminal History Record Repository in nonparty states as the responsible party to ensure that audits are conducted of approved state agencies. The responsible federal CJIS System Officer (formerly known as the Service Coordinator) will ensure that similar audits are conducted of authorized Federal agencies. The audit will verify adherence to the provisions of part 901 and the FBI CJIS Security Policy.

When the amended proposed Fingerprint Submission Requirements rule was published on December 5, 2003, section 901.5 addressed compliance and sanctions related to use of this rule only. Subsequent to publication of the proposed amendments, the Compact Council published a proposed rule entitled ''Compact Council Procedures for Compliant Conduct and Responsible Use of the Interstate Identification Index (III) System for Noncriminal Justice Purposes'' (Sanctions Rule) on February 17, 2005. The Sanctions Rule establishes procedures to be used in determining compliant conduct and responsible use of III System records for any noncriminal justice purpose, including the purpose addressed in the Fingerprint Submission Requirements rule. Therefore, section 901.5 is removed from this final rule.

Administrative Procedures and Executive Orders

Administrative Procedure Act

This rule is published by the Compact Council as authorized by the National Crime Prevention and Privacy Compact (Compact) Act. (*See* Pub. L. 105–251.) The Compact Council, composed of 15 members including 11 State and local governmental representatives, is authorized to promulgate rules, procedures, and standards for the effective and proper use of the Interstate Identification Index (III) System for noncriminal justice purposes. The Compact mandates that such rules, procedures, or standards be published in the **Federal Register**. *See* 42 U.S.C. 14616, Articles II(4), VI(a)(1), and VI(e). This publication complies with those requirements.

Executive Order 12866

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

Executive Order 13132

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this Rule fully complies with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

Executive Order 12988

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

Unfunded Mandates Reform Act

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (Title 5, U.S.C. 801–804) is not applicable to the Council's Rule because the Compact Council is not a ''Federal agency'' as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. *See* 5 U.S.C. 804.

List of Subjects in 28 CFR Part 901

Crime, Health, Privacy, Safety.

■ Accordingly, part 901 of title 28 of the Code of Federal Regulations is revised to read as follows:

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

Sec.
901.1 Purpose and authority.
901.2 Interpretation of fingerprint submission requirements.
901.3 Approval of delayed fingerprint submission requests.
901.4 Audits.

Authority: 42 U.S.C. 14616.

§ 901.1 Purpose and authority.

The Compact Council is established pursuant to the National Crime Prevention and Privacy Compact (Compact), title 42, U.S.C., chapter 140, subchapter II, section 14616. The purpose of these provisions is to interpret the Compact, as it applies to the required submission of fingerprints, along with requests for Interstate Identification Index (III) records, by agencies authorized to access and receive criminal history records under Public Law 92–544, and to establish protocols and procedures applicable to the III and its use for noncriminal justice purposes.

§ 901.2 Interpretation of fingerprint submission requirements.

(a) Article V of the Compact requires the submission of fingerprints or other approved forms of positive identification with requests for criminal history record checks for noncriminal justice purposes. The requirement for the submission of fingerprints may be satisfied in two ways:

(1) The fingerprints should be submitted contemporaneously with the request for criminal history information, or

(2) For purposes approved by the Compact Council, a delayed submission of fingerprints may be permissible under exigent circumstances.

(b) A preliminary III name based check may be made pending the receipt of the delayed submission of the fingerprints. The state repository may authorize terminal access to authorized agencies designated by the state, to enable them to conduct such checks. Such access must be made pursuant to the security policy set forth by the state's Criminal Justice Information Services (CJIS) Systems Agency (formerly known as the Control Terminal Agency).

§ 901.3 Approval of delayed fingerprint submission requests.

(a) A state may, based upon exigent circumstances, apply for delayed submission of fingerprints supporting requests for III records by agencies authorized to access and receive criminal history records under Public Law 92–544. Such applications must be sent to the Compact Council Chairman and include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

(b) In evaluating requests for delayed submissions, the Compact Council must utilize the following criteria:

(1) The risk to health and safety; and

(2) The emergency nature of the request.

(c) Upon approval of the application by the Compact Council, the authorized agency may conduct a III name check pending submission of the fingerprints. The fingerprints must be submitted within the time frame specified by the Compact Council. For the purposes of this part, ''time frame'' means the number of days that elapse between the date on which the name search was conducted and the date on which the state repository either positively identifies the fingerprint subject or forwards the fingerprints to the FBI or the date a Federal agency forwards the fingerprints to the FBI.

(d) Once a specific proposal has been approved by the Compact Council, another state may apply for delayed fingerprint submission consistent with the approved proposal, provided that the state has a related Public Law 92–544 approved state statute, by submitting the application to the FBI Compact Officer, 1000 Custer Hollow Road, Module C–3, Clarksburg, WV 26306–0001.

(e) Part 901 is also applicable to any federal agency authorized to access criminal history records pursuant to Federal statute or Executive Order for noncriminal justice purposes.

§ 901.4 Audits.

(a) Audits of authorized State agencies that access the III System shall be conducted by the State's Compact Officer or, in the absence of a Compact Officer, the chief administrator for the criminal history record repository. The responsible Federal CJIS Systems Officer shall ensure that similar audits are conducted of authorized Federal agencies. Such audits shall be conducted to verify adherence to the provisions of part 901 and the FBI's CJIS Security Policy.

(b) Authorized agencies shall cause to be collected an appropriate record of each instance of III System access through a manual or electronic log. The log shall be maintained for a minimum one-year period to facilitate the audits and compliance reviews. Such records shall be maintained in accordance with the CJIS Security Policy. (For information on this security policy, contact your CJIS Systems Officer.)

(c) The audit and compliance reviews must include mechanisms to determine whether fingerprints were submitted within the time frame specified by the Compact Council.

(d) In addition to the audits as stated above, the FBI CJIS Audit staff shall also conduct routine systematic compliance reviews of State repositories, Federal agencies, and as necessary other authorized III System user agencies.

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05–12326 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

28 CFR Part 904

[NCPPC 109]

Criminal History Record Screening for Authorized Noncriminal Justice Purposes

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Final rule.

SUMMARY: The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact), is publishing a rule to establish criminal history record screening standards for criminal history record information received from the Interstate Identification Index (III) for authorized noncriminal justice purposes.

DATES: This rule is effective on July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Donna M. Uzzell, Compact Council Chairman, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, telephone number (850) 410–7100.

SUPPLEMENTARY INFORMATION: This document finalizes the Compact Council rule proposed in the **Federal Register** on February 17, 2005. The

Compact Council accepted comments on the proposed rule until March 21, 2005; however, no comments were received.

Administrative Procedures and Executive Orders

Administrative Procedure Act

This rule is published by the Compact Council as authorized by the National Crime Prevention and Privacy Compact (Compact), an interstate/Federal compact which was approved and enacted into law by Congress pursuant to Pub. L. 105–251. The Compact Council is composed of 15 members (with 11 State and local governmental representatives). The Compact specifically provides that the Council shall prescribe rules and procedures for the effective and proper use of the III System for noncriminal justice purposes, and mandates that such rules, procedures, or standards established by the Council shall be published in the **Federal Register**. *See* 42 U.S.C. 14616, Articles II(4), VI(a)(1), and VI(e). This publication complies with those requirements.

Executive Order 12866

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

Executive Order 13132

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this Rule fully complies with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

Executive Order 12988

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

Unfunded Mandates Reform Act

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (Title 5, U.S.C. 801–804) is not applicable to the Council's rule because the Compact Council is not a ''Federal agency'' as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. *See* 5 U.S.C. 804.

List of Subjects in 28 CFR Part 904

Crime, Health, Privacy.

■ Accordingly, title 28 of the Code of Federal Regulations, chapter IX is amended by adding part 904 to read as follows:

PART 904—STATE CRIMINAL HISTORY RECORD SCREENING STANDARDS

Sec.
904.1 Purpose and authority.
904.2 Interpretation of the criminal history record screening requirement.
904.3 State criminal history record screening standards.

Authority: 42 U.S.C. 14616.

§ 904.1 Purpose and authority.

Pursuant to the National Crime Prevention and Privacy Compact (Compact), title 42, U.S.C., chapter 140, subchapter II, section 14616, Article IV (c), the Compact Council hereby establishes record screening standards for criminal history record information received by means of the III System for noncriminal justice purposes.

§ 904.2 Interpretation of the criminal history record screening requirement.

Compact Article IV(c) provides that ''Any record obtained under this Compact may be used only for the official purposes for which the record was requested.'' Further, Article III(b)(1)(C) requires that each Party State appoint a Compact officer who shall ''regulate the in-State use of records received by means of the III System from the FBI or from other Party States.'' To ensure compliance with this requirement, Compact Officers receiving records from the FBI or other Party States are specifically required to ''ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate 'no record' response is communicated to the requesting official.'' Compact Article IV(c)(3).

§ 904.3 State criminal history record screening standards.

The following record screening standards relate to criminal history record information received for noncriminal justice purposes as a result of a national search subject to the Compact utilizing the III System.

(a) The State Criminal History Record Repository or an authorized agency in the receiving state will complete the record screening required under § 904.2 for all noncriminal justice purposes.

(b) Authorized officials performing record screening under § 904.3(a) shall screen the record to determine what information may legally be disseminated for the authorized purpose for which the record was requested. Such record screening will be conducted pursuant to the receiving state's applicable statute, executive order, regulation, formal determination or directive of the state attorney general, or other applicable legal authority.

(c) If the state receiving the record has no law, regulation, executive order, state attorney general directive, or other legal authority providing guidance on the screening of criminal history record information received from the FBI or another state as a result of a national search, then the record screening under § 904.3(a) shall be performed in the same manner in which the state screens its own records for noncriminal justice purposes.

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05–12327 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 637

RIN 0702–AA44

Military Police Investigations

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is publishing our rule concerning military police investigations. The regulation prescribes policies and procedures on types and categories of offenses investigated by Military Police and DA Civilian detectives/investigators.

DATES: *Effective Date:* July 22, 2005.

ADDRESSES: Headquarters, Department of the Army, Office of the Provost

Marshal General, ATTN: DAPM–MPD–LE, 2800 Army Pentagon, Washington, DC 20310–2800.

FOR FURTHER INFORMATION CONTACT: James Crumley (703) 692–6721.

SUPPLEMENTARY INFORMATION:

A. Background

In the December 16, 2004 issue of the **Federal Register** (69 FR 75287) the Department of the Army issued a proposed rule to publish 32 CFR part 637. This final rule prescribes policies and procedures on types and categories of offenses investigated by Military Police and DA Civilian detectives/investigators. The Department of the Army received a response from two commentors. No substantive changes were requested or made.

B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the final rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the final rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of $100 million or more.

D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the final rule does not have an adverse impact on the environment.

E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the final rule does not involve collection of information from the public.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the final rule does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this final rule is not a significant regulatory action. As such, the final rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 this final rule does not apply.

I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 this final rule does not apply because it will not have a substantial 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.

Jeffery B. Porter,

Chief, Law Enforcement Policy and Oversight Section.

List of Subjects in 32 CFR Part 637

Crime. Investigations. Law. Law enforcement. Law enforcement officers. Military law. Search Warrant.

■ For reasons stated in the preamble the Department of the Army is adding Part 637 to Subchapter I of Title 32 to read as follows:

PART 637—MILITARY POLICE INVESTIGATION

Subpart A—Investigations

Sec.

637.1 General.
637.2 Use of MPI and DAC Detectives/Investigators.
637.3 Installation Commander.
637.4 Military Police and the USACIDC.
637.5 Off-post investigations.
637.6 Customs investigations.
637.7 Drug enforcement activities.
637.8 Identification of MPI.
637.9 Access to U.S. Army facilities and records.
637.10 Authority to apprehend or detain.
637.11 Authority to administer oaths.
637.12 Legal considerations.
637.13 Retention of property.
637.14 Use of National Crime Information Center (NCIC).
637.15 Polygraph activities.
637.16 Evidence.
637.17 Police Intelligence.
637.18 Electronic Equipment Procedures.
637.19 Overseas MP desk.
637.20 Security surveillance systems.
637.21 Recording interviews and interrogations.

Subpart B [Reserved]

Authority: 28 U.S.C. 534 note, 42 U.S.C. 10601, 18 U.S.C. 922, 42 U.S.C. 14071, 10 U.S.C. 1562, 10 U.S.C. Chap. 47.

Subpart A—Investigations

§ 637.1 General.

(a) Military Police Investigators (MPI) and Department of the Army Civilian (DAC) detectives/investigators fulfill a special need for an investigative element within the military police to investigate many incidents, complaints, and matters not within U.S. Army Criminal Investigation Command (USACIDC) jurisdiction, but which cannot be resolved immediately through routine military police operations. Investigative personnel are assets of the installation or activity commander, under the supervision of the local provost marshal. USACIDC elements will provide investigative assistance in the form of professional expertise, laboratory examinations, polygraph examinations, or any other assistance requested which does not distract from the USACIDC mission of investigating serious crimes. A spirit of cooperation and close working relationship is essential between USACIDC and the provost marshal office in order to accomplish the mission and project a professional police image.

(b) Creation of a formalized investigation program does not constitute the establishment of a dual ''detective'' force. The separation of investigative responsibilities is very distinct. The MPI Program is neither a career program nor a separate Military Occupational Specialty (MOS). Individuals in the MPI Program are specially selected, trained, and experienced military or civilian men and women performing traditional military police functions. Military personnel are identified by their additional skill identifiers (ASI V5) and may be employed in any assignment appropriate to their grade and MOS.

(c) The provost marshal may authorize wearing of civilian clothing for the MPI investigative mission.

(d) MPI and DAC detective/investigator personnel must be familiar with and meet the requirements of Army Regulation (AR) 190–14 (Carrying of Firearms and Use of Force for Law Enforcement and Security Duties).

§ 637.2 Use of MPI and DAC Detectives/Investigators.

Only those matters requiring investigative development will be referred to the MPI for investigation. Provost marshals will develop procedures to determine which

incidents will be referred to the MPI for completion and which will be retained and completed by uniformed MP personnel. Except as otherwise provided, MPI and DAC detectives/investigators will normally be employed in the following investigations:

(a) Offenses for which the maximum punishment listed in the Table of Maximum Punishment, Manual for Courts-Martial, United States, 2002 is confinement for 1 year or less. Provisions of the Federal Assimilative Crimes Act will also be considered when assigning cases to MPI. The same punishment criteria apply.

(b) Property-related offenses when the value is less than $1,000 provided the property is not of a sensitive nature, such as government firearms, ammunition, night vision devices, or controlled substances.

(c) Offenses involving use and/or possession of non-narcotic controlled substances when the amounts are indicative of personal use only. Military police will coordinate with the local USACIDC element in making determinations of ''personal use''. MPI and DAC detectives/investigators may be employed in joint MPI/USACIDC drug suppression teams; however, the conduct of such operations and activities remain the responsibility of USACIDC. When employed under USACIDC supervision, MPI and DAC detectives/investigators may also be utilized to make controlled buys of suspected controlled substances.

(d) Activities required for the security and protection of persons and property under Army control, to include support of Armed Forces Disciplinary Control Boards as prescribed in AR 190–24. If MPI detect a crime-conducive condition during the course of an investigation, the appropriate physical security activity will be promptly notified. Crime-conducive conditions will also be identified in military police reports.

(e) Allegations against MP personnel, when not within the investigative responsibilities of USACIDC.

(f) Offenses committed by juveniles, when not within the investigative responsibilities of USACIDC.

(g) Gang or hate crime related activity, when not within the investigative responsibilities of USACIDC.

§ 637.3 Installation Commander.

The installation commander, whose responsibilities include ensuring good order and discipline on his installation, has authority to order the initiation of a criminal investigation upon receipt of information of activity of a criminal nature occurring on the installation.

§ 637.4 Military Police and the USACIDC.

(a) The military police or the USACIDC are authorized to investigate allegations of criminal activity occurring on the installation. Nothing in this paragraph is intended to conflict with or otherwise undermine the delineation of investigative responsibilities between the military police and the USACIDC as set forth in AR 195–2.

(b) When investigative responsibility is not clearly defined, and the matter cannot be resolved between military police investigations supervisors and USACIDC duty personnel, or between military police investigations supervisors and unit commanders, the provost marshal will be informed and will resolve the matter with the appropriate USACIDC activity commander/Special Agent in Charge (SAC) or unit commander.

(c) The control and processing of a crime scene and the collection and preservation of the evidence are the exclusive responsibilities of the investigator or supervisor in charge of the crime scene when the military police have investigative responsibility. To prevent the possible loss or destruction of evidence, the investigator or supervisor in charge of the crime scene is authorized to exclude all personnel from the scene. The exercise of this authority in a particular case may be subject to the requirement to preserve human life and the requirement for continuing necessary operations and security. These should be determined in conjunction with the appropriate commander and, where applicable, local host country law enforcement authorities.

(d) Unit commanders should consult with the installation provost marshal concerning all serious incidents. Examples of incidents appropriate for investigation at the unit level include simple assaults not requiring hospitalization and not involving a firearm, or wrongful damage to property of a value under $1,000. Other incidents should be immediately referred to the installation provost marshal.

(e) The military police desk is the official point of contact for initial complaints and reports of offenses. The provisions of AR 190–45 are to be followed for all military police records, reports, and reporting.

(1) When incidents are reported directly to a USACIDC field element, USACIDC may either direct the reporting person to the MP desk or report the incident to the MP desk themselves.

(2) Upon receipt of the complaint or report of offense, the MP desk will dispatch an available patrol to the scene of the incident. The patrol will take appropriate measures to include locating the complainant, witnesses, suspects, and victims, apprehending offenders, securing the crime scene, rendering emergency assistance, determining and reporting to the MP desk, by the most expeditious means possible, the appropriate activity having investigative responsibility.

(f) In those cases in which the USACIDC has an ongoing investigation (typically fraud and narcotics matters), they may delay notification to the military police to avoid compromising their investigation.

(g) Procedures will be developed to ensure mutual cooperation and support between MPI, DAC detectives/investigators and USACIDC elements at each investigative level; however, MPI, DAC detectives/investigators and USACIDC personnel will remain under command and control of their respective commanders at all times.

(1) With the concurrence of the commander concerned, MPI and DAC detectives/investigators may provide assistance to USACIDC whenever elements assume responsibility for an investigation from MPI.

(2) When requested by a USACIDC region, district, or the special agent-in-charge of a resident agency, the provost marshal may provide MPI or DAC detective/investigator assistance to USACIDC on a case-by-case basis or for a specified time period.

(3) With the concurrence of the appropriate USACIDC commander, CID personnel may be designated to assist MPI or DAC detectives/investigators on a case-by-case basis without assuming control of the investigation.

(4) Modification of investigative responsibilities is authorized on a local basis if the resources of either USACIDC or the military police cannot fully support their investigative workload and suitable alternatives are not available. Such modifications will be by written agreement signed by the provost marshal and the supporting USACIDC commander. Agreements will be in effect for no more than two years unless sooner superseded by mutual agreement.

§ 627.5 Off-post investigations.

(a) In Continental United States (CONUS), civilian law enforcement agencies, including state, county, or municipal authorities, or a Federal investigative agency normally investigate incidents occurring off-post. When an incident of substantial interest to the U.S. Army occurs off-post, involving U.S. Army property or personnel, the military police exercising

area responsibility will request copies of the civilian law enforcement report.

(b) In Overseas areas, off-post incidents will be investigated in accordance with Status of Forces Agreements and other appropriate U.S. host nation agreements.

§ 637.6 Customs investigations.

(a) Customs violations will be investigated as prescribed in AR 190–41. When customs authorities find unauthorized material such as contraband, explosives, ammunition, unauthorized or illegal weapons or property, which may be property of the U.S. Government, notification must be made via electronic message or facsimile to HQDA, Office of the Provost Marshal General (DAPM–MPD–LE). All such notifications will be made to the military police and investigated by CID or the military police, as appropriate.

(b) Military police will receipt for all seized or confiscated U.S. Government property and contraband shipped by U.S. Army personnel. Property receipted for by military police will be accounted for, and disposed of, in accordance with evidence procedures outlined in AR 195–5.

(c) When it has been determined that the subject of an MP customs investigation is no longer a member of the U.S. Army, the investigation will be terminated, a final report submitted indicating the subject was released from the U.S. Army, and an information copy of the report furnished to the appropriate civil investigative agency.

(d) Recovery of weapons and significant amounts of ammunition will be reported by the U.S. Army element receipting for them from the U.S. Customs Service in accordance with AR 190–11 and AR 190–45.

§ 637.7 Drug enforcement activities.

Provost marshals and U.S. Army law enforcement supervisors at all levels will ensure that active drug enforcement programs are developed and maintained, and that priorities for resources reflect the critical and important nature of the drug enforcement effort.

(a) MPI and DAC detectives/investigators will conduct investigations of offenses involving use and possession of non-narcotic controlled substances. A copy of all initial, interim and final military police reports concerning drug investigations will be provided to the USACIDC at the local level. Enforcement activities will be coordinated with the USACIDC at the local level.

(b) Any investigation of offenses involving possession/use of non-narcotic controlled substances generated as a result of another USACIDC investigation may be transferred to MPI with the concurrence of both the supporting USACIDC commander and provost marshal.

(c) Elements of USACIDC will be provided the opportunity to interview subjects, suspects or witnesses in MPI or DAC detective investigations involving controlled substances without assuming responsibility for the investigation. MPI and DAC detectives/investigators may also interview subjects, suspects or witnesses of USACIDC investigations.

§ 637.8 Identification of MPI.

(a) During the conduct of investigations, MPI will identify themselves by presenting their credentials and referring to themselves as ''INVESTIGATOR.'' When signing military police records the title ''Military Police Investigator'' may be used in lieu of military titles. Civilian personnel will refer to themselves as ''INVESTIGATOR'' if they are classified in the 1811 series, and as ''DETECTIVE'' if they are in the 083 series. Civilian personnel will use the title ''DAC Investigator'' or ''DAC Detective''; corresponding to their classification series.

(b) The use of titles such as ''Mr.'', ''Mrs.'', ''Miss'' or ''Ms.'' in connection with an individual's identification as an MPI is prohibited, except when employed in a covert investigative role. When MPI or DAC detectives/investigators are employed in covert roles, supervisors will ensure that coordination with USACIDC or civilian law enforcement agencies is accomplished as appropriate.

§ 637.9 Access to U.S. Army facilities and records.

(a) MPI and DAC detectives/investigators will be granted access to all U.S. Army facilities, records or information when necessary for an ongoing investigation, consistent with the investigator's clearance for access to classified national defense information, the requirements of medical confidentiality, and the provisions of applicable regulations.

(b) Upon presentation of proper identification when conducting an official investigation, MPI and DAC detectives/investigators will be authorized access to information contained in medical records and may request extracts or transcripts. Medical records will remain under the control of the records custodian who will make them available for courts-martial or other legal proceedings. Procedures for obtaining information from medical records are contained in AR 40–66.

§ 637.10 Authority to apprehend or detain.

MPI and DAC detectives/investigators have authority to make apprehensions in accordance with Article 7, Uniform Code of Military Justice (UCMJ); Rule for Courts-Martial 302 (b)(1), Manual for Courts-Martial, United States 2002 (Revised Edition). They may detain personnel for identification and remand custody of persons to appropriate civil or military authority as necessary. Civilians committing offenses on U.S. Army installations may be detained until they can be released to the appropriate Federal, state, or local law enforcement agency.

§ 637.11 Authority to administer oaths.

MPI and DAC detectives/investigators have authority pursuant to Article 136(b)(4), UCMJ to administer oaths to military personnel who are subject to the UCMJ. The authority to administer oaths to civilians who are not subject to the UCMJ is 5 U.S.C. 303(b).

§ 637.12 Legal considerations.

(a) Coordination between installation judge advocates and investigators must occur during the conduct of investigations.

(b) The use of the DA Form 3881 (Rights Warning Procedure/Waiver Certificate) to warn accused or suspected persons of their rights is encouraged.

(c) When necessary, investigators will coordinate with a judge advocate or civilian attorney employed in the Office of the Staff Judge Advocate for the purpose of establishing a legal opinion as to whether sufficient credible evidence has been established to title an individual in a report. Investigators should also coordinate with the Office of the Staff Judge Advocate in drafting search warrants and in determining whether probable cause exists to conduct a search.

§ 637.13 Retention of property.

Reports of investigation, photographs, exhibits, handwritten notes, sketches, and other materials pertinent to an investigation, including copies, negatives or reproductions, are the property of the U.S. Government, either as owner, or custodian.

§ 637.14 Use of National Crime Information Center (NCIC).

Provost marshals will make maximum use of NCIC terminals available to them, and will establish liaison with the U.S. Army Deserter Information Point (USADIP) as necessary to ensure timely exchange of information on matters

concerning deserters. The USADIP will ensure replies to inquiries from provost marshals on subjects of MP investigations are transmitted by the most expeditious means. Use of NCIC will be in accordance with AR 190–27.

§ 637.15 Polygraph activities.

MPI and DAC detectives/investigators will utilize the polygraph to the full extent authorized. Requests for polygraph examination assistance will be forwarded to the supporting USACIDC element in accordance with provisions of AR 195–6. The investigative or intelligence element requesting approval to conduct a polygraph examination will submit a completed DA Form 2805 (Polygraph Examination Authorization) to the authorizing official. A request may also be sent via an electronic message or electronic mail or media provided all elements of the DA Form 2805 are included in the request. Approvals will be obtained prior to the conduct of an examination. Telephonic requests, followed with written requests, may be used in emergencies. The requesting official will include the following data on every polygraph examination request for criminal investigations:

(a) The offense, which formed the basis of the investigation, is punishable under Federal law or the UCMJ by death or confinement for a term of 1 year or more. Even though such an offense may be disposed of with a lesser penalty, the person may be given a polygraph examination to eliminate suspicion.

(b) The person to be examined has been interviewed and there is reasonable cause to believe that the person has knowledge of, or was involved in, the matter under investigation.

(c) Consistent with the circumstances, data to be obtained by polygraph examination are needed for further conduct of the investigation.

(d) Investigation by other means has been as thorough as circumstances permit.

(e) Examinee has been interviewed on all relevant subjects requested for testing and the polygraph examination is essential and timely.

§ 637.16 Evidence.

Military police are authorized to receive, process, safeguard and dispose of evidence, to include non-narcotic controlled substances, in accordance with AR 195–5. If no suitable facility is available for the establishment of a military police evidence depository or other operational circumstances so dictate, the evidence custodian of the appropriate USACIDC element may be requested to receipt for and assume responsibility for military police evidence. Personnel selected as military police evidence custodians need not be trained as MPI and should not be issued MPI credentials, unless they are also employed as operational MPI. Further information concerning evidence collection and examination procedures can be found in Field Manual (FM) 3–19.13, Law Enforcement Investigations.

§ 637.17 Police Intelligence.

(a) The purpose of gathering police intelligence is to identify individuals or groups of individuals in an effort to anticipate, prevent, or monitor possible criminal activity. If police intelligence is developed to the point where it factually establishes a criminal offense, an investigation by the military police, (USACIDC) or other investigative agency will be initiated.

(b) Police intelligence will be actively exchanged between Department of Defense (DOD) law enforcement agencies, military police, USACIDC, local, state, federal, and international law enforcement agencies. One tool under development by DOD for sharing police intelligence is the Joint Protection Enterprise Network (JPEN). JPEN provides users with the ability to post, retrieve, filter, and analyze real-world events. There are seven reporting criteria for JPEN:

(1) Non-specific threats;

(2) Surveillance;

(3) Elicitation;

(4) Tests of Security;

(5) Repetitive Activities;

(6) Bomb Threats/Incidents; and

(7) Suspicious Activities/Incidents.

(c) If a written extract from local police intelligence files is provided to an authorized investigative agency, the following will be included on the transmittal documents: ''This document is provided for information and use. Copies of this document, enclosures thereto, and information therefrom, will not be further released without the prior approval of the installation Provost Marhsall.

(d) Local police intelligence files may be exempt from certain disclosure requirements by AR 25–55 and the Freedom of Information Act (FOIA).

§ 637.18 Electronic Equipment Procedures.

(a) DOD Directive 5505.9 and AR 190–53 provide policy for the wiretap, investigative monitoring and eavesdrop activities by DA personnel. The recording of telephone communications at MP operations desks is considered to be a form of command center communications monitoring which may be conducted to provide an uncontroversial record of emergency communications. This includes reports of emergencies, analysis of reported information, records of instructions, such as commands issued, warnings received, requests for assistance, and instructions as to the location of serious incidents.

(b) The following procedures are applicable to the recording of emergency telephone and/or radio communications at MP operations desks within the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Panama, and Guam.

(1) All telephones connected to recording equipment will be conspicuously marked ''For Official Use Only-connected to recording device'' and access to use will be restricted to MP operations desk personnel.

(2) The connection of voice-recording equipment or private-line service with the telecommunications network will be in accordance with applicable telephone company tariffs which permit direct electrical connection through telephone company recorder-connector equipment. An automatic audible-tone device is not required.

(3) Official emergency telephone numbers for MP desks will be listed in appropriate command, activity, or installation telephone directories with a statement that emergency conversations will be recorded for accuracy of record purposes. Other forms of pre-warning are not required.

(4) Recordings, which contain conversations described in this section, will be retained for a period of 60 days. Transcripts may be made for permanent files, as appropriate.

(5) The recording of telephone communications or radio transmissions by MP personnel for other than emergency purposes is prohibited. If an investigator requires the use of electronic surveillance equipment, assistance must be requested from the USACIDC. This policy is established pursuant to Department of Defense directives that limit such activity to the criminal investigative organizations of the Services and DOD.

(6) Commanders having general courts-martial convening authority will issue written authorizations for the recording of emergency telephone communications at MP operations desks. The letter of authorization will contain specific authority for the type of equipment to be used, the phone numbers identified as emergency lines and instructions limiting recordings to calls received on the phones so designated. One copy of the

authorization will be forwarded to the Office of the Provost Marshal General (OPMG), 2800 Army Pentagon, Washington, DC 20310–2800.

§ 637.19 Overseas MP desk.

The recording of telephone communications at MP operations desks outside the United States will be conducted within restrictions contained in international agreements between the U.S. and host nations.

§ 637.20 Security surveillance systems.

Closed circuit video recording systems, to include those with an audio capability, may be employed for security purposes in public places so long as notices are conspicuously displayed at all entrances, providing persons who enter with a clear warning that this type of monitoring is being conducted.

§ 637.21 Recording interviews and interrogations.

The recording of interviews and interrogations by military police personnel is authorized, provided the interviewee is on notice that the testimony or statement is being recorded. This procedure is a long-accepted law enforcement procedure, not precluded by DA policies pertaining to wiretap, investigative monitoring, and eavesdrop activities.

Subpart B—[Reserved]

[FR Doc. 05–12310 Filed 6–21–05; 8:45 am]
BILLING CODE 3710–08–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–05–022]

Safety Zone: Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of Implementation of final rule.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during June 2005. This action is necessary to provide for the safety of life and property on navigable waters during these events. These safety zones will restrict vessel traffic from a portion of the Captain of the Port Detroit Zone.

DATES: Effective from 9:30 p.m. (local) on June 23, 2005, to 10:30 p.m. (local) on June 24, 2005.

FOR FURTHER INFORMATION CONTACT: LTJG Cynthia Channell, Chief of Waterways Management, Sector Detroit, 110 Mt. Elliott Ave., Detroit, MI at (313) 568–9580.

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing three permanent safety zones in 33 CFR 165.907 (published May 21, 2001, in the **Federal Register**, 66 FR 27868), for fireworks displays in the Captain of the Port Detroit Zone during June 2005. The following safety zones are in effect for fireworks displays occurring in the month of June 2005:

33 CFR 165.907(a)(1): *Bay-Rama Fishfly Festival, New Baltimore, MI.* This safety zone encompasses all waters off New Baltimore City Park, Lake St. Clair-Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41′N, 082°44′W. This § 165.907(a)(1) safety zone will be enforced on June 23, 2005, from 9:30 p.m. to 10:30 p.m.

33 CFR 165.907(a)(3): *Sigma Gamma Assoc., Grosse Pointe Farms, MI.* This safety zone encompasses all waters off Ford's Cove, Lake St. Clair bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°27′N, 082°52′W. This § 165.907(a)(3) safety zone will be enforced on June 24, 2003 from 9:30 p.m. to 10:30 p.m.

33 CFR 165.907(a)(13): *St. Clair Shores Fireworks, St. Clair Shores, MI.* This safety zone encompasses all waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32′N, 082°51′W, about 1000 yards east of Veterans Memorial Park (off Masonic Rd.), St. Clair Shores, MI. This § 165.907(a)(13) safety zone will be enforced on June 24, 2005, from 10 p.m. to 10:30 p.m.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be in effect for the duration of the events. In the event that these safety zones affect shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the safety zone.

Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on channel 16, VHF–FM. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Dated: June 9, 2005.

P.W. Brennan,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 05–12355 Filed 6–21–05; 8:45 am]
BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Seasonal Adjustments—Copper and Stikine Rivers

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Seasonal adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's in-season management actions to protect sockeye salmon escapement in the Copper River, while still providing for a subsistence harvest opportunity and to provide for a more efficient harvest method for chinook salmon in the Stikine River. The revised fishing schedule for the Chitina Subdistrict of the Copper River and net mesh size revision will provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on March 21, 2005. Those regulations established seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2005 regulatory year.

DATES: The fishing schedule for the Chitina Subdistrict of the Upper Copper River District is effective June 2, 2005, through August 2, 2005. The mesh size revision for the Stikine River is effective June 4, 2005, through June 20, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act

(ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. The Departments administer Title VIII through regulations at title 50, part 100 and title 36, part 242 of the Code of Federal Regulations (CFR). Consistent with subparts A, B, and C of these regulations, as revised January 8, 1999 (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Regional Director, Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for subparts A, B, and C, which establish the program structure and determine which Alaska residents are eligible to take specific species for subsistence uses, and the annual subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for the 2005 fishing seasons, harvest limits, and methods and means were published on March 21, 2005 (70 FR 13377).

Because this action relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Fisheries (BOF), manages sport, commercial, personal use, and State subsistence harvest on all lands and waters throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

These actions are authorized and in accordance with 50 CFR 100.19(d–e) and 36 CFR 242.19(d–e).

Copper River—Chitina Subdistrict

In December 2001, the Board adopted regulatory proposals establishing a new Federal subsistence fishery in the Chitina Subdistrict of the Copper River. This fishery is open to Federally qualified users having customary and traditional use of salmon in this Subdistrict. The State conducts a personal use fishery in this Subdistrict that is open to all Alaska residents.

Management of the fishery is based on the numbers of salmon returning to the Copper River. A larger than predicted salmon run will allow additional fishing time. A smaller than predicted run will require restrictions to achieve upriver passage and spawning escapement goals. A run that approximates the pre-season forecast will allow fishing to proceed similar to the pre-season schedule with some adjustments made to fishing time based on in-season data. Adjustments to the preseason schedule are expected as a normal function of an abundance-based management strategy. State and Federal managers, reviewing and discussing all available in-season information, will make these adjustments.

While Federal and State regulations currently differ for this Subdistrict, the Board indicated that Federal in-season management actions regarding fishing periods were expected to mirror State actions. The State established a preseason schedule of allowable fishing periods based on daily projected sonar estimates. The preseason schedule was intended to distribute the harvest throughout the salmon run and provide salmon for upriver subsistence fisheries and the spawning escapement. Data regarding the salmon return to the Copper River is now available from estimates made by the Miles Lake sonar. Data from the sonar indicate that there are now sufficient salmon in the Copper River to allow additional fishing time in the Chitina Subdistrict, provide for the needs of upper Copper River users and achieve spawning escapement objectives. Shown below are the fishing schedule openings for the Chitina Subdistrict of the Copper River:

Monday, June 6, 12:01 a.m.–Sunday, June 12, 11:59 p.m.
Monday, June 13, 12:01 a.m.–Sunday, June 19, 11:59 p.m.
Monday, June 20, 12:01 a.m.–Sunday, June 26, 11:59 p.m.
Monday, June 27, 12:01 a.m.–Sunday, July 3, 11:59 p.m.
Tuesday, July 5, 12:01 a.m.–Sunday, July 10, 11:59 p.m.
Wednesday, July 13, 8 a.m.–Sunday, July 17, 11:59 p.m.
Tuesday, July 19, 12:01 a.m.–Sunday, July 24, 11:59 p.m.
Monday, July 25, 12:01 a.m.–Friday, September 30, 11:59 p.m.

State personal use and Federal subsistence fisheries in this Subdistrict close simultaneously by regulation on September 30, 2005. No deviation from this date is anticipated.

Stikine River

The Pacific Salmon Commission, established by treaty between the United States and Canada in 1985, and its Panels, address the management of transboundary salmon stocks, including those of the Stikine River. The Transboundary Panel approves a joint management plan for enhancement and harvest of Chinook, sockeye and coho salmon populations. Each year the Transboundary Technical Committee meets prior to the season to update joint management and enhancement plans, develop run forecasts and determine new parameters for input into the inseason run forecast model, referred to as the Stikine Management Model. Fisheries targeting the Stikine River stocks are addressed in Annex IX of the U.S.-Canada Treaty.

In December of 2003, the Board approved a regulation, pending coordination with the PSC process, which provided for methods, a season and guideline harvest limits for Stikine River chinook salmon. Included in the methods was a maximum gillnet mesh size of 5½ inches for all species. The PSC reached agreement on the chinook fisheries in 2005.

Chinook salmon populations in the Stikine River are healthy. Gillnet mesh restrictions are not necessary for management of the very limited Stikine River subsistence salmon fisheries. The fisheries are constrained by having permits valid for only 15-day time periods, restricting the length of gillnets to 15 fathoms, specifying a season, specifying individual harvests (5 chinook) and providing for an overall guideline harvest for each species (125 chinook). The increased mesh size will

promote efficiency by allowing users to use a gillnet sized appropriately to harvest chinook salmon. Although the Southeast Regional Advisory Council requested an unlimited mesh size, Canada requested an 8 inch maximum mesh size. The Stikine River U.S.—Canada Chinook in-river test fishing program uses a 7¼ inch gillnet mesh to harvest Chinook salmon. Limiting the mesh size to 8 inches should not result in reduced chinook harvest for subsistence fishing.

The Federal Subsistence Board approved a larger mesh size to 8 inches for gillnets during the remainder of the chinook salmon season on the Stikine River in 2005. This is effective June 4, through June 20, 2005.

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for these adjustments are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive additional public notice and comment procedures prior to implementation of these actions and pursuant to 5 U.S.C. 553(d)(3) to make this rule effective as indicated in the **DATES** section.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Final Environmental Impact Statement (FEIS) was published on February 28, 1992, and a Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD) was signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, subparts A, B, and C (57 FR 22940, published May 29, 1992), implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999 (64 FR 1276.)

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

The adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

The adjustments have been exempted from OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as boat, fishing gear, and gasoline dealers.

The number of small entities affected is unknown; however, the effects will be seasonally and geographically-limited in nature and will likely not be significant. The Departments certify that the adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the adjustments will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that the adjustments meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

In accordance with Executive Order 13132, the adjustments do not have sufficient federalism implications to warrant the preparation of a federalism assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

Drafting Information

Bill Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Nancy Swanton, Alaska

Regional Office, National Park Service; Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, USDA–Forest Service, provided additional guidance.

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: June 6, 2005.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: June 6, 2005.

Steve Kessler,

Subsistence Program Leader, USDA–Forest Service.

[FR Doc. 05–12159 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans

CFR Correction

In Title 40 of the Code of Federal Regulations, part 52 (§§ 52.01 to 52.1018), revised as of July 1, 2004, § 52.21 is corrected by removing paragraphs (b)(2)(iii)(*h*)(*1*) and (*2*).

[FR Doc. 05–55508 Filed 6–21–05; 8:45 am]

BILLING CODE 1505–01–D

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

45 CFR Part 1801

Scholar Accountability Policy

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Final rule.

SUMMARY: This final rule adopts the Truman Scholarship Foundation [Foundation] Scholar Accountability Policy. This Accountability Policy clarifies and standardizes Foundation rules governing accountability of an individual selected as a Harry S. Truman Scholar [Scholar] to fulfill his or her obligation to become employed in public service. It requires any Scholar who is selected after January 2005 and who is not employed in public service for three of the seven years immediately following completion of his or her Foundation-funded graduate education to repay to the Foundation an amount equal to the Scholarship stipends received, with interest and any costs of collection.

DATES: This rule is effective July 22, 2005.

ADDRESSES: The final rule and supplemental information will also be posted on the Foundation Web site with links from the For Scholars, For Candidates, and For Fac Reps sections. They also may be obtained by written request to Louis H. Blair, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Louis Blair, Harry S. Truman Scholarship Foundation, 202–395–4831.

SUPPLEMENTARY INFORMATION:

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1. Background of the Harry S. Truman Scholarship
2. History of the Accountability Policy
3. Summary of Comments Received and Foundation Responses
4. Text of Final Rule

1. Harry S. Truman Scholarship Foundation Directives

The Harry S. Truman Memorial Scholarship Act [Act] honored former President Truman by creating ''a perpetual education scholarship program to develop increased opportunities for young Americans to prepare for and pursue careers in public service.'' 20 U.S.C. 2001. These scholarships are administered by the Foundation, whose purpose is to ''[encourage] young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government * * * [and] to develop increased opportunities for young Americans to prepare and pursue careers in public service.'' 20 U.S.C. 2001. The Act authorizes the Foundation to ''award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service.'' 20 U.S.C. 2005(a)

Under this scholarship program, the Foundation annually selects Scholars from among outstanding college juniors nominated by their college or university. Those selected receive educational stipends from the Foundation.

The Act requires those nominated and selected for a Truman Scholarship to ''[indicate] a serious intent to enter the public service upon the completion of his or her educational program.'' 20 U.S.C. 2005(d). The Foundation finds evidence of this intent in the nominee's previous record of public service and in his or her signing of a scholarship acceptance agreement, which in past years acknowledged an obligation to ''enter public service immediately upon graduation or immediately upon completion of any judicial clerkships(s) after graduation.'' A Scholar may continue to receive Foundation financial support only while ''devoting full time to study or research designed to prepare him or her for a career in public service.'' 20 U.S.C. 2008(a).

While the Foundation's regulations provide that it may suspend or terminate the Scholarship for a student who has a ''* * * loss of interest in a career in public service,'' 45 CFR 1801.61, it has only done so rarely. As detailed below, the Foundation has lacked an effective mechanism for assuring that Scholars who receive the Foundation's financial support are actually employed in public service.

2. History of the Accountability Policy

While many Scholars pursue a public service career after completing their graduate education, a significant number do not. Because the Foundation has not imposed any reporting requirements on those whose scholarship funding has been completed, the Foundation's knowledge of former Scholars' career choices relies largely on informal contacts with former Scholars. Additionally, a mid-1990's survey (with a 60% response rate) of former Scholars revealed that two-thirds of the Scholars with law school degrees were employed in the private sector at the time of the survey. One quarter of former Scholars with other kinds of graduate degrees were employed in the private sector. This survey confirmed the impressions gleaned from less formal contacts.

The Foundation, using the authority grated in 20 U.S.C. 2012, made several program changes to address the issue of Scholar Accountability.

First, in 1991 the Foundation began selecting Scholars later in their academic career in anticipation that their career plans would be more definitive.

Second, the Foundation established increased public service opportunities for Scholars through programming, Foundation staffing, and enhanced Scholar networks. The Foundation instituted Truman Scholars Leadership Week, Summer Institute, the Public Service Law Conference, and the Truman Fellows program in an effort to increase awareness of additional public service opportunities. The Foundation has also expanded its Web site to include fellowship, scholarship, and employment listings as well as a Scholar database. The Foundation has established relationships with graduate schools, graduate fellowships, and other public service programs in an effort to

expand opportunities for Scholars. The Foundation's Associate Executive Secretary maintains contact with the Truman Scholar Association (an organization of Truman Scholar alumni) to further build the Scholar network.

Third, the Foundation attempted to impose repayment requirements—to varying degrees and successes—on some Scholars believed to be particularly at-risk for a loss of interest in the public service.

The first two of these program changes were successful in encouraging more Scholars to pursue public service careers; the last was not and was abandoned. But the success of these programs was not sufficient; a large number of Scholars still failed to enter public service.

In response to Scholar concern, the Foundation convened a forum for interested parties on Saturday, March 22, 2003 in Washington, DC. Approximately 40 people—mostly current or former Scholars—attended. Comments received at that forum, as well as comments solicited through Scholar listservs and on the Web site, were incorporated into a presentation for the Board of Trustees on April 7, 2003.

At that April meeting, the President of the Board of Trustees created the Task Force on Accountability to study the problem of Scholar accountability and make policy recommendations. The Task Force was chaired by a former Truman Scholar who serves also as a member of the Board of Trustees and the Treasurer of the Foundation. The Task Force also included three Truman Scholars and a representative of Foundation Trustee Senator Max Baucus. The Task Force reviewed data provided by the Foundation (including past surveys of Scholars), analyzed material from the Scholar Forum, conducted a survey of past Truman Scholars, and evaluated a variety of approaches to accountability.

The Task Force provided an interim report to the Board of Trustees on August 26, 2003. After discussion, the Board directed the Task Force to produce a final report for the next Board meeting in spring of 2004. The draft report of the Task Force was posted on the Foundation Web site for public comment.

The final report of the Task Force was presented to the Board, along with Scholar comments, on May 7, 2004. The Task Force proposed the policy expressed in this Rule. After unanimous approval by the Board of Trustees, the Foundation staff was directed to develop an implementation strategy for presentation to the Board of Trustees at the fall meeting.

On September 24, 2004, the Associate Executive Secretary presented the implementation strategy to the Board of Trustees. The plan was unanimously approved.

This rule was first published in the **Federal Register** [January 21, 2005 (Volume 70, Number 13), page 3178–3179], and no comments were received. This rule was published again in the **Federal Register** [March 14, 2005 (Volume 70, Number 48), page 12436–12437], and twenty-three comments were received. Nine supported and eight opposed the accountability policy. Six commenters posed questions about the proposed rule.

3. Summary of Comments Received and Foundation Responses

Several commenters made more than one point in their comment. As a result, the number of responses listed below exceeds the total number of comments received.

Comment: Nine commenters suggested that the Foundation should focus its efforts elsewhere. Of these responses, five made specific recommendations. Two commenters suggested that the Foundation develop more programs and post-graduate opportunities for Scholars. Another suggested that the Foundation pursue increased funding for the scholarship trust. Another suggested that Scholars be required to file additional annual reports with the Foundation. Another suggested that the Foundation provide funding for the Truman Scholar Association. The remaining four responses did not make specific suggestions.

Foundation Response: The Foundation will continue its efforts to develop and support means in addition to the accountability policy to encourage Scholars to pursue public service careers. For example, concurrent with the development of the accountability policy, the Foundation initiated a one-year fellowship program designed to help Scholars find public service employment in Washington, DC. This fellowship will also allow Scholars to take a graduate level course in public policy development and administration. The Foundation also has developed a new Web site which provides additional post-graduate opportunities for Scholars and enhances Scholar database options to allow alumni to stay in better touch with the Foundation and each other. The Foundation's first priority remains to encourage Scholars to continue with a career in public service, rather than to collect repayments from those who fail to do so.

Increased scholarship funding was considered. However, the Act's legislative history suggests that Congress considered the Foundation's original endowment to be a one-time appropriation. Additionally, members of the Board of Trustees currently serving in Congress advised that current budget deficits made an additional federal funding highly unlikely.

This rule does expand to a limited degree the Foundation's annual report requirements: a Scholar will be required to provide employment information annually to the Foundation until it can be determined whether he or she fulfilled his or her public service commitment. After that, former Scholars are encouraged to submit updates—but are not required to do so under this rule.

Given limited financial resources, the Foundation is not able to provide significant funding to the Truman Scholars Association (TSA) at this time. The Foundation will be providing TSA with access to Foundation databases and will include in the Foundation's Web site a link to the TSA Web site currently under development. The Foundation has also hopes to work with TSA to establish a Scholar mentoring program.

Comment: Three commenters questioned how this policy would be communicated to potential applicants.

Foundation Response: Information regarding the policy is included on the Web site in both the For Candidates and For Fac Reps sections. The policy has also been included in e-mails to Faculty Representatives, on the application materials, and in the Bulletin of Information. The Executive Secretary and Associate Executive Secretary included the policy in talks to potential applicants, Faculty Representatives, and to those engaged in the interview and selection process. The accountability policy also will be explained to newly selected Scholars participating in Truman Scholar Leadership Week.

Comment: Three commenters suggested that there has not been sufficient proof that such a change is needed.

Foundation Response: Perfect data will never be available. While acknowledging the limitations on readily available data, both the Task Force and the Board of Trustees determined that the available information about the ultimate careers chosen by Truman Scholars showed that far too many were eschewing public service careers. Additionally, both the Foundation staff and the Board of Trustees believe that every Truman

Scholar should be accountable for fulfilling his or her commitment to public service.

Comment: Two commenters felt that the amount of money given by the program was too little to merit such a policy.

Foundation Response: The Foundation recognizes that the amount of the grant (currently $30,000) is only a portion of the cost of graduate school education. But these are public funds, and the Foundation believes that greater accountability for their use is appropriate.

Comment: One commenter suggested that a former Scholar who was made to repay his or her scholarship stipend would then be unlikely to offer mentoring or assistance to other Scholars.

Foundation Response: This concern is somewhat speculative. A former Scholar may mentor or assist other Scholars, or not, for a host of reasons unrelated to an accountability policy. Those Scholars who are asked to repay scholarship funds under the act are still entitled to identify themselves as Truman Scholars. A Scholar's decision to be employed in the private sector does not diminish the achievements that caused him or her to be selected as a Truman Scholar.

Comment: One commenter suggested that the Foundation should offer a smaller initial grant to all Scholars and provide additional grants to those Scholars who go into careers in public service.

Foundation Response: This option was discussed several times during the development of the accountability policy; it was ultimately rejected for several reasons. First, the Act provides that Scholar may continue to receive Foundation financial support only while ''devoting full time to study or research designed to prepare him or her for a career in public service,'' (20 U.S.C. 2008(a)), and thus may limit the Foundation's ability to provide financial support to a Scholar not meting that criterion. Second, receiving funds from the Foundation after a former Scholar completes his or her graduate study may create adverse tax consequences and may interfere with his or her ability to participate in loan-forgiveness programs that are income sensitive. Third, a reduction in the Scholarship award would likely lead to fewer and less prestigious applicants. Fourth, this type of active monitoring of Scholars would involve far more Foundation resources and discretion than the passive reporting method selected in the current Rule.

Comment: One commenter stated that the proposed rule is contrary to the language of the ''Harry S. Truman Memorial Scholarship Act'' and the legislative history surrounding the Act.

Foundation Response: The Act neither expressly requires nor expressly forbids the Foundation from adopting a financial incentive to encourage a Scholar to accept public service employment. Based on a thorough review of the Act's provisions and its legislative history, the Foundation's General Counsel in August 2003 advised the Board of Trustees that the Act authorized the Foundation to adopt a regulation imposing on every scholar who did not enter public service within a specified period after completing his or her graduate studies an obligation to repay the Foundation a specified portion of the funding receive from the Foundation. In adopting this final rule, the Foundation has accepted and relies on this opinion.

Summary of Comments Regarding Specific Sections of the Policy

Regarding 1801.63 (a): A Scholar selected after January 2005 must be employed in public service for three of the seven years following completion of his or her Foundation funded graduate education.

Comment: Seven commenters asked how the Foundation would define public service. Five commenters expressed concern that a narrow definition of public service would lead to either fewer or less prestigious applicants.

Foundation Response: The proposed rule is to be included with other regulations governing the Foundation (45 CFR 1801, *et seq.*). The Foundation will rely on the definition of public service currently found and codified at 45 CFR 1801.45:

> Public service means employment in: governments at any level, the uniformed services, public interest organizations, non-governmental research and/or educational organizations, and non-profit organizations such as those whose primary purposes are to help needy or disadvantaged persons or to protect the environment.

The Foundation adopted this expanded definition of public service to recognize the important contribution to the public interest made by those employed by non-government organizations. The Foundation intends to continue using this broad definition of public service.

Since the Truman Scholarship is, and will continue to be, an award given for public service achievement, it is unlikely that further emphasis on public service will attract less prestigious applicants. Moreover, the more important measure of Scholarship program success is not how many applications are received, but how many of the applicants who are awarded Scholarships actually pursue a career in public service.

Finally, the Foundation notes that those Scholars who are required to repay Scholarship funds still enjoy the prestige associated with having been selected as a Truman Scholar.

Comment: Three commenters suggested that the Foundation should require a Scholar to be employed in public service for a greater period than three of the first seven years following the completion of Foundation funding; and two suggested that the periods chosen were arbitrary.

Foundation Response: The Task Force on Accountability examined various public service career paths and discussed alternatives with Scholars, Board Members, and Foundation staff. The Task Force believe that the accountability policy should provide sufficient flexibility to accommodate a Scholar who needed a period of private sector employment to pay off debt or gain experience, who required time away from employment for family or other reasons, or who wished to change careers. The Task Force recommended these periods of required public service as a way to provide that flexibility, and the Trustees accepted that recommendation.

Regarding 1801.63(b): Following completion of Foundation funded graduate education, Scholars must submit a report to the Foundation by July 15 of each year. This report will include the Scholar's current contact information as well as a brief description of his or her employment during the past twelve months. This reporting requirement ends when the Foundation determines that a Scholar has reported three years of public service employment and the Foundation notifies him or her that he or she no longer is required to submit reports. Scholars who fail for two consecutive years to submit the required report to the Foundation will be considered to have failed to complete the three-year public service requirement of paragraph (a) of this section.

Comment: Four commenters expressed concern over how, and by whom, public or private service would be determined.

Foundation Response: Each Scholar will be asked to fill out an on-line survey on his or her employment, including his or her belief as to whether this employment is in the public or private sector. The Foundation will review the responses, and follow up as appropriate. Any disputed case will be

decided by the Executive Secretary. A Scholar will be notified of the decision and given time to appeal to an Appeals Committee made up of non-Foundation staff. Additional guidelines on the appeals process will be posted on the Foundation Web site.

Comment: One commenter stated that the Foundation should keep better data in order to better track whether there is a need for such a policy.

Foundation Response: This policy has been motivated, in part, by a need for the Foundation to be more accountable—both to the Scholars and to the public—by keeping better information on the activities of its Scholars. Currently, the Foundation only requires annual reports from Scholars still eligible to receive scholarship stipends. Once funding is complete, Scholars have no obligation to keep the Foundation informed of their activities. The Accountability Policy will enable the Foundation to keep better data—including information on graduate school, area of employment, additional fellowship or scholarship opportunities, and current contact information. This enhanced Scholar database will be available to all Scholars. The Foundation has expanded the Web site to better keep track of this information.

Regarding 1801.63(c): A Scholar who fails to be employed in public service for three out of the first seven years following completion of his or her Foundation funded graduate education must repay to the Foundation an amount equal to:

(1) All of the Scholarship stipends received,

(2) Interest at the rate of 6% per annum from the date of receipt of each payment until repayment is made to the Foundation, and

(3) Reasonable collection fees.

Comment: Two commenters suggested that the 6% interest rate is arbitrary.

Foundation Response: This figure was selected after reviewing other Federal grants of this type. The repayment schedule most closely resembles that of the James Madison Memorial Foundation (a program which awards grants to educators). After discussion with members of the Board of Trustees, Foundation Legal Counsel, and a consultant hired by the Foundation, the Foundation determined that a low, fixed rate would be most appropriate. Should prevailing interest rates be below 6%—a Scholar can obtain a loan with more favorable terms. Should prevailing interest rates be higher, the Scholar will be protected from having overly burdensome repayment obligations. Additionally, the fixed rate simplifies administration of the repayment program.

Regarding 1801.63(f): Upon application by the Scholar showing good cause for doing so, the Foundation may waive or modify the repayment obligation established by paragraph (c) of this section.

Comment: Three commenters suggested that the Policy would penalize individuals for taking time off to raise a family.

Foundation Response: To the contrary, the waiver provision is intended to provide the Foundation flexibility in accommodating Scholars who are unemployed or who are acting as caregivers. However, these Scholars will still need to report their current activities.

Comment: One commenter suggested that the Foundation should count public service employment before graduate school toward the 3-year service requirement.

Foundation Response: While the Foundation encourages those selected as Scholars (all of whom are undergraduates) to spend time in public service before continuing to graduate school, that service occurs before the Scholar receives the bulk of his or her educational stipend from the Foundation. The Foundation's purpose, and the intent of the accountability policy, is to encourage a public service career after a Scholar completes his or her graduate education. This purpose is best achieved by focusing only on employment in the public service after graduate school.

Comment: One commenter believed that the Foundation should count employment as a law clerk as public service.

Foundation Comment: Under the accountability policy now being adopted, employment as a law clerk would count toward the 3-year service requirement.

Regarding 1801.63(g): The Foundation will establish a process for appealing any disputes concerning the accrual of the repayment obligation imposed by paragraph (c) of this section. The Foundation will publish on its Web site *http://www.truman.gov* information about this appeals process and other information pertinent to repayment obligations accruing under this § 1801.63.

Comment: Five commenters believed that more guidelines regarding the policy need to be available to potential Scholars.

Foundation Response: The Foundation will develop additional guidelines and rules to implement this policy. Since the policy repayment obligations are unlikely to accrue before 2010, the Foundation is able to begin with a basic outline of the policy. The Foundation intends at a later time to publish additional guidelines on its Web site. Instructions for those wishing to comment on the guidelines will be posted on the Web site as well.

List of Subjects in 45 CFR Part 1801

Grant programs—education, Scholarships and fellowships.

4. Text of Final Rule

■ The Foundation amends 45 CFR part 1801 as follows:

PART 1801—HARRY S. TRUMAN SCHOLARSHIP PROGRAM

■ 1. The authority citation for 45 CFR part 1801 continues to read as follows:

Authority: Pub L. 93–642, 88 Stat. 2276 (20 U.S.C. 2001–2012).

■ 2. Add § 1801.63 to read as follows:

§ 1801.63 Scholar Accountability

(a) A Scholar selected after January 2005 must be employed in public service for three of the seven years following completion of his or her Foundation funded graduate education.

(b) Following completion of Foundation funded graduate education, Scholars must submit a report to the Foundation by July 15 of each year. This report will include the Scholar's current contact information as well as a brief description of his or her employment during the past twelve months. This reporting requirement ends when the Foundation determines that a Scholar has reported three years of public service employment and the Foundation notifies him or her that he or she no longer is required to submit reports. Scholars who fail for two consecutive years to submit the required report to the Foundation will be considered to have failed to complete the three year public service requirement of paragraph (a) of this section.

(c) A Scholar who fails to be employed in public service for three out of the first seven years following completion of his or her Foundation funded graduate education must repay to the Foundation an amount equal to:

(1) All of the Scholarship stipends received,

(2) Interest at the rate of 6% per annum from the date of receipt of each payment until repayment is made to the Foundation, and

(3) Reasonable collection fees.

(d)(1) The repayment obligation of paragraph (c) of this section accrues on the first July 15 on which it becomes impossible for a Scholar to fulfill the

three year public service requirement of paragraph (a) of this section. For example, the repayment obligation would accrue on July 15 of the sixth year following completion of Foundation funded graduate education for a Scholar who has been employed in the public service for only one of those six years.

(2) The Foundation will send to the Scholar's last known address a notice that his or her repayment obligation has accrued. The failure, however, of the Foundation to send, or the Scholar to receive, such a notice does not alter or delay the Scholar's repayment obligation.

(e) The Foundation may employ whatever remedies are available to it to collect any unpaid obligation accruing under this § 1801.63.

(f) Upon application by the Scholar showing good cause for doing so, the Foundation may waive or modify the repayment obligation established by paragraph (c) of this section.

(g) The Foundation will establish a process for appealing any disputes concerning the accrual of the repayment obligation imposed by paragraph (c) of this section. The Foundation will publish on its Web site *http://www.truman.gov* information about this appeals process and other information pertinent to repayment obligations accruing under this § 1801.63.

Dated: June 16, 2005.

Louis H. Blair,

Executive Secretary.

[FR Doc. 05–12235 Filed 6–21–05; 8:45 am]

BILLING CODE 6820–AD–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–260; FCC 95–503]

Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission received Office of Management and Budget (OMB) approval for rules published at 61 FR 6131, February 16, 1996. Therefore, the Commission announces that 47 CFR 76.802 became effective on April 19, 1996. The delayed announcement of this approval was due to an administrative oversight.

DATES: The amendment to 47 CFR 76.802 published at 61 FR 6131, February 16, 1996, became effective on April 19, 1996.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has received OMB approval for the cable home wiring rule published at 61 FR 6131, February 16, 1996. Through this document, the Commission announces that it received this approval on April 19, 1996.

Pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Cathy Williams, Federal Communications Commission, (202) 418–2918 or via the Internet at *Cathy.Williams@fcc.gov*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–11909 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 97–80; FCC 05–76]

Commercial Availability of Navigation Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission maintains the requirement that cable operators separate security and non-security functions in devices they provide on a leased or sale basis, but extends the deadline. The Commission also establishes reporting requirements regarding the feasibility of a software-based security solution, cable operator support of CableCARDs, and the status of negotiations on a bidirectional digital cable compatibility standard. These actions are taken pursuant to the Communications Act, which directs the Commission to adopt regulations to assure the commercial availability of navigation devices equipment used by consumers to access services from multichannel video programming distributors.

DATES: *Effective Dates:* 47 CFR 76.1204(a)(1) is effective July 22, 2005.

Compliance Dates: The requirement that the cable industry file a report on the feasibility of deploying downloadable security is effective upon the earlier of December 1, 2005 or receipt of approval from the Office of Management and Budget (OMB). The requirement that the National Cable and Telecommunications Association and the Consumer Electronics Association file joint status reports and hold joint status meetings with the Commission regarding progress in bidirectional negotiations and a software-based conditional access agreement every 60 days is effective upon the earlier of August 1, 2005 or OMB approval. The requirement that the six largest cable operators file status reports of CableCARD deployment and support every 90 days is effective upon the earlier of August 1, 2005 or OMB approval. The Commission will publish a future notice in the **Federal Register** announcing the compliance dates for the reporting requirements that are subject to OMB approval.

ADDRESSES: All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Cathy Williams Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Natalie Roisman, *Natalie.Roisman@fcc.gov,* or Steven Broeckaert, *Steven.Broeckaert@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at 202–418–2918 or via the Internet at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Second Report and Order (*2nd R&O*) FCC 05–76, adopted on March 17, 2005 and released on March 17, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal

Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This *2nd R&O* contains modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on the new information collection requirements contained in this *2nd R&O,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Written comments on the modified information collection requirements must be submitted by the public, the Office of Management and Budget (OMB), and other interested parties on or before August 22, 2005. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Summary of the Order

I. Introduction

1. Section 629 of the Communications Act directs the Commission to adopt regulations to assure the commercial availability of navigation devices equipment used by consumers to access services from multichannel video programming distributors (MVPDs). Pursuant to this directive, the Commission issued the *Report and Order,* 63 FR 38089, July 15, 1998, in the above-captioned proceeding establishing, *inter alia,* a January 1, 2005 deadline for MVPDs to cease deploying new navigation devices that perform both conditional access functions and other functions in a single integrated device. The Commission adopted the requirement to separate the conditional access function from the basic navigation device (the ''host device'') in order to permit manufacturers, retailers, and other vendors unaffiliated with MVPDs to commercially market host devices while allowing MVPDs to retain control over their system security. In the 2003 *Extension Order,* 68 FR 35818, June 17, 2003, the Commission extended the deadline concerning the prohibition on integrated devices until July 1, 2006.

2. In this document, the Commission reports its reassessment of the state of the navigation device market, as required by the *Extension Order.* Given the equipment ordering and manufacturing cycles involved, it is necessary at this point to provide guidance as to the Commission's expectations with respect to the 2006 date. The cable and consumer electronics industries have made, and continue to make, significant progress in the development of technical standards in this area. As a result, the commercial market for navigation devices used in conjunction with the distribution of digital video programming has expanded and consumers now have increased choice among navigation devices.

3. Nevertheless, the Commission is not persuaded that the current level of competition in the navigation device market is sufficient to assure the commercial availability of navigation devices to consumers from sources other than multichannel video programming distributors (MVPDs). The Commission continues to believe that common reliance by cable operators on the same security technology and conditional access interface that consumer electronics manufacturers must employ in developing competitive navigation devices will help attain the goals of section 629 of the Act. Thus, in this document, the Commission maintains the requirement that cable operators separate security and non-security functions in the devices they provide on a leased or sale basis.

4. The Commission recognizes, however, that the development of set-top boxes and other devices utilizing downloadable security is likely to facilitate a competitive navigation device market, aid in the interoperability of a variety of digital devices, and thereby further the DTV transition. The Commission also recognizes that software-oriented conditional access solutions currently under development may allow common reliance by cable operators and consumer electronics manufacturers on an identical security function without the potentially costly physical separation of the conditional access element. Cable operators therefore are afforded a limited extension of the integration ban to determine whether it is possible to develop and deploy a downloadable security function that will permit them to comply with the Commission's rules without incurring the costs associated with the physical separation approach. The Commission extends the deadline for phase-out of integrated set-top boxes until July 1, 2007 and requires the cable industry to report no later than December 1, 2005 regarding the feasibility of a downloadable security solution. In addition, NCTA and CEA shall file joint status reports and hold joint status meetings with the Commission on or before August 1, 2005 and every 60 days thereafter on progress in bi-directional talks and a software-based conditional access agreement. In this document, the Commission also finds that, to the extent a downloadable security or similar software-oriented solution provides for common reliance on an identical security technology and conditional access interface without physical separation of the security element, such technology complies with 47 CFR 76.1204(a)(1).

5. This additional time, in addition to allowing for the testing necessary to determine whether a software conditional access regime will produce the desired result, will also provide for progress in bidirectional negotiations, which have been disappointing to date. In the meantime, the Commission is concerned about anecdotal evidence relating to the cable industry's current level of support for unidirectional CableCARDs and expect that performance to improve over the coming months to meet consumer expectations as they purchase CableCARD-enabled devices. To this end, the Commission directs the six largest cable operators to file on or before August 1, 2005, and every 90 days thereafter, status reports on CableCARD deployment and support, including efforts to develop and deploy a multistream CableCARD for widespread use in digital devices available commercially.

II. Discussion

A. Comments

6. In conducting a full assessment of the navigation device market, the Commission considered not only those comments filed in response to the *Extension Order,* but also pertinent comments filed in response to the 2000 *Further NPRM,* 65 FR 58255, September 28, 2000. In the *Further NPRM,* the Commission sought comment on the

existence of any obstacles or barriers preventing or deterring the development of a retail market for navigation devices, and whether sufficient incentives existed to permit development of such a retail market. The *Further NPRM* also sought comment on the effect that provision of integrated equipment by cable operators has had on achieving a competitive market for commercially available navigation devices. The *Extension Order* sought more specific comment on whether any further changes in the phase-out date for integrated devices are warranted. In response, the cable industry argues that circumstances have changed dramatically since the prohibition on integrated devices was adopted in 1998, that the rationales for the ban no longer exist, and that the Commission accordingly should eliminate the rule. Alternatively, the cable industry and its equipment suppliers argue that the Commission should further extend the phase-out date for integrated devices. Recently, Microsoft, reversing an earlier stance that the Commission retain the July 1, 2006 deadline, filed jointly with Comcast and Time Warner requesting the Commission to defer the phase-out date for integrated devices ''for some period ranging from 6 to 18 months,'' to, in part, ''allow approximately one year for the development of a new agreement for FCC consideration related to the retail availability of fully-functional digital cable products.'' Consumer electronics manufacturers and retailers, as well as consumer groups, support the retention of the July 1, 2006 deadline and contend that nothing has changed since the adoption of the *Extension Order* to justify eliminating or further postponing the deadline.

7. *Retail Initiative.* In the *Further NPRM,* the Commission sought comment regarding whether to continue to permit MVPD or retail distribution of integrated boxes if integrated boxes also are commercially available. In response, NCTA asserted that the goals of section 629 of the Communications Act could be met by a plan that would allow integrated digital set-top boxes to be made available through independent retail outlets. AT&T contended that increased competition in the MVPD market naturally spurred cable operators to pursue retail distribution of their digital equipment and services. However, Motorola and Scientific Atlanta stated that they had attempted to negotiate deals with retailers to purchase and market set-top boxes, but received little to no retailer interest. CERC, representing retailers, argued that, whether sold at retail or in any other manner, integrated devices would continue to allow MVPDs to place obstacles or conditions on competitive entry. Accordingly, CERC disputed NCTA's contention that the cable operators' plan to sell integrated boxes in retail stores would alleviate the Commission's concerns and meet the intent of the statute. The record establishes that the retail initiative for integrated set-top boxes has not been successful. Notwithstanding the results of the initiative, NCTA now asserts that the cable industry's 2001 retail initiative for integrated boxes changed the factual basis underlying the ban, and that cable's willingness to allow retail sale of set-top boxes demonstrates the industry's commitment to retail availability. CEA and CERC (collectively, the ''CE parties'') argue that, contrary to NCTA's assertion, the cable industry's retail initiative actually underscores the need for MSO reliance on PODs. According to the CE parties, the aim of cable's retail initiative was to avoid POD reliance by setting rules for cable operators who might furnish non-POD-reliant products to retailers, and thus the initiative would have provided less, not more, reason for cable operators to plan products and services that rely on a common security interface for competitive products. The CE parties further assert that it is difficult to ascribe any real-world effect to the retail initiative because commercial ties between retailers and cable operators have been forged on an *ad hoc* basis. This is consistent with NCTA's description of the results of the retail initiative. Additionally, the CE parties state that there is no record of cable operators declaring that the commercialization of integrated security techniques is open to competitive manufacturers and retailers on the same or similar basis as it is to cable operators and their suppliers. Thus, according to the CE parties, it is a ''stretch'' to argue that the retail initiative signified any change that would justify elimination of the prohibition on the sale or lease of integrated devices.

8. *One-Way Plug and Play.* In the *Extension Order,* the Commission noted the then-ongoing notice and comment cycle relating to the one-way FNPRM and the evolving nature of technical specifications relating to navigation devices. Since the Commission issued the *Extension Order,* the unidirectional plug and play rules have been adopted and become effective. In October 2003, CableLabs released the DFAST license, which provides manufacturers with the intellectual property necessary to build plug and play devices that will accommodate a POD. The cable and consumer electronics industries finalized the joint test suite for unidirectional digital cable products and posted testing-related documents on the CableLabs Web site. NCTA has created a set of common consumer education materials to inform cable customers of the capabilities of unidirectional digital cable products, and cable system representatives have conferred with NCTA and CableLabs to develop consistent answers for customer support. The cable and consumer electronics industries also developed a whitepaper to serve as common guide for operational issues, produced inserts for inclusion with packaging materials of new unidirectional digital cable products, and completed work on consumer-friendly logos and acronyms for ''digital cable ready'' devices.

9. NCTA contends that the MOU and the Commission's implementing rules undermine any remaining rationales for the prohibition on integrated devices. NCTA asserts that the Commission's rules implementing the MOU should ''eliminate concerns that unless cable operators deploy POD-enabled equipment, there can be no assurance cable operators will make commercially available, POD-enabled devices work on their systems.'' According to NCTA, the prohibition on integrated devices is not necessary to ensure cable operator reliance on PODs because cable operators are required by law to support PODs through certain technical requirements, to maintain an adequate supply of PODs, and to ensure convenient access to such PODs for their customers. To illustrate the impact of the unidirectional plug and play rules, NCTA states that adoption of the rules has led to certification, verification, or self-verification of more than 140 new DTV models from 11 different independent manufacturers through the unidirectional digital cable product test suite for digital cable ready televisions. The CE parties agree that there has been substantial progress in this area, but argue that such progress does not alleviate the need for the ban because reliance on a common security interface is essential for continued progress in the future. Specifically, CE contends that every way in which a competitive product must differ from cable operator-provided products retards competition. Like NCTA, the CE parties state that significant time and attention have been devoted by the cable and consumer electronics industries to testing and other one-way implementation issues. The CE parties agree with NCTA that the offering of the

DFAST license is a landmark event and accomplishment for the parties. However, CEA notes that certain implementation issues not resolved in the plug and play agreement, such as down-resolution capabilities, have been the subject of substantial discussion and some disagreement between the parties.

10. *Two-Way Plug and Play.* The Commission noted in the *Extension Order* that the cable and consumer electronic industries were ''in the midst of negotiations'' on specifications for bidirectional digital cable products. Accordingly, the Commission requested that the parties file status reports on the bidirectional negotiations at 90, 180, and 270-day intervals following release of the *Extension Order.* The first status report was filed jointly by NCTA and CEA on July 24, 2003. In that report, NCTA and CEA stated that the parties have been meeting at least monthly and that the meetings typically are attended by multiple representatives of each major manufacturer and MSO. The initial discussions involved organizing work into the areas of consumer experience, resource sharing and implementation, operational issues and consumer information, regulatory issues and agreements, and certification and testing. At that time, the parties were nearing agreement on specifications for resources in devices for the OpenCable Applications Platform (OCAP), the basis for interactive functionality in two-way devices, and had agreed on issues surrounding the need for bidirectional devices to support new digital control channels. The OCAP test suite and environment was far along in development by CableLabs and the parties were cooperating regarding the harmonization of the broadcast Digital Applications Software Environment (DASE) and OCAP standards necessary to enable manufacture of devices that can receive interactive content from both digital cable and over-the-air digital broadcasting. Finally, discussions regarding the advanced multistream POD (also known as the ''multistream CableCARD'') were proceeding, with proposed interface specifications to be completed by August 2003 and an expectation of SCTE standardization thereafter.

11. On October 23, 2003, NCTA and CEA filed separate status reports regarding the bidirectional negotiations. NCTA stated that the parties had been engaged in negotiations regarding implementation of the unidirectional MOU and the Commission's rules, which diverted attention from the bidirectional issues. NCTA stated that the multistream POD specification had been completed and published and that the OCAP test suite and environment continued to be far along in development by CableLabs. CEA stated in its second status report that attention had been focused on implementation of the one-way MOU, but that it expected that as talks resumed, the parties would give attention to other potentially affected parties in the navigation device market.

12. NCTA and CEA also filed their third status reports separately on January 21, 2004. NCTA stated that the cable and consumer electronics industries were now prepared to engage fully in discussions to reach agreement on two-way digital cable ready devices and that the cable and consumer electronics industries were reaching out to consult with third parties. CEA stated that bidirectional negotiations had advanced through the first half of 2003, but that ultimately the parties had focused their attention on testing issues related to unidirectional devices. CEA said that the parties were now moving forward expeditiously to complete the bidirectional negotiations, including consultations with interested or concerned third parties. According to CEA, the necessary objectives in the bidirectional negotiations include establishing minimum technical requirements for bidirectional operation, creating a level playing field for competition between competitively-sourced and cable operator-sourced devices, and avoiding creation of any disadvantage for the operation of device features or functions on home or external networks different from or competitive with programs or services provided by a cable network. At that time, CEA stated that the discussions were proceeding earnestly, but that it was necessary to consult with many parties.

13. As of October 19, 2004, there have been over 30 meetings between the cable and consumer electronics industries to narrow topics and reconcile differences in approaches. In addition, other potentially affected parties have participated in large group discussions. NCTA asserts that because significant progress has been made in the bidirectional negotiations, to the extent the prohibition on integrated devices was maintained in order to ''hold cable's feet to the fire,'' it is no longer necessary. Moreover, NCTA argues that the prohibition is likely to impede the two-way talks because it will divert attention and resources away from the negotiations to tasks necessary to comply with the prohibition. However, as further discussed below, manufacturers believe that retention of the ban is critical to the development and deployment of two-way devices.

14. *Incentives For Cable Operator Support and Development of PODs.* The CE parties claim that the common security interface and its components must be regarded by the cable industry as essential in order for the POD and POD-Host interface to be developed with commensurate scope, scale, creativity, and investment. CE argues that POD design will not remain static, and that as new PODs need to be offered to deal with multiple streams and different connection formats, every innovation will require design, development, and testing. The CE parties contend that if this work is not done by companies also relying on PODs, it will not receive the necessary resources or priority. As an example, TiVo cites the development of the multistream POD, for which a specification was developed in 2003. TiVo claims that cable operators have had no business reason to hasten the development of the multistream POD because they do not need to use multistream PODs in their own products. TiVo also asserts that if cable operators are not required to use the CableCARD themselves, they will have no economic incentive to ensure that CableCARD devices will work on their systems. In fact, TiVo suggests that there may be a disincentive for cable operators to make CableCARDs work properly in order to steer customers away from the CableCARD toward a cable operator-provided set-top box. Thomson and Mitsubishi argue that the necessary level of commercial and user confidence in CableCARD-reliant products depends on the cable industry having the same level of commitment to such products as consumer electronics manufacturers. However, NCTA argues that cable operators have every incentive, including retention of their customers, to make commercially-available, POD-enabled products work.

15. *Innovation in Competitive Navigation Device Products.* According to TiVo, it will be nearly impossible for consumer electronics companies to overcome their existing disadvantage versus cable with respect to competitive navigation device products if cable operators are not also required to use CableCARDs in their devices. Specifically, the CE parties argue that if cable operators are permitted to introduce future programming and service innovations that are not POD-reliant and not available in competitive products, manufacturers will be forced to continually play ''catch-up'' in order to achieve interactive capabilities that cable operator-provided devices already

enjoy. The CE parties and TiVo argue that every way in which a competitive product must differ from cable operator-provided products impedes competition. TiVo asserts that knowing that cable operators will no longer be able to offer integrated devices would enable TiVo and other consumer electronics companies to develop and deploy set-top boxes bringing innovative new services to consumers with the confidence that such products will have a fair chance to succeed in the marketplace. Conversely, NCTA argues that maintaining the prohibition on integrated devices would stifle innovation in digital cable services and digital cable ready equipment. NCTA argues that CE's interpretation of section 629 of the Communications Act and the Commission's rules regarding commercial availability would mean that development of all cable products and services must await development and deployment of identical products and services by consumer electronics manufacturers before consumers may obtain the benefit of cable's innovations. NCTA contends that such a result would lock the various industry players into a scenario where there is no product differentiation and all players must simultaneously roll out the same functionality in products and services—an outcome that is not consistent with the goals of section 629 of the Communications Act or the DTV transition.

16. *Subscriber Choice and Costs.* NCTA asserts that the integration ban would limit subscriber choice and unnecessarily increase costs to cable operators and consumers. According to NCTA, a POD-Host combination would cost cable operators an estimated $72 to $93 more than an integrated set-top box with identical functionality. This cost would translate into an average increase of $2 to $3 per month for each combination (*i.e.*, an additional $2 to $3 per television set with a set-top box deployed after July 1, 2006). NCTA argues that this cost increase will reduce subscriber choice by removing a less expensive, integrated set-top box offered for lease by a cable operator as a low-cost alternative for consumers. NCTA suggests that the additional costs may result in a ''dampening of consumer enthusiasm for digital services'' and that the significant capital costs required to unbundle the boxes will jeopardize capital outlays needed to support new services. According to NCTA, retaining the ban also would increase costs on new entrants in the cable set-top box market, such as Panasonic, which are developing integrated set-top boxes for purchase by cable operators. NCTA further argues that the additional equipment costs faced by cable will not be faced by the satellite providers, with whom cable operators compete. NCTA states that cable operators and CableLabs are working to develop a downloadable security solution that would bring cost savings to both operator-supplied equipment and competitive devices built for retail. NCTA argues that implementation of downloadable security would effectively achieve the same result as separated security, but without the cost of a CableCARD and associated interface. CE agrees that downloadable security would represent an improvement over the current integrated security, but claims that a downloadable security solution will not be available in 2006.

17. TiVo asserts that since cable operators already are required to support CableCARDs, use of CableCARDs themselves should not present an additional operational burden; however, to the extent there is an increase in cost, such increase should be short-lived given the economic effects of volume resulting from widespread use by cable operators. The CE parties argue that advances in technology continue to bring CableCARD acquisition costs down, and that costs will be further reduced by investment and volume production resulting from cable industry reliance on PODs. They claim that the costs described by NCTA are for first-generation products and that provision of the old cost estimates by NCTA demonstrates that there has been little change in the market since 1998. According to the CE parties, NCTA erred in its estimates of the cost differential between separate and integrated devices by failing to take into account the learning curve and volume effects of cable operators not relying on PODs, the beneficial impact of competition, the opportunity for newer and less expensive headend encryption, potential savings from the ability to physically renew descrambler and authentication circuitry, and competitive devices available for the newest cable services. Thus, the CE parties contend that it should not be taken as established that there will be a net increase in consumer costs if the prohibition on integrated devices is maintained. CEA and Intel project that, in quantity, CableCARDs initially will cost between $15 and $19, with prices further dropping after July 1, 2006. The CE parties also suggest that more affordable conditional access technologies will be developed and that POD technology should not be insulated from cable innovation. For example, Sony filed comments in this proceeding to provide information about its Passage technology for digital cable system security and the potential effect of Passage on the cost and supply of CableCARDs. Passage permits cable operators to incorporate conditional access technology alternatives into their systems alongside their legacy conditional access technology, without interfering with their previously fielded legacy set-top boxes or disrupting their existing customer support, billing, and other systems.

18. *DTV Transition.* NCTA asserts that the prohibition on integrated devices may hinder the development of a low-cost digital set-top box and therefore delay a prompt transition to digital television. Specifically, NCTA asserts that the added costs of a CableCARD slot and accompanying CableCARD will adversely impact the development and deployment of inexpensive digital set-top boxes that will permit the viewing of digital programming on analog television sets. NCTA argues that the prohibition of such inexpensive integrated devices will retard the transition. Comcast contends that development of a low-cost box could be facilitated by the use of downloadable security, which Comcast asserts may not be permissible under a separated security requirement. The CE parties, however, submit that the successful introduction of CableCARD products is even more critical to the DTV transition. They argue that in order for consumers to pay the extra expense for a digital tuner, consumers must have confidence that the products they purchase will attach to the cable network and work as well as equipment supplied by cable operators. The CE parties contend that cable industry reliance on PODs will provide the necessary confidence. CEA also argues that the downloadable security solution advocated by the cable operators will not be available by 2006 and, therefore, cannot advance the DTV transition in the near term.

19. *DBS Integrated Devices.* Digital Broadcast Satellite (DBS) providers historically have not been subject to the prohibition on integrated devices because the Commission determined in 1998 that, unlike cable set-top boxes, DBS set-top boxes already were commercially available and portable throughout the continental United States and the DBS equipment market was already subject to the type of competition that Congress and the Commission have sought to promote. NCTA argues that the prohibition on

integrated devices would place all cable operators at a competitive disadvantage to DBS providers, and thus the prohibition must be eliminated in order to create a level playing field between cable and DBS. The CE parties submit that NCTA's arguments regarding DBS illustrate why it is necessary for all navigation devices, including those supplied by DBS operators, to rely on CableCARDs if consumer electronics manufacturers are to have a fair chance to enter and compete in the navigation devices market. DIRECTV supports retention of the ban, arguing that MVPD competition still weighs heavily in favor of cable and that incumbents continue to exert substantial market power. DIRECTV asserts that, as in 1998, DBS equipment remains (i) widely available at retail outlets, (ii) from at least three different DBS providers, (iii) from a number of different equipment manufacturers, and (iv) on a geographically portable basis. DIRECTV states that cable's navigation devices do not have these characteristics.

B. Discussion

20. The Commission is not persuaded to eliminate the prohibition on integrated devices. The Commission finds that, although significant progress has been made in the retail availability of digital cable ready devices, competition in the navigation device market has not progressed to the point of supporting an elimination of the integration ban. Furthermore, the mere fact that consumers will bear some of the costs resulting from the imposition of the integration ban is not a sufficient justification to eliminate the ban. Therefore, the Commission reaffirms its earlier decision that the integration ban properly balances the mandate of section 629 of the Communications Act to promote a commercial market for navigation devices with the practical necessity of allowing the market time to develop. At the heart of a robust retail market for navigation devices is the reliance of cable operators on the same security technology and conditional access interface that consumer electronics manufacturers must rely on in developing competitive navigation devices. The Commission concludes that a software-oriented conditional access solution may provide a ''common reliance'' standard capable of both reducing the costs for set-top boxes and adding significantly to the options that equipment manufacturers now have in using the CableCARD. In balancing the specific statutory requirement to assure commercial availability of navigation devices and the general obligation to facilitate and promote the DTV transition, the Commission concludes that a further extension of the effective date of the prohibition on integrated devices will permit the development of the statutorily required competitive market for navigation devices, with the potential benefit of reducing costs to consumers. On or before December 1, 2005, the cable industry must report to the Commission outlining the industry's conclusion regarding whether development and deployment of a downloadable security solution is feasible. In addition, the Commission determines that to the extent a downloadable security or other similar solution provides for common reliance, as contemplated herein, the Commission would consider the box to have a severable security component. This limited delay should not adversely affect innovation in the navigation device and digital cable-ready equipment market, while providing additional time for the cable, consumer electronics and information technology industries to make significant progress in the bidirectional negotiations. Furthermore, the Commission will entertain requests for waiver of the prohibition on integrated devices for limited capacity integrated digital cable boxes. Finally, the Commission is concerned about evidence that cable operators are not adequately supporting CableCARDs and will require periodic reporting to ensure that commercially available CableCARD-enabled devices continue to interoperate properly with cable systems.

21. Since section 629 of the Communications Act was adopted, the cable industry and equipment suppliers have made enormous efforts in the development of technical standards related to digital cable compatibility and navigation devices. The Commission noted in the *Extension Order* that the conclusion of the unidirectional MOU and the ongoing bidirectional negotiations ''reflect[ed] progress towards the development of a retail market for consumer electronics equipment with navigation device functionality.'' The Commission also agrees with NCTA that the one-way plug and play MOU and related Commission rules represented a ''breakthrough in relations between the [cable and consumer electronics] industries and the establishment of standards for ''digital cable ready'' products.'' There is no question that progress in implementing the one-way plug and play MOU and related Commission rules has been significant. CableCARD-equipped devices are available at retail and are being used by consumers. Yet it is clear from the record that the market for equipment used in conjunction with the distribution of digital cable video programming presently remains a nascent market. The cable industry's retail initiative with respect to devices with integrated security has been unsuccessful. Irrespective of the reasons for this result or the cable industry's willingness to allow retail availability of integrated devices, the Commission cannot conclude that this initiative satisfies the statutory mandate to assure commercial availability. In addition, the bidirectional negotiations have been disappointing. Although there has been movement on the part of some companies toward individual bidirectional agreements and a recent commitment by senior executives from Microsoft, Comcast and Time Warner to collectively work with the cable, consumer electronics and information technology industries ''to ensure the availability of two-way cable products during calendar 2006,'' a competitive market for two-way navigation devices is, at this point, far from assured. The Commission finds, therefore, that the competitive reasons that led the Commission to impose the integration ban have not been eliminated by developments in the market.

22. As reflected in the comments, a prohibition on the use of integrated devices will have certain cost and service disadvantages if implemented using the hardware conditional access technology presently available. Using the cost estimates provided by either cable or CE, if physical separation of the security element is required, the Commission believes it is likely that consumers will face additional costs in the short term as a result of the prohibition on integrated navigation devices. The Commission does not take lightly the imposition of additional costs on consumers, particularly in our efforts to implement a consumer-friendly statutory directive to increase competition. However, the Commission is inclined to agree with the CE parties and other commenters that the cost of the POD and POD-Host interface combination likely will decrease over time as volume usage increases. In addition, the costs that this requirement will impose should be counterbalanced to a significant extent by the benefits likely to flow from a more competitive and open supply market. In particular, it seems likely that the potential savings to consumers from greater choice among navigation devices will offset some of the costs from separating the security and non-security functions of either MVPD-supplied devices or those that

might otherwise be made available through retail outlets. In addition, except as discussed in paragraph 30, the Commission generally does not believe that maintenance of the prohibition on integrated navigation devices will delay the DTV transition. The Commission believes that the incentive provided by the separate security requirement will spur cable operators to meet their obligations and promote the timely development of a competitive market in host devices. Thus, there are sufficient competitive and consumer benefits to justify the costs of the ban.

23. The prohibition on integrated devices appears to be one of the few reasonable mechanisms for assuring that MVPDs devote both their technical and business energies towards the creation of an environment in which competitive markets will develop. The alternative could be far more intrusive and detailed regulatory oversight, which might constrain technological advancement. The Commission believes that common reliance by MVPDs and consumer electronic manufacturers on an identical security function will align MVPDs' incentives with those of other industry participants so that MVPDs will plan the development of their services and technical standards to incorporate devices that can be independently manufactured, sold, and improved upon. Moreover, if MVPDs must take steps to support their own compliant equipment, it seems far more likely that they will continue to support and take into account the need to support services that will work with independently supplied and purchased equipment. The Commission believes that cable operator reliance on the same security technology and conditional access interface that consumer electronics manufacturers must rely on is necessary to facilitate innovation in competitive navigation device products and should not substantially impair innovation in cable operator-supplied products. It is not the Commission's intent to force cable operators to develop and deploy new products and services in tandem with consumer electronics manufacturers. Cable operators are free to innovate and introduce new products and services without regard to whether consumer electronics manufacturers are positioned to deploy substantially similar products and services. However, the concept of common reliance is intended to assure that cable operator development and deployment of new products and services does not interfere with the functioning of consumer electronics equipment or the introduction of such equipment into the commercial market for navigation devices. The Commission's navigation device rules are an important tool for promoting competition and bringing more choice to consumers. By maintaining the ban, the Commission can help ensure that as the navigation devices market continues to mature, consumers will be able to experience the benefits of choice in the navigation devices market.

24. The Commission also recognizes, however, that development of set-top boxes and other devices utilizing downloadable security is likely to facilitate the development of a competitive navigation device market, aid in the interoperability of a variety of digital devices, and thereby further the DTV transition. The cable industry currently is working on a software-oriented conditional access solution. A software downloadable security system would allow cable operators and consumer electronics manufacturers to rely on an identical security function, but would not require the potentially costly complete separation of the physical security element. In this regard, the Commission acknowledges that an integration of different functions within various electronic devices is one of the reasons why the costs of these devices generally continue to decline and that a software-based security function would be consistent with this trend. If the ban were to go into effect in 2006, this would, as a practical matter, impede the development of a less expensive and more flexible system for both protecting system security and creating a consumer product interface, as resources would be diverted from producing a downloadable security system to physical separation of the security element from set-top boxes. The Commission believes that the potential benefit of a common security technology with significantly reduced costs justifies a limited extension of the deadline for phase-out of integrated devices. Cable operators will, therefore, be afforded additional time to determine whether it is possible to develop a downloadable security function that will permit them to comply with the Commission's rules without incurring the cable operator and consumer costs associated with the separation of hardware. Accordingly, the Commission extends the phase-out date until July 1, 2007, consistent with both the ultimate objective of this proceeding and the statutory directive of section 629 of the Communications Act.

25. The cable industry is required to submit to the Commission by December 1, 2005 a report on the feasibility of deploying downloadable security and, if feasible, a proposed timeline for deployment. If such report finds downloadable security to be feasible and preferable to the existing separable security configuration, the report should also state that the cable industry will commit to the implementation of this system for its own devices and those purchased at retail. If so, the report should also state whether a downloadable security function can be achieved and implemented by July 1, 2007. If it cannot, the report should propose and justify a new timetable by which the cable and consumer electronics industries will introduce a downloadable security function for their equipment. The report should attach a draft copy of all licensing terms to which manufacturers would have to agree to include the downloadable security solution in their devices. Following submission of the cable industry's report, the public shall have thirty days to submit comment on the report, including the draft licensing terms. Consumer electronics parties have asked that the Commission impose a variety of conditions on the licensing terms now, and that we require the technical specifications and standards for any downloadable security solution be approved under an open standard. When the Commission reviews the cable industry's report on the feasibility of downloadable security, and the public's response thereto, as well as if and when we are asked to review any further requests to eliminate or postpone the ban, the Commission will evaluate issues such as these to the extent they relate to the fulfillment of the goals of section 629 of the Communications Act.

26. The Commission believes that a twelve-month extension of the deadline, until July 1, 2007, will provide adequate time for the cable industry to come into compliance with the rule if downloadable security is determined not to be a viable option. It is possible that the existing standards reflected in the CableLabs ''CableCARD–Host Interface License Agreement'' could be used in conjunction with the 2006 separation requirement deadline, but discussions relating to an alternative, consensus formulation of these standards are ongoing, and do not at this time provide the basis for manufacturing decisions applicable to the 2006 date. Under the circumstances, extending the deadline for phase-out of integrated devices in order to assess the feasibility of a software-oriented conditional access solution is reasonable, as this appears to be the direction in which the digital content and communications system industries

are moving. The Commission believes that it is important for the Commission to recognize this movement and, as appropriate, to attempt to bring the relevant Commission rules into line.

27. The Commission finds that such an extension will not significantly delay the establishment of a more competitive market for navigation devices and may reduce costs associated with the ban. In addition, the Commission disagrees with CEA, TiVo and others that this limited delay will adversely affect innovation in digital cable ready equipment. Consumer equipment manufacturers are assured though today's decision that the Commission remains committed to ensuring common reliance of cable operators and unaffiliated consumer electronics companies on the same security technology and conditional access interface. In addition, this limited delay should infuse new life in the stalled bidirectional discussions. The Commission is encouraged by the recent breakthrough in which top executives at Microsoft, Comcast and Time Warner, recognizing the ''importance and urgency in getting the [cable, CE and IT] industries to a full implementation of two-way cable-ready products available at retail,'' committed to personally supervise the efforts to reach a bidirectional deal. The Commission expects the consumer electronics and information technology industries (and other interested groups) to continue to fully participate with cable in these negotiations and in developing a downloadable conditional access solution and implementation timetable. To that end, NCTA and CEA shall file joint status reports and hold joint status meetings with the Commission on or before August 1, 2005 and every 60 days thereafter on progress in bidirectional talks and a software-based conditional access agreement.

28. NCTA has suggested, however, that under the separated security rule, a device with downloadable security could violate the requirement that security functions be separated from host devices. NCTA argues that the potential for this interpretation weighs in favor of eliminating the ban in order to permit innovation and greater efficiency in conditional access approaches. 47 CFR 76.1204(a)(1), provides that no MVPD subject to the rule ''shall place in service new navigation devices for sale, lease, or use that perform both conditional access and other functions in a single integrated device.'' The Commission's objective in this proceeding has been ''to ensure that the goals of section 629 [of the Communications Act] are met without fixing into law the current state of technology.'' Accordingly, we believe that the rule should be interpreted to require the physical separation of conditional access and other navigation functions only in the case of hardware-oriented conditional access solutions or other approaches that may preclude common reliance on the same security technology and conditional access interface. Downloadable security comports with the rule's ban on the inclusion of conditional access and other functions in a ''single integrated device'' because, by definition, the conditional access functionality of a device with downloadable security is not activated until it is downloaded to the box by the cable operator. Thus, at the time the consumer purchases the device, the conditional access and other functions are not ''integrated.'' The Commission determined in the *First Report and Order*, 63 FR 38089, July 15, 1998, that ''MVPDs may continue to sell or lease boxes after [the deadline] provided the boxes have a severable security component instead of integrated security.'' *See* 63 FR 38089, July 15, 1998. To the extent a downloadable security or other similar solution provides for common reliance, as contemplated herein, the Commission would consider the box to have a severable security component. Furthermore, this type of set-top box does not implicate the concern that prompted the separated security rule in the first instance—that is, that commercial availability of navigation device equipment would be impeded if MVPDs ''have the advantage of being the only entity offering bundled boxes.'' Indeed, to apply the Commission's rule to prohibit MVPDs from marketing set-top boxes that include downloadable security functionality could slow the development and implementation of a downloadable security solution and actually frustrate the purpose of promoting commercial availability of set-top boxes so clearly established in the Act. The Commission would therefore find such boxes compliant with 47 CFR 76.1204(a)(1).

29. Although the Commission agrees with NCTA that the significant efforts by the cable and consumer electronics industries since 1998 indicate that a competitive environment sufficient to relax the prohibition on integrated equipment may develop, that day has not yet come. The Commission emphasizes that it is extending the deadline only to afford cable operators an opportunity to implement a lower-cost solution to comply with the rule. Cable operators are expected to work diligently to assess the feasibility of downloadable security and to come into compliance with the rule by July 1, 2007, either by physically separating the security element in their set-top boxes or by incorporating downloadable security. If downloadable security proves feasible, but cannot be implemented by July 1, 2007, the Commission will consider a further extension of the deadline. As part of the Commission's consideration of any further extensions, the Commission will consider the extent to which there has been progress towards making navigation devices commercially available, as required by section 629 of the Communications Act, and whether any further extension would promote Congress' objectives. As part of this analysis, the Commission would consider whether the cable industry is meeting its current obligations to deploy and support CableCARDs; progress toward deployment of multistream CableCARDs and towards a bidirectional agreement; and whether any downloadable security function developed as a result of such extension would provide for common reliance by cable-deployed and commercially available devices. The Commission is not inclined, however, to consider any further extensions requested on the basis of the level of competition in the navigation device market. Absent common reliance on an identical security function, we do not foresee the market developing in a manner consistent with our statutory obligation. Nevertheless, the Commission notes that section 629 of the Communications Act contains a sunset provision triggered by fully competitive markets for video programming and navigation devices. 47 CFR 76.1208, provides that any interested party may petition the Commission for a determination that (1) the market for the distribution of video programming is fully competitive; (2) the market for navigation devices and associated equipment is fully competitive; and (3) elimination of the navigation device rules would promote competition and the public interest.

30. The Commission is also in agreement with NCTA's assertion that achieving consumer choice by establishing a competitive market should not displace a low-cost set-top box option for MVPD subscribers. It is critical to the DTV transition that consumers have access to inexpensive digital set-top boxes that will permit the viewing of digital programming on analog television sets both during and after the transition. The availability of low-cost boxes will further the cable

industry's migration to all-digital networks, thereby freeing up spectrum and increasing service offerings such as high-definition television. Accordingly, as cable systems migrate to all-digital networks, the Commission will also consider whether low-cost, limited capability boxes should be subject to the integration ban or whether cable operators should be permitted to offer such low-cost, limited capability boxes on an integrated basis. The Commission is inclined to believe that provision of such devices by cable operators will not endanger the development of the competitive marketplace envisioned in section 629 of the Communications Act, particularly because the more advanced devices offered by cable operators for primary home use will be required to rely on the same CableCARD technology as devices offered at retail by consumer electronics manufacturers. In the interim, the Commission will entertain requests for waiver of the prohibition on integrated devices for limited capability integrated digital cable boxes. The Commission not believe that waiver will be warranted for devices that contain personal video recording (PVR), high-definition, broadband Internet access, multiple tuner, or other similar advanced capabilities. Any request for waiver in this regard should include the full specifications for any device(s) for which waiver is sought.

31. Several parties have raised concerns regarding the lack of parity in treatment between DBS operators and other MVPDs with respect to the prohibition on integrated devices. DBS equipment remains widely available at retail outlets from various DBS service providers and a number of different equipment manufacturers, on a geographically portable basis. Accordingly, the distinctions that led the Commission to differentiate between DBS and other MVPDs in 1998 remain valid. The Commission recognizes, however, that DBS has become the most significant competitor to cable on a national basis and that DBS is not immune from some of the same concerns regarding constraints on independent innovation and competition that arise in the cable context. Avoiding rule based market distortions with respect to DBS as a competitor to cable also is an important consideration. The Commission does not regard this proceeding, however, as providing a record on which the Commission can resolve these issues.

32. The Commission does not intend to suggest that cable operators implementing downloadable security solutions may decrease in any way their support of CableCARDs or CableCARD-enabled devices. The MOU and the Commission's rules require cable operators to support PODs, and consumers have purchased POD-enabled devices in reliance on these requirements. The Commission expects the cable industry to dedicate the resources necessary to ensure that commercially available CableCARD-enabled devices continue to interoperate properly with cable systems. The Commission notes that some consumer electronics manufacturing entities assert that cable industry deployment and support of CableCARDs has been disappointing. The Commission takes seriously allegations that the cable industry, or individual cable operators, are failing to meet their obligations to deploy and support CableCARDs. If specific allegations of CableCARD support violations are brought to the Commission, we will investigate such allegations and take appropriate action if necessary. Further to this end, the Commission directs the six largest cable operators, Comcast Corporation, Time Warner Cable, Cox Communications, Charter Communications, Adelphia Cable, and Cablevision, to file on or before August 1, 2005 and every 90 days thereafter, status reports on CableCARD deployment and support. The report(s) shall address the following: (1) The general availability of CableCARDs; (2) the number of CableCARDs currently in service and how those devices are placed in service; (3) whether service appointments are required for all CableCARD installations; (4) the average number of truck rolls required to install a CableCARD; (5) the monthly price charged for a CableCARD and the average cost of installation; (6) problems encountered in deploying CableCARDs and how those problems have been resolved; and (7) the process in place for resolving existing and newly discovered CableCARD implementation problems. In addition, parties to this proceeding have described the development and deployment of a multistream CableCARD as crucial to the introduction of an array of next generation digital products. The report(s) should address the effort to develop and deploy a multistream CableCARD. Specifically, the report(s) should address the development process and include a timetable indicating when a multistream CableCARD will be available for widespread use in digital devices available commercially. Consumer electronics parties contend that multistream CableCARDs should be available later this year. Although the cable industry has not offered an alternative date certain, Comcast and Time Warner have committed to ''making multi-stream CableCARDs available for [unidirectional digital cable products] on an expedited basis.'' Given that multistream CableCARDs enable features (for example, recording one channel while watching another) that today are available only to cable subscribers through set-top boxes provided by their cable operator, we expect the timetable provided in the report to be in the near future. The reports and timetable proposed therein will of course be available for public inspection; we will carefully review the reports along with any input we receive from the public to ensure that the cable industry is in fact living up to its commitment to ''expedite'' the multistream CableCARDs, and that a delayed timetable is not motivated by anticompetitive or other improper reasons. The Media Bureau is instructed to review each report as to its sufficiency in addressing each of the topics discussed in this paragraph. If a report is determined to be insufficient in any respect, the Media Bureau will so inform the Commission and instruct the reporting party to remedy the deficiency on an expedited basis. The Commission will indicate in a future proceeding when the CableCARD status reports will terminate.

III. Final Regulatory Flexibility Act Analysis

33. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Extension Order*; *see* 5 U.S.C. 603. The Commission sought written public comment on the proposals in the *Extension Order,* including comment on the IRFA. No comments were received on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Order

34. Section 629 of the Communications Act requires the Commission to develop rules to assure commercial availability of navigation devices used in conjunction with services provided by multichannel video programming distributors (MVPDs); see 47 U.S.C. 549. The statutory objective of section 629 of the Communications Act is to assure that navigation devices used by consumers to access a particular MVPD's programming are available to consumers from manufacturers, retailers, and other vendors not affiliated with that MVPD. To this end, the Commission adopted a January 1, 2005 deadline for MVPDs to

cease deploying new navigation devices that perform both conditional access functions and other functions in a single integrated device. Requiring MVPDs to separate the conditional access function from the basic navigation device (the ''host'' device) was intended to permit unaffiliated manufacturers, retailers, and other vendors to commercially market host devices while allowing MVPDs to retain control over their system security. In the *Further NPRM*, the Commission indicated that it would reassess the need for the 2005 separation deadline in light of the evolving marketplace for navigation devices. In response, the cable industry and set-top box manufacturers generally urged that the 2005 deadline should be eliminated in favor of the continued offering of integrated navigation devices for rent to consumers. Other equipment manufacturing and retail interests urged that the date should be advanced to ensure the timely development of a retail market in host devices. After the *Further NPRM* was issued, the cable and consumer electronics industries reached a memorandum of understanding (MOU) on a cable compatibility standard for a unidirectional digital cable television receiver with host device functionality, as well as other unidirectional digital cable products. The Commission sought comment on this standard, which would allow consumers to directly attach their DTV receivers to cable systems using a point of deployment (POD) module and receive one-way cable television services without the need for an external navigation device. In light of the ongoing notice and comment cycle on the FNPRM and the ongoing status of the negotiations between the cable and consumer electronic industries on specifications for bidirectional digital cable receivers and products, the Commission extended the separation deadline until July 1, 2006.

35. This *2nd R&O* concludes that the current level of competition in the navigation device market is not sufficient to assure the commercial availability of navigation devices. The *2nd R&O* thus maintains the requirement that cable operators separate security and non-security functions in the devices they provide on a lease or sale basis, but extends the separation deadline until July 1, 2007. The one-year extension is intended to afford cable operators additional time to develop a downloadable security solution that will allow common reliance by cable operators and consumer electronics manufacturers on an identical security function without the potentially costly physical separation of the conditional access element.

36. The *2nd R&O* also establishes several reporting deadlines, primarily applicable to the cable industry. First, the *2nd R&O* requires that by December 1, 2005, the cable industry report to the Commission on the feasibility of implementing software-based conditional access in navigation devices. Second, beginning August 1, 2005 and every 90 days thereafter, the National Cable and Telecommunications Association and the Consumer Electronics Association must report to the Commission on the status of the ongoing negotiations regarding specifications for bidirectional digital cable receivers. Finally, beginning August 1, 2005 and every 60 days thereafter, Comcast Corporation, Time Warner Cable, Cox Communications, Charter Communications, Adelphia Cable, and Cablevision must file with the Commission reports detailing CableCARD deployment and support. These reporting requirements are intended to ensure that the one-year extension of the separation deadline does not adversely impact competition in the navigation devices market.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

37. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

38. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein; *see* 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction''; *see* 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act; *see* 5 U.S.C. 601(3). A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA); *see* 5 U.S.C. 632.

39. The requirements contained in this *2nd R&O* are intended to require MVPDs to cease deploying integrated navigation devices by July 1, 2007 and to file status reports related to navigation devices. Therefore, MVPDs, which includes Cable and other Program Distributors and Satellite Carriers, will be directly and primarily affected by the proposed rules. In addition, because we require status reports to be submitted by the Consumer Electronics Association on behalf of consumer electronics manufacturers, the rules will also directly affect consumer electronics manufacturers. Therefore, in this FRFA, we consider the impact of the rules on small cable operators, small consumer electronics manufacturers, and other small entities. A description of such small entities, as well as an estimate of the number of affected small entities, is provided in the following paragraphs.

40. *Cable and Other Program Distribution.* Cable system operators fall within the SBA-recognized definition of Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in revenue annually. 13 CFR 121.201, NAICS code 517510. According to the Census Bureau data for 1997, there were a total of 1,311 firms that operated for the entire year in the category of Cable and Other Program Distribution. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more, but less than $25 million. The Commission therefore estimates that the majority of providers in this category of Cable and Other Program Distribution are small businesses.

41. *Cable System Operators (Rate Regulation Standard).* The Commission has developed, with SBA's approval, its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. 47 CFR 76.901(e). An estimated 1,439 cable operators qualified as small cable companies at the end of 1995. Since then, some of these companies may have grown to serve more than 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the rules in this *2nd R&O*.

42. *Cable System Operators (Communications Act Standard).* The Act also contains a size standard for a ''small cable operator,'' which is defined as ''a cable operators that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is

not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' 47 U.S.C. 543(m)(2). The Commission has determined that there are 67.7 million cable subscribers in the United States. Therefore, a cable operator serving fewer than 677,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. 47 CFR 76.901(f). Based on available data, we estimate that the number of cable operators serving fewer than 677,000 subscribers is approximately 1,450. The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. We are, therefore, unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the size standard contained in the Act.

43. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Cable and Other Program Distribution. 13 CFR 121.201, NAICS code 517510. This definition provides that a small entity is one with $12.5 million or less in annual receipts. Currently, only four operators hold licenses to provide DBS service, which requires a great investment of capital for operation. All four currently offer subscription services. Two of these four DBS operators, DirecTV and EchoStar Communications Corporation (EchoStar), report annual revenues that are in excess of the threshold for a small business. A third operator, Rainbow DBS, is a subsidiary of Cablevision's Rainbow Network, which also reports annual revenues in excess of $12.5 million, and thus does not qualify as a small business. The fourth DBS operator, Dominion Video Satellite, Inc. (Dominion), offers religious (Christian) programming and does not report its annual receipts. The Commission does not know of any source which provides this information and, thus, we have no way of confirming whether Dominion qualifies as a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS licensee. Nevertheless, given the absence of specific data on this point, we acknowledge the possibility that there are entrants in this field that may not yet have generated $12.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

44. *Fixed-Satellite Service (FSS).* The FSS is a radiocommunication service between earth stations at a specified fixed point or between any fixed point within specified areas and one or more satellites. 47 CFR 2.1(c). The FSS, which utilizes many earth stations that communicate with one or more space stations, may be used to provide subscription video service. Therefore, to the extent FSS frequencies are used to provide subscription services, FSS falls within the SBA-recognized definition of Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in revenue annually. 13 CFR 121.201, NAICS code 517510. Although a number of entities are licensed in the FSS, not all such licensees use FSS frequencies to provide subscription services. Two of the DBS licensees (EchoStar and DirecTV) have indicated interest in using FSS frequencies to broadcast signals to subscribers. It is possible that other entities could similarly use FSS frequencies, although we are not aware of any entities that might do so.

45. *Private Cable Operators (PCOs) also known as Satellite Master Antenna Television (SMATV) Systems.* PCOs, also known as SMATV systems or private communication operators, are video distribution facilities that use closed transmission paths without using any public right-of-way. PCOs acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments or condominiums, and commercial multiple tenant units such as hotels and office buildings. The SBA definition of small entities for Cable and Other Program Distribution Services includes PCOs and, thus, small entity PCOs are defined as all such companies generating $12.5 million or less in annual receipts. 13 CFR 121.201, NAICS code 517510. Currently, there are approximately 135 members of the Independent Multi-Family Communications Council (IMCC), the trade association that represents PCOs. Individual PCOs often serve approximately 3,000–4,000 subscribers, but the larger operations may serve as many as 15,000–55,000 subscribers. In total, PCOs currently serve approximately 1.1 million subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten PCOs, we believe that a substantial number of PCOs qualify as small entities.

46. *Other Program Distribution.* The SBA-recognized definition of Cable and Other Program Distribution includes other MVPDs, such as HSD, MDS/MMDS, ITFS, LMDS, and OVS. This definition provides that a small entity is one with $12.5 million or less in annual receipts. 13 CFR 121.201, NAICS code 517510. As previously noted, according the Census Bureau data for 1997, there were a total of 1,311 firms that operated for the entire year in the category of Cable and Other Program Distribution. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more, but less than $25 million. The Commission estimates, therefore, that the majority of providers in this category of Cable and Other Program Distribution are small businesses.

47. *Home Satellite Dish (HSD) Service.* Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in revenue annually. HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. There are approximately 30 satellites operating in the C-band, which carry over 500 channels of programming combined; approximately 350 channels are available free of charge and 150 are scrambled and require a subscription. HSD is difficult to quantify in terms of annual revenue. HSD owners have access to program channels placed on C-band satellites by programmers for receipt and distribution by MVPDs. Commission data shows that, between June 2003, and June 2004, HSD subscribership fell from 502,191 subscribers to 335,766 subscribers, a decline of more than 33 percent. The Commission has no

information regarding the annual revenue of the four C-Band distributors.

48. *Wireless Cable Systems.* Wireless cable systems use the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS) frequencies in the 2 GHz band to transmit video programming and provide broadband services to subscribers. Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. As previously noted, the SBA definition of small entities for Cable and Other Program Distribution, which includes such companies generating $12.5 million in annual receipts, appears applicable to MDS, ITFS and LMDS. In addition, the Commission has defined small MDS and LMDS entities in the context of Commission license auctions.

49. In the 1996 MDS auction, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. 47 CFR 21.961(b)(1). This definition of a small entity in the context of MDS auctions has been approved by the SBA. In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities. MDS licensees and wireless cable operators that did not participate in the MDS auction must rely on the SBA definition of small entities for Cable and Other Program Distribution. Information available to us indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of $12.5 million annually. Therefore, we estimate that there are approximately 850 small MDS providers as defined by the SBA and the Commission's auction rules.

50. While SBA approval for a Commission-defined small business size standard applicable to ITFS is pending, educational institutions are included in this analysis as small entities. There are currently 2,032 ITFS licensees, and all but 100 of these licenses are held by educational institutions. Thus, the Commission estimates that at least 1,932 ITFS licensees are small businesses.

51. In the 1998 and 1999 LMDS auctions, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. Moreover, the Commission added an additional classification for a ''very small business,'' which was defined as an entity that had annual average gross revenues of less than $15 million in the previous three calendar years. These definitions of ''small business'' and ''very small business'' in the context of the LMDS auctions have been approved by the SBA. In the first LMDS auction, 104 bidders won 864 licenses. Of the 104 auction winners, 93 claimed status as small or very small businesses. In the LMDS re-auction, 40 bidders won 161 licenses. Based on this information, we believe that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

52. In sum, there are approximately a total of 2,000 MDS/MMDS/LMDS stations currently licensed. Of the approximate total of 2,000 stations, we estimate that there are 1,595 MDS/MMDS/LMDS providers that are small businesses as deemed by the SBA and the Commission's auction rules.

53. *Open Video Systems (OVS).* The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA-recognized definition of Cable and Other Program Distribution Services, which provides that a small entity is one with $ 12.5 million or less in annual receipts. 13 CFR 121.201, NAICS code 517510. The Commission has certified 25 OVS operators with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises, even though OVS is one of four statutorily-recognized options for local exchange carriers (LECs) to offer video programming services. As of June 2003, BSPs served approximately 1.4 million subscribers, representing 1.49 percent of all MVPD households. Among BSPs, however, those operating under the OVS framework are in the minority, with approximately eight percent operating with an OVS certification. Serving approximately 460,000 of these subscribers, Affiliates of Residential Communications Network, Inc. (RCN) is currently the largest BSP and 11th largest MVPD. RCN received approval to operate OVS systems in New York City, Boston, Washington, DC and other areas. The Commission does not have financial information regarding the entities authorized to provide OVS, some of which may not yet be operational. We thus believe that at least some of the OVS operators may qualify as small entities.

54. *Electronics Equipment Manufacturers.* Rules adopted in this proceeding could apply to manufacturers of DTV receiving equipment and other types of consumer electronics equipment. The SBA has developed definitions of small entity for manufacturers of audio and video equipment, 13 CFR 121.201, NAICS code 334310, as well as radio and television broadcasting and wireless communications equipment, 13 CFR 121.201, NAICS code 334220. These categories both include all such companies employing 750 or fewer employees. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses. Therefore, we will utilize the SBA definitions applicable to manufacturers of audio and visual equipment and radio and television broadcasting and wireless communications equipment, since these are the two closest NAICS Codes applicable to the consumer electronics equipment manufacturing industry. However, these NAICS categories are broad and specific figures are not available as to how many of these establishments manufacture consumer equipment. According to the SBA's regulations, an audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. 13 CFR 121.201, NAICS code 334220. Census Bureau data indicates that there are 554 U.S. establishments that manufacture audio and visual equipment, and that 542 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 12 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and, therefore, also qualify as small entities under the SBA definition. Under the SBA's regulations, a radio and television broadcasting and wireless communications equipment manufacturer must also have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 1,215 U.S. establishments that manufacture radio and television

broadcasting and wireless communications equipment, and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and, therefore, also qualify as small entities under the SBA definition. We conclude, therefore, that there are no more than 542 small manufacturers of audio and visual electronics equipment and no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment for consumer/household use.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

55. This *2nd R&O* amends 47 CFR 76.1204 to require MVPDs to cease deploying new navigation devices that perform both conditional access functions and other functions in a single integrated device by July 1, 2007. Section 76.1204(a) of the Commission's rules already requires MVPDs to cease deploying integrated devices. The *2nd R&O* extends the deadline from July 1, 2006 to July 1, 2007. To the extent that compliance may require the manufacture and purchase of non-integrated host devices by MVPDs by July 1, 2007, the present action does not impose any new requirements on consumer electronics equipment manufacturers or MVPDs, but rather extends the existing compliance date by one year. We believe that the resulting impact on small entities is favorable to the extent that it provides them with additional time to come into compliance with the prohibition on integrated devices.

56. The *2nd R&O* also requires that: (a) By December 1, 2005, the cable industry shall file with the Commission a report regarding the feasibility of implementing downloadable security in set-top boxes; (b) beginning August 1, 2005, and every 60 days thereafter, the National Cable and Telecommunications Association and the Consumer Electronics Association shall file with the Commission reports on progress in bidirectional talks and a software-based conditional access agreement; and (c) beginning August 1, 2005, and every 90 days thereafter, Comcast Corporation, Time Warner Cable, Cox Communications, Charter Communications, Adelphia Cable, and Cablevision shall file with the Commission reports detailing CableCARD deployment and support.

E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

57. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. *See* 5 U.S.C. 603(c)(1)–(4).

58. To the extent that compliance with the amended prohibition deadline may require the manufacture and purchase of non-integrated host devices by MVPDs by July 1, 2007, the present action does not impose any new requirements on consumer electronics equipment manufacturers or MVPDs, but rather extends the existing compliance date by one year. The Commission believes that the resulting impact on small entities is favorable to the extent that it provides them with additional time to come into compliance with the prohibition on integrated devices. When the original prohibition deadline was adopted, the Commission noted, *inter alia,* that section 629 of the Communications Act includes provisions which may lessen compliance impact on small entities, including section 629(c) of the Communications Act, which specifies that the Commission shall waive its implementing regulations when necessary for an MVPD to develop new or improved services, and section 629(e) of the Communications Act, which requires the Commission to sunset its implementing rules when certain conditions are met.

59. With respect to the reporting requirements imposed on cable operators and consumer electronics manufacturers, the Commission believes that these reports are a critical complement to the extension of the integration ban deadline. The Commission also believes that these requirements are unlikely to impose a burden on small entities. First, the requirement to submit a report on the feasibility of downloadable security applies to the cable industry, but not to individual cable operators. The Commission generally does not expect small cable operators to be actively involved in the preparation of such report. The requirement to submit reports detailing CableCARD deployment and support every 90 days, beginning August 1, 2005, applies only to specified large cable multiple system operators. Finally, the requirement to submit reports regarding progress in the bidirectional talks and a software-based conditional access agreement every 60 days, beginning August 1, 2005, does not apply to individual cable operators or consumer electronics manufacturers. The Commission generally does not expect small cable operators or consumer electronics manufacturers to be actively involved in the preparation of such reports.

F. Report to Congress

The Commission will send a copy of the *2nd R&O,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *2nd R&O,* including this FRFA, to the Chief Counsel for Advocacy of the SBA.

List of Subjects in 47 CFR Part 76

Cable television, Multichannel video programming distribution, Satellite television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rule

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302a, 303, 303a, 307, 308, 309, 312, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, and 573.

■ 2. Section 76.1204 is amended by revising paragraph (a)(1) to read as follows:

§ 76.1204 Availability of equipment performing conditional access or security functions.

(a)(1) A multichannel video programming distributor that utilizes navigation devices to perform conditional access functions shall make available equipment that incorporates only the conditional access functions of such devices. Commencing on July 1, 2007, no multichannel video

programming distributor subject to this section shall place in service new navigation devices for sale, lease, or use that perform both conditional access and other functions in a single integrated device.

* * * * *

[FR Doc. 05–12229 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 041130335–5154–02; I.D. 112404B]

RIN 0648–AS17

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues a regulation to implement the annual harvest guideline for Pacific sardine in the U.S. exclusive economic zone off the Pacific coast for the fishing season January 1, 2005, through December 31, 2005. This action adopts a harvest guideline and initial subarea allocations for Pacific sardine off the Pacific coast that have been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP).

DATES: Effective July 22, 2005.

ADDRESSES: The report Assessment of the Pacific Sardine Stock for U.S. Management in 2005 may be obtained from Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. An environmental assessment/regulatory impact review may be obtained at this same address.

FOR FURTHER INFORMATION CONTACT: Tonya Wick , Southwest Region, NMFS, 562–980–4036.

SUPPLEMENTARY INFORMATION: The FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting held each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC and after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure are published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 and ends on December 31 of each year.

Team and Subpanel meetings took place at the Southwest Regional Office in Long Beach, California, on September 28, 29, and 30, 2004 (69 FR 55144, September 13, 2004). The Council reviewed the report at its November, 2004, meeting in Portland, Oregon, when it also heard comments from its advisory bodies and the public.

Based on a biomass estimate of 1,193,515 metric tons (mt)(in U.S. and Mexican waters) and using the FMP formula, NMFS calculated a harvest guideline of 136,179 mt for Pacific sardine in U.S. waters for January 1, 2005, through December 31, 2005. The biomass estimate is nearly 10 percent higher than last year's estimate because the estimate of 2004 recruitment (age 0) was at a high level, and these recruits entered the fishable biomass (ages 1+) in 2005.

Under the FMP, the harvest guideline is allocated one-third for Subarea A, which is north of 39°00′ N. lat. (Pt. Arena, California) to the Canadian border, and two-thirds for Subarea B, which is south of 39° 00′ N. lat. to the Mexican border. Under this final rule, the northern allocation for 2005 would be 45,393 mt, and the southern allocation would be 90,786 mt. In 2004, the northern allocation was 40,916 mt, and the southern allocation was 81,831 mt.

An incidental landing allowance of Pacific sardine in landings of other CPS fisheries would become effective if the harvest guideline for Pacific sardine is reached and the fishery closed. An incidental landing allowance of Pacific sardine up to 45 percent by weight of any landing of CPS is authorized by the FMP; therefore, this is the incidental landing allowance for 2005. An incidental landing allowance prevents fishermen from being cited for a violation when Pacific sardine are landed with other CPS, and it minimizes wasteful bycatch of Pacific sardine if they are inadvertently caught while fishing for other CPS. An incidental landing allowance also helps to reduce processing costs by reducing the amount of time necessary to sort Pacific sardine that are landed with other CPS.

The Pacific sardine population was estimated using a newly modified version of the integrated stock assessment model called Age-structured Assessment Program (ASAP). This new ASAP model was recommended by the Coastal Pelagic Species Stock Assessment Review panel held in June 2004 in La Jolla, California. It replaces the old Catch-at-Age-Analysis of Sardine-Two Area Model (CANSAR-TAM, a forward-casting, age-structured analysis) used in previous years. ASAP is a flexible forward-simulation that allows for the efficient and reliable estimation of a large number of parameters. ASAP uses fishery dependent and fishery independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing mortality for 1983 through 2004. The ASAP model allows one to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast and for the incorporation of data from the Mexican sardine fishery. Information on the fishery and the stock assessment is found in the report *Assessment of the Pacific Sardine Stock for U.S. Management* in 2005 (see **ADDRESSES**).

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of age one sardine and above.* For 2005, this estimate is 1,193,515 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.

3. *The portion of the sardine biomass that is in U.S. waters.* For 2005, this estimate is 87 percent, based on the average of larval distribution obtained from scientific cruises and on the distribution of the resource obtained from logbooks of fish-spotters.

4. *The harvest fraction.* This is the percentage of the biomass above 150,000

mt that may be harvested. The fraction used varies (5–15 percent) with current ocean temperatures. A higher fraction is used for warmer ocean temperatures, which favor the production of Pacific sardine, and a lower fraction is used for cooler temperatures. For 2005, the fraction was 15 percent based on three seasons of sea surface temperature at Scripps Pier, California.

As indicated above, the harvest guideline for U.S. waters is allocated one-third (45,393 mt) to Subarea A and two-thirds (90,786 mt) to Subarea B.

A proposed rule for the specification of the harvest guideline and initial allocations was published on December 8, 2004 (69 FR70973). The public comment period ended on December 23, 2004. NMFS received one comment that generally criticized commercial fishing rules suggesting a decrease in the harvest guideline by 50 percent and that overfishing is occurring. This comment did not yield information that would provide a basis for changing the 2005 Pacific sardine harvest guideline as the Pacific sardine stock is currently defined as not being overfished, there is no overfishing occurring, and the spawning stock biomass appears to be healthy based on the most recent stock assessment completed in 2004. Thus NMFS has decided not to change the final rule based on this one comment.

Classification

The Assistant Administrator for Fisheries determined that implementing the harvest guideline is necessary for the conservation and management of the Pacific sardine fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the economic impacts of this rule. As a result, a regulatory flexibility analysis was not prepared.

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

Dated: June 16, 2005.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 05–12367 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 119
Wednesday, June 22, 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

Farm Service Agency

7 CFR Part 762

RIN 0560–AG46

Revision of Interest Assistance Program

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Farm Service Agency (FSA) is proposing to revise the regulations that govern how an FSA Farm Loan Programs (FLP) guaranteed loan borrower may obtain a subsidized interest rate on their guaranteed farm loan. This program is known as the Interest Assistance (IA) Program. Changes include deletion of annual review requirements, limitations on loan size and period of assistance, and streamlining of claim submission. The changes are intended to reduce paperwork burden on program participants and agency employees, make IA available to more farmers, reduce the costs of the program, and enhance the fiscal integrity of the program.

DATES: Comments on the proposed rule, the information collections in this rule, or alternatives to this proposal, must be received on or before August 22, 2005 to be assured of consideration. Comments received after this date will be considered to the extent practicable.

ADDRESSES: The Farm Service Agency invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- E-Mail: Send comments to *Tracy_Jones@wdc.usda.gov.*
- Fax: Submit comments by facsimile transmission to (202) 690–1117.
- Mail: Send comments to Director, Loan Making Division, Farm Loan Programs, FSA, United States Department of Agriculture, 1400 Independence Avenue, SW., STOP 0522, Washington, DC 20250–0522. Mail is subject to security screening which may delay its delivery.
- Hand Delivery or Courier: Deliver comments to 1280 Maryland Avenue, SW., Suite 240, Washington, DC 20024.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

All comments including the name, address, and email address provided for the commentor become a matter of public record. Comments received in connection with this rule will be available for public inspection 8:15 a.m.–4:45 p.m., Eastern Standard Time, except holidays, at 1280 Maryland Avenue, SW., Suite 240, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Tracy L. Jones, Senior Loan Officer, Farm Service Agency; telephone: (202) 720–3889; facsimile: (202) 720–6797; E-mail: *Tracy.Jones@wdc.usda.gov* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD). All comments and supporting documents on this rule may be viewed by contacting the information contact. All comments received, including names and addresses, will become a matter of public record. Comments on the information collection requirements of this rule must be sent to the addresses listed in the Paperwork Reduction Act section of this rule.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant for purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

FSA certifies that this rule will not have a significant economic effect on a substantial number of small entities and, therefore, is not required to perform a Regulatory Flexibility Act, Public Law 96–534, as amended (5 U.S.C. 601). An insignificant number of guaranteed loan borrowers and no lenders are small entities. This rule does not impact the small entities to a greater extent than large entities.

Environmental Evaluation

The environmental impacts of this rule have been considered under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and regulations of the Farm Service Agency (FSA) of the Department of Agriculture (USDA) for compliance with NEPA, 7 CFR part 799. An Environmental Evaluation was completed and the proposed action has been determined not to have the potential to significantly impact the quality of the human environment. No environmental assessment or environmental impact statement is necessary. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. All State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule. It will not affect IA agreements entered into prior to the effective date of the rule to the extent that it is inconsistent with the terms of the agreements. Existing agreements will be honored and continue to be reviewed and serviced in accordance with the regulations in effect when the IA agreement was executed. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before bringing any action for judicial review.

Executive Order 12372

For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with state and local officials.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because it contains no Federal mandates, as defined in UMRA.

Paperwork Reduction Act

The amendments to 7 CFR part 762 proposed in this rule will revise the information collection requirements previously approved by OMB under 44 U.S.C. chapter 35. Comments regarding the following issues should be sent to

the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Tracy L. Jones, Senior Loan Officer, Farm Loan Programs Loan Making Division, Farm Service Agency, USDA 1400 Independence Avenue, SW., Stop 0522, Washington, DC 20250–0522: (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Title: 7 CFR 762—Guaranteed Farm Loans.

OMB control number: 0560–0155.

Expiration Date of Approval: August 31, 2007.

Type of Request: Revision to a Currently Approved Information Collection.

Abstract: The information collected under OMB Control Number 0560–0155 is needed to effectively administer the FSA guaranteed farm loan programs. The information is collected by the FSA loan official in consultation with participating commercial lenders. The basic objective of the guaranteed loan program is to provide credit to applicants who are unable to obtain credit from lending institutions without a guarantee. The reporting requirements imposed on the public by the regulations at 7 CFR part 762 are necessary to administer the guaranteed loan program in accordance with statutory requirements of the Consolidated Farm and Rural Development Act and are consistent with commonly performed lending practices. Collection of information after loans are made is necessary to protect the Government's financial interest. This proposed rule will reduce information requirements which are imposed on the public. Savings will be reflected in reduced loan origination and servicing requirements for loans with Interest Assistance. This reduction will occur as a result of the elimination of the annual needs test, which requires lenders to submit annual cash flow and financial information to justify the need for continued assistance.

Estimate of Burden: Public reporting burden for the collection of information in this regulation is estimated to average 0.7535 hours per response.

Respondents: Commercial Banks, Farm Credit System, farmers and ranchers.

Estimated Number of Respondents: 5,500 lenders, 9,000 loan applicants.

Estimated Number of Responses per Respondent: 49.90 per lender, 2.14 per loan applicant.

Estimated Total Annual Burden on Respondents: 221,360 hours.

Government Paperwork Elimination Act

FSA is committed to compliance with the Government Paperwork Elimination Act, which requires Federal Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Most of the information collections required by this rule are fully implemented for the public to conduct business with FSA electronically. However, a few may be completed and saved on a computer, but must be printed, signed and submitted to FSA in paper form.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Federal Assistance Programs

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Discussion of the Proposed Rule

The FSA guaranteed loan program is designed to provide financing to creditworthy farmers who would be unable to obtain sufficient credit to fund their farming operations without the guarantee. Since the mid-1980's, the Agency has also provided pursuant to Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) an interest subsidy up to an annual interest rate reduction of 4 percent on certain eligible farmers' guaranteed farm loans. This interest subsidy, or interest assistance (IA), as it is now called, enables lenders to provide credit to operators of family farms who do not have the financial resources to meet the standard repayment terms. IA is subject to additional eligibility criteria beyond that required for the initial guarantee. This rule proposes to amend the regulatory requirements for the IA program.

The changes in this proposed rule will enable lenders to provide credit to more operators of family farms, who have complex farming problems or lack financial resources to meet standard repayment terms, as compared to other operators of similar type operations. IA is intended to assist farmers who have underdeveloped managerial ability, low production, an underdeveloped operation, or suffer the effects of a natural disaster or adverse economic conditions. The specific changes proposed are discussed as follows:

Loans Eligible for IA

Current regulations at:

- 7 CFR 762.150 allows IA to be provided to both new and existing borrowers under the guaranteed Operating (OL) and Farm Ownership (FO) loan programs;
- 7 CFR 762.143(b)(3)(iii) provides that IA will be considered in conjunction with a rescheduling action; and
- 7 CFR 762.149(g)(2) provides that IA will be considered when a borrower defaults on a loan prior to acceleration.

While authorized by regulation, Congress has not appropriated IA funds for guaranteed FO's and existing guaranteed OL's since the implementation of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 *et. seq.*) that became effective beginning in fiscal year 1992. As a result, IA funding has only been available for new OL's or the continuation of IA during the authorized period on loans when IA was granted at the time of initial loan approval. Therefore, in an effort to align the regulations with current practices under appropriations law, the proposed rule will revise its regulations to limit IA to new guaranteed OL's only.

Debt to Asset Ratio

Existing regulation, 7 CFR 762.150, provides for IA based simply on cash flow. However, program reviews by the Agency have found that some borrowers who receive IA have a significant net worth, with adequate financial strength that would allow them to restructure their balance sheet to meet their credit

needs without receiving IA. This rule proposes that IA be limited to applicants who possess a debt to asset ratio in excess of 50 percent prior to the new loan. We propose to set this limit at 50 percent because one-third of the existing guaranteed portfolio has a debt to asset ratio of 50 percent or greater and approximately one-third of the guaranteed operating loans receive IA. Additionally, a 50 percent debt to asset ratio is the most common capital standard used by the Agency's preferred lenders.

Maximum Assistance Period

Existing regulations limit IA for each borrower to a maximum of 10 years from the date of the first IA agreement signed by the loan applicant, including entity members, or the outstanding term of the loan, whichever is less. The proposed rule would limit each borrower to a total of 5 consecutive years of IA eligibility, regardless of the number of loans received. New agreements may not extend beyond 5 consecutive years from the date of the initial agreement signed by the loan applicant or the term of the loan, whichever is less. The term of subsequent agreements would be reduced by the period of time any existing or previous IA agreement has been in effect. The intent of the program is to provide temporary relief. By reducing the number of years an individual borrower may receive IA, the Agency would significantly reduce its cost per borrower. The Agency feels that a term of 5 years is adequate for a farm operation to achieve or return to a level of profitability that is sufficient to sustain the operation without an interest subsidy. Therefore, reducing the current maximum assistance period from 10 years to 5 years realigns the program to meet its original intent.

The Agency realizes that some existing borrowers need some time to prepare for the reduced period of eligibility. Therefore, we propose to provide for a transition rule which will give any borrower at least two more years of eligibility after publication of the final rule as long as the total period does not exceed ten years from the effective date of the original IA agreement.

Maximum Interest Assistance Payment

This rule proposes that the maximum amount of debt on which an applicant may receive IA be limited to $400,000. This will effectively limit the amount of loan principal that may be subsidized, regardless of whether it is in one loan or multiple loans, to a maximum of $400,000. Currently, the maximum guaranteed loan that can be approved is $782,000, and IA is available on that entire amount. In recent fiscal years, IA funds have been depleted early in the year, and the number of larger loans receiving the subsidy contributed to this rapid depletion. Since the IA program is the most expensive of the Agency's guaranteed farm loan programs, limits are proposed to control costs and target funds to a larger number of eligible borrowers. Also, by capping the amount of debt on which an applicant is eligible to receive IA, the subsidy would be targeted to borrowers with the most need, and appropriated subsidized loan funds will be available for more farmers and ranchers. Had this change been in effect in fiscal year 2002, only 8 percent of the borrowers who received IA would have been affected; however, they received over 23 percent of the IA obligated. With the other changes in this proposed rule, it is still expected that all available funds will be utilized; however, this change will allow these limited funds to help more farmers and ranchers.

Guarantee Fees

This rule proposes that loans with IA be charged a guarantee fee. The current regulation, 7 CFR 762.130(d), waives the fee for loans with IA; this rule proposes to delete that language. The Agency is concerned that not charging a fee on loans with IA creates an unanticipated incentive for lenders to request IA. Reinstating the guarantee fee is expected to reduce potential abuse, and result in requests being submitted mainly by those with a legitimate need for the subsidy. This would also reduce the cost of the IA program to the Agency. The Agency will continue to waive the guarantee fee under that regulation for those loans used mainly to refinance an Agency direct loan and loans to beginning farmers or ranchers involved in the direct beginning farmer down-payment program.

Reduced Application Requirements

The existing regulation, 7 CFR 762.150, requires lenders to submit a completed IA needs analysis in addition to those items required for a loan without IA. In addition, requests for IA on lines of credit or loans made for annual operating purposes must also be accompanied by a projected monthly cash flow budget. Further, requests for IA for loans with unequal payments require that the lender submit a debt repayment schedule which shows scheduled payments for the subject loan in each of the remaining years of the loan. We have determined that these additional documents are not necessary to make the evaluation, and are a significant burden on program participants and need not be required. Therefore, the proposed rule will require all lenders to submit the appropriate items required for a loan application, plus an IA needs analysis. The proposed rule will not require the submission of a monthly cash flow budget or a debt repayment schedule.

Removal of Annual Review Requirements

This rule proposes to reduce the submission requirements for annual claims for IA payment. In order to receive an IA subsidy payment, and to continue the Agency's obligation to pay the subsidy in the following year, current regulations require lenders to submit a long list of items each year, including:

- Request for Interest Assistance Payment.
- Current balance sheet.
- Projected cash flow budget for the period being planned.
- Copy of the IA needs analysis portion of the application, which has been completed based on the planned period's cash flow budget.
- Detailed statement of activity, including all disbursements and payments applied to the loan.
- Detailed calculations of average daily principal balances for the claim period.
- Summary of the operation's financial performance in the previous year, including a detailed income and expense statement.
- Narrative description of the causes of any major differences between the previous year's projections and actual performance.

This list of requirements is excessively burdensome and has resulted in delays and confusion in the handling of subsidized loans. In addition, these requirements are the subject of the majority of complaints received from lenders, loan applicants, and FSA field staff about the program. Agency records indicate that 93 percent of the borrowers operating under an IA agreement receive the subsidy payment every year, regardless of the long list of qualifying requirements imposed on them every year. Clearly, the significant administrative burden imposed on the public and Agency to determine whether the borrower requires a subsidy payment each year is not cost effective. In addition, while all of the funding has been utilized nationally each year, this excessive burden creates an unbalanced program as it discourages many lenders from participating in the program at all. Twelve states have less than five IA

loans on their books. This indicates the program is basically unavailable to farmers that may need assistance in these areas.

In this rule it is proposed that IA will simply be authorized for 5 years for the borrower from the date of the first IA agreement. If the loan is for less than 5 years, however, IA will be approved for the term of the loan. The term of an IA agreement on subsequent loans will be limited to 5 years from the date of the first IA agreement. IA will be approved at the initial loan closing and will be renewed each year on a designated date, expected to generally be the payment due date or loan anniversary date. The lender only will be required to submit:

- An Agency IA payment form, and
- The average daily principal balance for the claim period, with supporting documentation.

This will greatly reduce the paperwork associated with IA loans. The amount of subsidy will change each year consistent with, and only to the extent that, the principal balance of the loan changes.

Fees Charged by Lenders for IA Claims Submission

Agency reviews of lenders indicate that some lenders charge fees to the borrower for the preparation of documentation and claims for payment of IA that are submitted to FSA. The range of fees charged by lenders varies substantially from modest document preparation fees to significant charges for loan analysis and preparation of cash flows, balance sheets, and needs tests. Since the analysis activities and requirements for cash flows, balance sheets, and recurring annual needs tests in connection with IA are being eliminated, fees for such activities involved with IA loans will no longer be appropriate. Further, in keeping with the intention of providing assistance to economically impacted borrowers and to ensure consistent treatment of all borrowers, the charging of fees for the annual submission of IA claims by lenders is prohibited under the proposed rule.

First and Final Claims

Existing regulations require final IA claims to be submitted concurrently with the submission of any estimated loss claims. The proposed rule will require, upon liquidation of a loan, that the lender complete the Request for Interest Assistance and submit it to the Agency concurrently with any estimated or final loss claims. IA will be calculated through the date that interest accrual ceases in the case of an estimated loss claim, or a final loss claim when it is not preceded by an estimated loss claim.

IA claim periods for most installments are required to be exactly 12 months. This rule maintains current requirements providing that IA claims for final payments be calculated based on the average daily principal loan balance, prorated over the number of days the loan has actually been outstanding during the payment period. The period for all other claims must be for a period not exceeding 12 months.

Servicing

The new 7 CFR 762.150(d) clarifies procedures for when a loan subject to IA may be transferred, discontinuation of IA in the event of a loan writedown, and when interest on a loan covered by an IA Agreement is reduced by court order in a bankruptcy reorganization.

This rule proposes to consolidate the provisions governing the handling of loans with IA regarding transfers and assumptions, consolidations, and writedowns to one paragraph for clarification purposes.

The rescheduling and deferral provisions in the existing regulations also are proposed to be revised regarding the obligation of additional years of IA and increases in the restructured loan amount. The proposed rule will allow the rescheduling of loans subject to IA; however, the IA will not be extended beyond 5 years from the date of the first IA agreement, nor will the amount of principal subject to IA be increased above that approved on the existing agreement. Thus, the restructured loan amount, including any interest capitalized, may not exceed the original loan amount. Interest on the loan to be restructured that cannot be paid or capitalized under this amount will have to be dealt with in another manner. This change is in keeping with the Agency's objective for IA to be reasonably limited in duration and amount to place the borrower on sound enough financial footing to meet their obligations without the need for continued subsidy.

Miscellaneous Changes

Existing regulations contain outdated references to forms and internal administrative processes to be completed for IA loans. This rule proposes the use of FSA forms, and clarifies what process is necessary for the borrower to receive IA on multiple loans. Internal processes are removed, and the organizational structure of the section is revised for clarity and readability.

List of Subjects in 7 CFR Part 762

Agriculture, Banks, Banking, Credit, Loan programs.

For the reasons stated in the preamble, the Farm Service Agency proposes to amend Chapter VII, as set forth below:

PART 762—GUARANTEED FARM LOANS

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

§ 762.130 [Amended]

2. Amend § 762.130 by removing paragraph (d)(4)(iii)(A) and redesignating paragraphs (d)(4)(iii)(B) and (C) as (d)(4)(iii)(A) and (B).

3. Revise § 762.145(b)(2)(i) and the first sentence of (b)(8).

§ 762.145 Restructuring guaranteed loans.

* * * * *

(b) * * *

(2) * * *

(i) A feasible plan as defined in § 762.102(b).

* * * * *

(8) Any holder agrees to any changes in the original loan terms. * * *

* * * * *

4. Revise § 762.150 to read as follows:

§ 762.150 Interest Assistance program.

(a) *Requests for interest assistance.* In addition to the loan application items required by § 762.110, to apply for Interest Assistance the lender's cash flow budget for the guaranteed loan applicant must reflect the need for Interest Assistance and the ability to cash flow with the subsidy. Interest Assistance is available only on new guaranteed OL's.

(b) *Requirements.* (1) *Eligibility.* The lender must document that the following conditions have been met for the loan applicant to be eligible for Interest Assistance:

(i) A feasible plan cannot be achieved without Interest Assistance, but can be achieved with Interest Assistance.

(ii) If significant changes in the borrower's cash flow budget are anticipated after the initial 12 months, then the typical cash flow budget must demonstrate that the borrower will still have a feasible plan following the anticipated changes, with or without Interest Assistance.

(iii) The typical cash flow budget must demonstrate that the borrower will have a feasible plan throughout the term of the loan.

(iv) The borrower, including members of an entity borrower, does not own any significant assets that do not contribute

directly to essential family living or farm operations. The lender must determine the market value of any such non-essential assets and prepare a cash flow budget and Interest Assistance calculations based on the assumption that these assets will be sold and the market value proceeds used for debt reduction. If a feasible plan can then be achieved, the borrower is not eligible for Interest Assistance.

(v) *Debt to Asset Ratio.* A borrower may only receive Interest Assistance if their total debts (including personal debts) prior to the new loan exceed 50 percent of their total assets (including personal assets). An entity's debt to asset ratio will be based upon a financial statement that consolidates business and personal debts and assets of the entity and its members.

(2) *Maximum Assistance.* The maximum total guaranteed farm debt on which a borrower can receive Interest Assistance in any year of borrower eligibility is $400,000, regardless of the number of guaranteed loans outstanding.

(3) *Maximum time for which Interest Assistance is available.* (i) *General rule.* A borrower may only receive Interest Assistance for one 5-year period. The term of any Interest Assistance agreement executed under this section shall not exceed 5 consecutive years from the date of the initial agreement signed by the loan applicant, including entity members, or the outstanding term of the loan, whichever is less. This is a lifetime limit.

(ii) *Transition rule.* Notwithstanding the general 5-year limitation of paragraph (b)(3)(i) of this section, a new Interest Assistance agreement may be approved for eligible borrowers to provide interest assistance through (2 YEARS FROM THE DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**), provided the total period does not exceed 10 years from the effective date of the original Interest Assistance agreement.

(4) *Multiple loans.* Interest Assistance can be applied to each loan, only to one loan or any distribution the lender selects; however, Interest Assistance is only available on as many loans as necessary, up to a maximum of $400,000 guaranteed OL debt, to achieve a feasible plan.

(5) *Terms.* The typical term of scheduled loan repayment will not be reduced solely for the purpose of maximizing eligibility for Interest Assistance. A loan must be scheduled over the maximum term typically used by lenders for similar type loans within the limits in § 762.124. An OL for the purpose of providing annual operating and family living expenses will be scheduled for repayment when the income is scheduled to be received from the sale of the crops, livestock, and/or livestock products which will serve as security for the loan. OL for purposes other than annual operating and family living expenses (i.e. purchase of equipment or livestock, or refinancing existing debt) will be scheduled over 7 years from the effective date of the proposed Interest Assistance agreement, or the life of the security, whichever is less.

(6) *Rate of interest.* The lender may charge a fixed or variable interest rate, but not in excess of what the lender charges its average farm customer.

(7) *Agreement.* The lender and borrower must execute an Interest Assistance agreement as prescribed by the Agency.

(c) *Interest Assistance claims and payments.* To receive an Interest Assistance payment, the lender must prepare and submit a claim on the appropriate Agency form. The following conditions apply:

(1) *Rate.* Interest Assistance payments will be four (4) percent of the average daily principal loan balance prorated over the number of days the loan has been outstanding during the payment period. However, for loans with a note rate less than four (4) percent, Interest Assistance payments will be the weighted average interest rate multiplied by the average daily principal balance.

(2) *Date of claim.* The lender may select at the time of loan closing, the date that they wish to receive an Interest Assistance payment and that date will be included in the Interest Assistance agreement. The initial and final claims submitted under an agreement may be for a period less than 12 months. All other claims will be submitted for a 12 month period, unless there is a loan rescheduling or lender substitution during the 12 month period in accordance with this section.

(3) *Claims.* A claim should be filed within 60 days of its due date. Claims not filed within 1 year from the due date will not be paid, and the amount due the lender will be permanently forfeited.

(4) *Calculations.* All claims will be supported by detailed calculations of average daily principal balances during the claim period.

(5) *Prohibition of claim preparation fees.* Lenders may not charge or cause a borrower with an Interest Assistance agreement to be charged a fee for preparation and submission of the items required for an annual Interest Assistance claim.

(d) *Transfer, consolidation and writedown.* Loans covered by Interest Assistance agreements cannot be consolidated. Such loans can be transferred only when the transferee was liable for the debt on the effective date of the Interest Assistance agreement. Interest Assistance will be discontinued as of the date of any writedown on a loan covered by an Interest Assistance agreement.

(e) *Rescheduling and deferral.* When a borrower defaults on a loan with Interest Assistance, or the loan otherwise requires rescheduling or deferral, the Interest Assistance agreement will remain in effect for that loan at its existing terms. The lender may reschedule the loan in accordance with § 762.145, if the capitalized interest does not cause the principal amount of the loan to be above the principal amount on the original Interest Assistance agreement. A claim for Interest Assistance through the effective date of the rescheduling will be submitted by the lender to be processed at the time of the rescheduling action.

(f) *Bankruptcy.* In cases where the interest on a loan covered by an Interest Assistance agreement is reduced by court order in a reorganization plan under the bankruptcy code, Interest Assistance will be terminated effective on the date of the court order. Guaranteed loans which have had their interest reduced by bankruptcy court order are not eligible to receive Interest Assistance.

(g) *Termination of Interest Assistance payments.* Interest Assistance payments will cease upon termination of the loan guarantee, upon reaching the expiration date contained in the agreement, or upon cancellation by the Agency under the terms of the Interest Assistance agreement. In addition, for loan guarantees sold into the secondary market, Agency purchase of the guaranteed portion of a loan will terminate the Interest Assistance.

(h) *Excessive Interest Assistance.* Upon written notice to the lender, borrower and any holder, the Agency may amend or cancel the Interest Assistance agreement and collect from the lender any amount of Interest Assistance granted which resulted from incomplete or inaccurate information, an error in computation, or any other reason which resulted in payment that the lender was not entitled to receive.

(i) *Substitution.* If there is a substitution of lender, the original lender will prepare and submit to the Agency a claim for its final Interest Assistance payment calculated through the effective date of the substitution. This final claim will be submitted for

processing at the time of the substitution.

(1) Interest Assistance will continue automatically with the new lender.

(2) The new lender must follow paragraph (c) of this section to receive their initial and subsequent IA payments.

Signed in Washington, DC, on June 16, 2005.

James R. Little,

Administrator.

[FR Doc. 05–12316 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV05–920–1 PR]

Kiwifruit Grown in California; Relaxation of Pack Requirements for Kiwifruit Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on revisions to the pack requirements for California kiwifruit under the California kiwifruit marketing order (order). The order regulates the handling of kiwifruit grown in California and is administered locally by the Kiwifruit Administrative Committee (Committee). This rule would require that kiwifruit marked as size 39 or 42 not vary in diameter by more than ⅜ inch, regardless of pack type. In addition, the three tables currently under the pack regulation would be consolidated into one. By allowing handlers to utilize a single table for kiwifruit size designations and size variation tolerances regardless of pack or container, this rule is expected to simplify requirements for the industry, reduce handler packing costs, increase grower returns, and increase flexibility in handler packing operations.

DATES: Comments must be received by July 12, 2005.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. 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: Shereen Marino, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487–5901, Fax: (559) 487–5906; 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 proposal is issued under Marketing Order No. 920 as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, 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.''

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

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal 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 proposed rule invites comments on revisions to the pack requirements for California kiwifruit under the order. This rule would require that Size 39 and Size 42 fruit not vary in size by more than ⅜ inch, regardless of pack type. The Committee unanimously recommended these changes at its March 2, 2005, meeting.

Currently, three tables are included under the pack regulation to designate sizes and list the size variances permitted for the different pack arrangements used in the industry. This rule would consolidate tables into one table that would list size designations with applicable size variation tolerances for kiwifruit regardless of the pack or container type. This rule is expected to simplify requirements for the industry, reduce handler packing costs, increase grower returns, and increase flexibility in handler packing operations.

Section 920.52 of the order authorizes the establishment of pack requirements. Section 920.302(a)(4) of the order's regulations specifies pack requirements for fresh shipments of California kiwifruit. Pack requirements include the specific arrangement, size, weight, count, or grade of a quantity of kiwifruit in a particular type and size of container.

Section 920.302 of the order's regulations specifies grade, size, pack, and container regulations for the fresh shipment of California kiwifruit. This section contains three tables regarding pack. One table in § 920.302(a)(4)(iii) specifies size designations for kiwifruit packed in volume fill containers (such as bags or bulk containers). These size designations are based on the maximum number of pieces of fruit per 8-pound sample. Two tables in § 920.302 specify size variation tolerances. One table in § 920.302(a)(4)(ii)(B) is applicable to volume fill containers and lists size designations with the corresponding size variation tolerance listed by diameter. The other table in § 920.302(a)(4)(ii)(A) is applicable to kiwifruit packed in trays and lists the variation tolerance in diameter by count (number of pieces of kiwifruit packed in a tray).

Since 1989, there have been two different size variation tolerances for Size 39 and Size 42 kiwifruit, depending on style of pack. The

majority of Size 39 and Size 42 kiwifruit is initially packed in volume fill containers and must meet a size variation tolerance of ⅜-inch. It has become more common for some of the fruit to then be restyled (repacked) into trays. In fact, the current estimate is that 10 percent of the crop is restyled into trays. All kiwifruit restyled within the production area must be reinspected.

Currently, restyling fruit from volume fill containers into trays may require resizing the fruit because the size variation tolerance differs for the two containers. Fruit packed in trays that is 39 and 42 count must meet a size variation tolerance of ¼-inch. In order to meet the more restrictive ¼-inch tolerance, handlers must resize the fruit. Resizing is costly and slows down the restyling process. In addition, during the initial packing process, pack styles can change several times daily depending upon market demand. Resizing may also reduce returns to growers. Thus, the Committee recommended changing the size variation requirement for Size 39 and Size 42 kiwifruit from ¼ inch to ⅜ inch when packed in cell compartments, cardboard fillers, or molded trays.

The Committee also recommended revising the regulations to specify one standard size variation tolerance of ⅜-inch for Size 39 and Size 42 kiwifruit, regardless of whether the fruit is packed in volume fill containers or trays. To facilitate this change the three tables under the pack regulation would be consolidated into one that would list both size designations and their applicable size variation tolerances for fruit packed in all container types. Additionally, clarifying language that was inadvertently omitted from under the first table (Count) in prior rulemaking would be restored. The language clarifies that the average weight of all sample units in a lot must weigh at least 8 pounds, but no sample unit may be more than 4 ounces less than 8 pounds. This rule is expected to simplify requirements for the industry, reduce handler packing costs, increase grower returns, and increase flexibility in handler packing operations. Accordingly, section 920.302 is proposed to be revised.

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.

There are approximately 45 handlers of California kiwifruit subject to regulation under the marketing order and approximately 275 growers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $6,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000. None of the 45 handlers subject to regulation have annual kiwifruit sales of at least $6,000,000. In addition, six growers subject to regulation have annual sales exceeding $750,000. Therefore, a majority of the kiwifruit handlers and growers may be classified as small entities.

This proposed rule would relax the pack requirements currently specified in § 920.302 for kiwifruit. The rule would create one standard size variation tolerance to be applied uniformly to all container types. Additionally, the three tables currently under the pack regulation would be consolidated into one. By allowing handlers to utilize a single table for kiwifruit size designations and size variation tolerances, regardless of pack or container this rule is expected to simplify requirements for the industry, reduce handler packing costs, increase grower returns, and increase flexibility in handler packing operations. Authority for this action is provided in § 920.52 of the order, which authorizes the establishment of pack requirements.

The impact of this change on handlers was discussed by the Committee. Approximately 10 percent of shipments are restyled from a volume fill container to a tray pack. Based on an industry survey, restyling costs an average of $.07 per tray equivalent. If there is no longer a need for handlers to resize the fruit when restyling from a volume fill container to a tray pack, it is estimated that restyling costs per tray equivalent would decrease to $.035 per tray equivalent. The average of Size 39 and 42 fruit sold over a 6-year period is approximately 22 percent of the crop. Current restyling costs are obtained by calculating 10 percent of the average of Size 39 and 42 fruit (22 percent of the total packout) and multiplying that number by the estimated cost per tray equivalent.

Based on a total crop of 6 million tray equivalents (te) the cost savings for repacking/restyling would be around $9,000. This amount is obtained by subtracting $9,240 from $18,480 from the table below, which is the difference between the restyling costs incurred when fruit must be resized and restyling costs when fruit does not need to be resized.

Total Crop Sold (te)	6,000,000
Total Size 39 & 42 fruit (22% of total crop) (te)	1,320,000
Estimated number of Size 39 & 42 fruit restyled annually from bulk to trays (10% of total 39/42's packed) (te)	132,000
Approximate cost to restyle Sizes 39 and 42 fruit without rechecking/resizing for size variation difference (0.07 cents per te)	$9,240
Approximate cost to restyle Size 39 and 42 fruit that requires resize for size variation difference (0.14 cents per te)	$18,480

The change would reduce packing costs since handlers would no longer need to resize fruit to the more restrictive ¼-inch tolerance in the restyling (repacking) process. The packing process would also move more rapidly since frequent resizing adjustments would no longer be necessary. Fewer resizing adjustments may also mean increased returns to growers.

The Committee considered the alternative of not revising the rule, but this was not considered viable because of the confusion currently experienced because of differences in the size variation tolerance in the different packs and the resulting increased packing costs. The Committee reasoned that the only viable alternative was to create a standard size variation tolerance regardless of pack.

This proposed rule would create one size variation standard that would be applied uniformly to all container types as well as consolidate the three tables currently in the pack regulation of the order into one table. Accordingly, these actions would not impose any

additional reporting or recordkeeping requirements on either small or large kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule. In fact, this proposed action would relax the current requirements under the U.S. Standards for Grade of Kiwifruit (7 CFR 51.2335 through 51.2340) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627) with regard to ''fairly uniform in size''.

In addition, the Committee's meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the March 2, 2005, meeting, was a public meeting and all entities, both large and small, were encouraged to express their views on these issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action 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.

A 20-day comment period is provided to allow interested persons to respond to this proposal. Twenty days is deemed appropriate because this rule should be in place by September 10, 2005, which would be prior to the start of the 2005/2006 crop year. All written comments timely received would be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 920 is proposed to be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 920.302, paragraph (a)(4) is revised to read as follows:

§ 920.302 Grade, size, pack, and container regulations.

(a) * * *

(4) *Pack requirements.* (i) Kiwifruit packed in containers with cell compartments, cardboard fillers, or molded trays shall be of proper size for the cells, fillers, or molds in which they are packed. Such fruit shall be fairly uniform in size.

(ii) (A) When kiwifruit is packed in any container, it would be subject to the size designation, maximum number of fruit per 8-pound sample, and the size variation tolerance specified as follows:

SIZE DESIGNATION AND SIZE VARIATION CHART

Column 1—size designation	Column 2—maximum number of fruit per 8-pound sample	Column 3—fruit size variation tolerance (diameter)
18 or larger	25	½-inch (12.7 mm).
20	27	½-inch (12.7 mm).
23	30	½-inch (12.7 mm).
25	32	½-inch (12.7 mm).
27/28	35	½-inch (12.7 mm).
30	39	½-inch (12.7 mm).
33	43	⅜-inch (9.5 mm).
36	46	⅜-inch (9.5 mm).
39	49	⅜-inch (9.5 mm).
42	53	⅜-inch (9.5 mm).
45 or smaller	55	¼-inch (6.4 mm).

(B) The average weight of all sample units in a lot must weigh at least 8 pounds, but no sample unit may be more than 4 ounces less than 8 pounds.

(C) Not more than 10 percent, by count of the containers in any lot and not more than 5 percent, by count, of kiwifruit in any container, (except that for Sizes 42 and 45 kiwifruit, the tolerance, by count, in any one container, may not be more than 25 percent) may fail to meet the size variation requirements of this paragraph.

(iii) All volume fill containers of kiwifruit designated by weight shall hold 19.8-pounds (9-kilograms) net weight of kiwifruit unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

* * * * *

Dated: June 16, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12254 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 991

[Docket No. AO–F&V–991–4; FV03–991–01]

Hops Produced in WA, OR, ID and CA; Proposed Marketing Agreement and Order No. 991; Termination of Proceeding on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding.

SUMMARY: This action terminates the proceeding to establish a marketing agreement and order for hops grown in Washington, Oregon, Idaho and

California. The U.S. Department of Agriculture (USDA) held a public hearing in October 2003 to receive evidence on a program proposed by the Hop Marketing Order Proponent Committee (Proponent Committee), a group of industry members in support of an order. The proposed program would have authorized volume control measures in the form of producer allotments to regulate the marketing of alpha acid in hops in the production area. In addition, the proposed order would have allowed for reserve pooling of excess production of alpha acid and would have provided for production research, marketing research and development projects to promote the marketing, distribution and consumption or efficient production of hops. After the hearing sessions, USDA received numerous comments, briefs and additional arguments expressing widely divergent views on the promulgation of a marketing order for hops. After careful consideration of the entire rulemaking record, USDA is unable to conclude that the proposal currently under consideration would tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' Accordingly, USDA is hereby terminating the proceeding.

DATE: This termination is made on June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Northwest Marketing Field Office, 1220 SW., Third Avenue, Suite 385, Portland, Oregon 97204; Telephone (503) 326–2724 or Fax (503) 326–7440; or Kathleen M. Finn, 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 this proceeding 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.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing issued on July 23, 2003, and published in the July 28, 2003, issue of the **Federal Register** (68 FR 44244); notice of postponement of public hearing on proposed marketing agreement and order issued on August 8, 2003, and published in the August 14, 2003, issue of the **Federal Register** (68 FR 48575); notice of rescheduling of public hearing on proposed marketing agreement and order issued on September 3, 2003, and published in the September 8, 2003, issue of the **Federal Register** (68 FR 52860); and opportunity to file additional argument on representative period for proposed marketing agreement and order issued on February 16, 2005, and published in the February 24, 2005, issue of the **Federal Register** (70 FR 9000).

This action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

This administrative action is issued pursuant to the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

Preliminary Statement

In October 2002, the Proponent Committee requested that USDA hold a public hearing to consider a proposed marketing agreement and order for hops grown in Washington, Oregon, Idaho and California. The proposed program would have authorized volume control measures in the form of producer allotments to regulate the marketing of alpha acids in hops in the production area. The proposed order would also have allowed for reserve pooling of excess production of alpha acid and would have provided for production research, and marketing research and development projects to promote the marketing, distribution and consumption or efficient production of hops.

A notice of hearing was published in the **Federal Register** on July 28, 2003. A notice of postponement of public hearing on proposed marketing agreement and order was published in the **Federal Register** on August 14, 2003. A notice of rescheduling of public hearing on proposed marketing agreement and order was published in the **Federal Register** on September 8, 2003.

A public hearing on the proposed marketing agreement and order for hops produced in Washington, Oregon, Idaho, and California was held October 15 through 17, 2003, in Portland, Oregon, and October 20 through 24, 2003, in Yakima, Washington. At the conclusion of the hearing, the Administrative Law Judge fixed January 30, 2004, as the final date for interested persons to file proposed findings and conclusions or written arguments and briefs based on the evidence received at the hearing. The Administrative Law Judge issued an order extending this deadline through February 18, 2004. A total of five briefs were received—one in support of the proposal and four in opposition.

A notice of opportunity to file additional argument on the representative period for a proposed marketing agreement and order was published in the **Federal Register** on February 24, 2005. Interested persons were to provide additional argument on two alternative representative base periods. Fourteen arguments were filed expressing widely divergent views.

Termination of Proceeding

USDA has carefully considered the entire rulemaking record, including the testimony and evidence presented at the hearing, the briefs filed following the hearing, and additional post hearing arguments. The record fails to demonstrate that there is a need for a hop marketing order, that such marketing order would have a positive economic impact on the industry, and that the benefits and costs associated with such marketing order could be allocated equitably.

After careful consideration of the entire rulemaking record, USDA is unable to conclude that the proposal currently under consideration would tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' Accordingly, USDA is hereby terminating the proceeding.

List of Subjects in 7 CFR Part 991

Hops, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: June 16, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12258 Filed 6–20–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21593; Directorate Identifier 2002–NM–328–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for certain Boeing Model 727 series airplanes. That AD currently requires repetitive visual inspections for cracking of the forward entry doorway forward frame and repair if necessary. That AD also provides an optional modification that constitutes terminating action. This proposed AD would require adding new post-repair and post-modification inspections for previously repaired or modified airplanes, mandating the optional modification, and adding airplanes to the applicability of the AD. This proposed AD is prompted by reports of cracking of the forward entry doorway forward frame of airplanes previously modified. We are proposing this AD to prevent the loss of the structural integrity of the forward entry doorway due to cracking of the frame at BS 303.9, and consequent cracking of the fuselage skin and rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by August 8, 2005.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21593; the directorate identifier for this docket is 2002–NM–328–AD.

FOR FURTHER INFORMATION CONTACT: Daniel F. Kutz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6456; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21593; Directorate Identifier 2002–NM–328–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On April 11, 1991, we issued AD 91–09–07, amendment 39–6982 (56 FR 18687, April 24, 1991), applicable to certain Boeing Model 727 series airplanes. That AD requires repetitive visual inspections for cracking of the forward entry doorway forward frame and repair if necessary. That AD also provides an optional modification that constitutes terminating action. That action was prompted by reports of cracking of the forward entry doorway forward frame of airplanes previously modified. We issued that AD to prevent loss of the structural integrity of the forward entry doorway.

Actions Since Existing AD Was Issued

Since we issued AD 91–09–07, we have received several reports indicating cracking found on certain frames of certain Boeing Model 727 series airplanes. The cracks were found on airplanes that had accomplished the optional terminating action specified in AD 91–09–07. Those airplanes had between 32,000 and 35,000 total flight cycles, and ranged between 0.25 inch and 0.50 inch long. The cracks initiated from the web cut-outs at stringer S–16L at Body Station (BS) 303.9, and were typically found during routine maintenance. Additionally, cracking was also reported on certain Model 727 series airplanes that were not included in the applicability of AD 91–09–07. The cracking is primarily attributed to cyclic fatigue loading at the frame web cut-outs. Cracking of the frames, if not corrected, could result in loss of the structural integrity of the forward entry doorway forward frame, and consequent cracking of the fuselage skin and rapid decompression of the airplane.

Related AD

On January 16, 1990, we issued AD 90–06–09, amendment 39–6488 (55 FR 8370, March 7, 1990), applicable to certain Boeing Model 727 series airplanes. That AD requires incorporation of certain structural modifications. That AD was prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design life goal.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin (ASB), 727–53A0153, Revision 7, dated August 14, 2003. For certain airplanes, the ASB describes procedures for accomplishing repetitive high frequency eddy current (HFEC)

inspections and dimensional inspections to detect anomalies (e.g., minimum geometry requirements, jagged edges, chafing, nicks, or gouges) of the web cutouts at stringers S–15L and S–16L of the forward frame of the forward entry doorway. The ASB also describes repetitive HFEC inspections to detect cracking of the frame web, web assembly, and frame outer chord of the forward frame of the forward entry doorway, and repair procedures for cracking within certain limits. The ASB also specifies certain ''optional'' inspection methods to detect cracking (visual detailed, eddy current, penetrant, or X-Ray inspection). Additionally, the ASB describes procedures for an optional terminating modification that eliminates the need to perform the repetitive inspections. Accomplishing the actions specified in the service information is intended to adequately address the identified unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would supersede AD 91–09–07. This proposed AD would continue to require repetitive visual inspections of the forward frame of the forward entry doorway for cracks. For certain airplanes, this proposed AD also would require a one-time HFEC inspection for cracks and a one-time dimensional inspection for anomalies of the web cutouts at stringers S–15L and S–16L. The proposed AD also would require repetitive HFEC inspections for cracking of the frame web and outer chord between stringer S–14L and the floor, and corrective action if necessary. Since cracking has been reported on airplanes not specified in the previous AD, we have added those airplanes to the applicability of this proposed AD. Additionally, the proposed AD would require accomplishing the modification for airplanes that have not accomplished the previous optional modification. The modification terminates the repetitive inspection requirements of the proposed AD. This proposed AD would require you to use the service information described previously to perform these actions, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

Although Boeing ASB 727–53A0153, Revision 7, dated August 14, 2003, specifies accomplishing repetitive dimensional inspections of the web cutouts, this proposed AD would require those specific inspections to be accomplished only one time, as well as applicable corrective actions. We have determined that, since the purpose of the inspection is to resolve any structural interference of static structure, it need not be inspected again. Although the Boeing ASB also describes certain ''optional'' inspections in lieu of certain HFEC inspections, this proposed AD would require accomplishing the HFEC inspections. (Compliance times in Revision 7 are based on performing the HFEC inspections, and no compliance times were specified for the ''optional'' inspections.) Operators should also note that the Boeing ASB specifies a grace period for the compliance time of one year. However, this proposed AD specifies a grace period of 1,800 flight cycles because cyclic loading is the mechanism of crack propagation, rather than calendar time. Additionally, where the ASB specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposed AD would require operators to repair those conditions per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. The differences between the ASB and the proposed AD have been coordinated with the manufacturer.

Change to Existing AD

This proposed AD would retain certain requirements of AD 91–09–07. Since AD 91–09–07 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 91–09–07	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).

Costs of Compliance

There are about 1,038 Model 727 series airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 616 airplanes of U.S. registry.

The actions that are required by AD 91–09–07 and retained in this proposed AD take about 58 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the currently required actions is $3,770 per airplane, per inspection cycle.

The new inspections would take about 5 to 6 work hours per airplane, depending on the airplane configuration, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the new actions specified in the new inspections proposed in this AD is between $325 and $390 per airplane, per inspection cycle.

The terminating action proposed by this AD would affect airplanes on which the previous optional modification has not been accomplished, and would take between 14 and 40 work hours per airplane, depending on the airplane configuration, at an average labor rate of $65 per work hour. Required parts for proposed terminating modification would cost between $877 and $6,749 per airplane, depending on the airplane configuration. Based on these figures, the estimated cost of the terminating action specified in this proposed AD is between $1,787 and $9,349 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing amendment 39–6982 (56 FR 18687, April 24, 1991) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2005–21593; Directorate Identifier 2002–NM–328–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this airworthiness directive (AD) action by August 8, 2005.

Affected ADs

(b) This AD supersedes AD 91–09–07, amendment 39–6982 (56 FR 18687, April 24, 1991).

Applicability

(c) This AD applies to Model 727 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 727–53A0153, Revision 7, dated August 14, 2003.

Unsafe Condition

(d) This AD was prompted by reports of cracking of the forward frame of the forward entry doorway of airplanes previously modified. We are issuing this AD to prevent the loss of the structural integrity of the forward entry doorway due to cracking at Body Station (BS) 303.9, and consequent cracking of the fuselage skin and rapid decompression of the airplane.

Compliance

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

Restatement of Certain Requirements of AD 91–09–07

(f) For airplanes listed in Boeing Service Bulletin 727–53–0153, Revision 5, dated December 14, 1989: Visually inspect the forward entry doorway frame for cracks in accordance with Boeing Service Bulletin 727–53–0153, dated February 1, 1980, or Revisions 1 though 5, at the earlier of the times indicated in subparagraphs (a)(1) or (a)(2) of this AD. Repeat the inspection at intervals not to exceed 3,700 landings until accomplishment of the one-time high frequency eddy current (HFEC) inspection for cracking and the one-time dimensional inspection for anomalies required by paragraph (i) of this AD, or the one-time dimensional inspection for anomalies and the initial HFEC inspection for cracking of the forward frame of the forward entry doorway at BS303.9 specified in paragraph (h) of this AD, as applicable.

(1) Within the next 1,850 landings after March 11, 1983 (the effective date of AD 83–03–01, amendment 39–4561), or prior to accumulating a total of 25,000 landings, whichever occurs later; or

(2) Within the next 1,850 landings after May 16, 1986 (the effective date of AD 83–03–01 R1, amendment 39–5283), or prior to accumulating a total of 15,000 landings, whichever occurs later.

(g) For airplanes modified in accordance with Boeing Service Bulletin 727–53–0153, dated February 1, 1980; through Revision 4, dated November 8, 1985; conduct the inspections described in paragraph (f) of this AD prior to the accumulation of 10,000 landings after the modification or within the next 3,700 landings after May 28, 1991 (the effective date of AD 91–09–07), whichever occurs later. Repeat the inspection at intervals not to exceed 3,700 landings until accomplishment of the one-time HFEC inspection for cracking and the one-time dimensional inspection for anomalies required by paragraph (i) of this AD, or the one-time dimensional inspection for anomalies and the initial HFEC inspection for cracking of the forward frame of the forward entry doorway at BS303.9 specified in paragraph (h) of this AD, as applicable.

New Requirements of This AD

Repetitive Inspections for Certain Airplanes

(h) For Group l airplanes as defined by Boeing Alert Service Bulletin (ASB) 727–53A0153, Revision 7, dated August 14, 2003, with the exception of certain Group 1 airplanes specified in paragraph (i) of this AD: Perform a one-time dimensional inspection for anomalies (*e.g.*, minimum dimension requirements, jagged edges, chaffing, nicks, or gouges) of the web cutouts at stringers S–15 and S–16, and HFEC inspections for cracking of the forward frame of the forward entry doorway at BS 303.9; in accordance with Figure 1 of the Accomplishment Instructions of Revision 7 of the ASB at the times specified in paragraph (h)(1) or (h)(2) of this AD, as applicable. With the exception of the one-time dimensional inspection (Step 1 of Figure 1) of the web cutouts at S–15L and S–16L, repeat the HFEC inspections for cracking of the forward frame of the forward entry doorway at BS 303.9 at intervals not to exceed 3,700 flight cycles until the requirements of paragraph (l) of this AD have been accomplished.

(1) For Group 1 airplanes that have not been modified or repaired in accordance with any issue of the service bulletin through Revision 7 inclusive: Perform the inspection before the accumulation of 15,000 total flight cycles, or within 1,800 flight cycles after the effective date of this AD, whichever occurs later.

(2) For Group 1 airplanes that have been modified in accordance with Repair Kit 65C20303–1 in accordance with any issue of the service bulletin through Revision 4 inclusive: Perform the inspection before the accumulation of 10,000 flight cycles after the modification, or within 1,800 flight cycles after the effective date of this AD, whichever occurs later.

One-Time Inspections and Terminating Actions for Certain Other Airplanes

(i) For Group 1 airplanes, as defined by Boeing ASB 727–53A0153, Revision 7, dated August 14, 2003, that have been modified in accordance with Revision 5 or 6 of Boeing Service Bulletin 727–53–0153, or that have been repaired in accordance with Boeing Repair Kits 65C20303–8 or –25 as specified in Revision 2 through Revision 6 inclusive of the service bulletin: Within 4,500 flight cycles after the effective date of this AD, do a one-time HFEC for cracking and a dimensional inspection for any anomaly (*e.g.*, minimum dimension requirements, jagged edges, chaffing, nicks or gouges) of the web cutouts at stringers S–15L and S–16L of the forward frame of the forward entry doorway at BS 303.9, in accordance with Step 1 and Step 2 of Figure 1 of the Accomplishment Instructions of Revision 7 of the ASB. For these airplanes, accomplishment of the HFEC, dimensional inspections, and any applicable corrective actions, constitute terminating actions for all the repetitive inspection requirements of this AD.

Inspections for Group 2 Airplanes

(j) For Group 2 airplanes, as defined by Boeing ASB 727–53A0153, Revision 7, dated August 14, 2003, that have not been modified or repaired in accordance with Revision 7 of the service bulletin: Before the accumulation of 17,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time dimensional inspection for anomalies (*e.g.*, minimum dimension requirements, jagged edges, chafing, nicks, or gouges) of the web cutouts at stringers S–15 and S–16, and HFEC inspections for cracking of the forward frame of the forward entry doorway at BS 303.9; in accordance with Figure 2 of the Accomplishment Instructions of Revision 7 of the ASB. With the exception of the one-time dimensional inspection (Step 1 of Figure 2) of the web cutouts at S–15L and S–16L, repeat the HFEC inspections for

cracking of the forward frame of the forward entry doorway at BS 303.9 at intervals not to exceed 3,700 flight cycles until the requirements of paragraph (l) of this AD have been accomplished.

Corrective Actions

(k) If any cracking is detected during any HFEC inspection, or any anomaly is detected during any dimensional inspection required by this AD: Before further flight, accomplish the actions in paragraph (k)(1) or (k)(2) of this AD, as applicable.

(1) For any cracking that is within the limits specified in the Accomplishment Instructions of Boeing ASB 727–53A0153, Revision 7, dated August 14, 2003: Repair the cracking in accordance with the Revision 7 of the ASB.

(2) For any cracking that is outside the limits specified in the Accomplishment Instructions of the ASB or for any anomaly that is detected during any dimensional inspection required by this AD: Repair in accordance with a method approved by the Manager, Seattle Aircraft Certification (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the FAA to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically reference this AD.

Terminating Actions for Certain Airplanes

(l) For airplanes specified in paragraph (l)(1) or (l)(2) of this AD: Prior to the accumulation of 60,000 total flight cycles, or within 1,800 flight cycles after the effective date of this AD, whichever occurs later, perform the inspections specified in Figure 1 or Figure 2, as applicable, of Revision 7 of Boeing ASB 727–53A0153, dated August 14, 2003, and as specified by paragraph (h) or (j) of this AD, as applicable. Before further flight, following the inspections, modify the forward frame in accordance with the Accomplishment Instructions of Revision 7 of the ASB. Concurrent accomplishment of the inspections and modification constitutes terminating action for the repetitive inspections required by this AD.

(1) Group 1 airplanes that have not been modified or repaired in accordance with Boeing Repair Kits 65C20303–8 or –25, as specified in Boeing Service Bulletin 727–53–0153, Revision 2, dated December 3, 1982; Revision 3, dated June 17, 1983; Revision 4, dated November 8, 1985; Revision 5, dated December 14, 1989; Revision 6, dated August 27, 1992; or Revision 7 of Boeing ASB 727–53A0153, dated August 14, 2003.

(2) Group 2 airplanes that have not been repaired or modified in accordance with Revision 7 of Boeing ASB 727–53A0153, dated August 14, 2003.

Note 1: Accomplishment of the terminating actions specified in paragraphs (i) or (l) of this AD does not relieve the operator of responsibility to comply with the inspection requirements of the operator's standard structural maintenance program.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, Seattle ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(3) AMOCs approved previously in accordance with AD 91–09–07, amendment 39–6982, are approved as AMOCs with the corresponding requirements and provisions of this AD.

(4) Accomplishment of the actions specified in paragraph (l) of this AD constitutes an AMOC with paragraph (A) of AD 90–06–09, amendment 39–6488, only for the structural modification requirements specified in Boeing Service Bulletin 727–53–0153, Revision 4 or earlier revisions.

Issued in Renton, Washington, on June 10, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12297 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21599; Directorate Identifier 2005–NM–036–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Bombardier Model CL–600–2B19 series airplanes. The existing AD currently requires revising the Airplane Flight Manual (AFM) to provide the flightcrew with operating limitations and procedures to enable them to maintain controllability of the airplane in the event that aileron control stiffness is encountered during flight. This proposed AD would revise the Airworthiness Limitations section of the Instructions of Continued Airworthiness to incorporate certain repetitive tasks for the aileron control system and would require a briefing to advise flight crews that certain aileron control checks are no longer required. After accomplishing the applicable initial tasks, the existing AFM revisions for the aileron control check may be removed from the AFM. This proposed AD is prompted by the development of terminating actions for the AFM revisions. We are proposing this AD to prevent aileron control stiffness during flight, which could result in reduced or possible loss of controllability of the airplane.

DATES: We must receive comments on this proposed AD by July 22, 2005.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21599; the directorate identifier for this docket is 2005–NM–036–AD.

FOR FURTHER INFORMATION CONTACT: Dan Parillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, suite 410, New York 11590; telephone (516) 228–7305; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–

2005–21599; Directorate Identifier 2005–NM–036–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On September 16, 2002, we issued AD 2002–19–07, amendment 39–12887 (67 FR 60117, September 25, 2002), for all Bombardier Model CL–600–2B19 series airplanes. That AD requires revising the Canadair Regional Jet Airplane Flight Manual (AFM) to provide the flightcrew with operating limitations and procedures to enable them to maintain controllability of the airplane in the event that aileron control stiffness is encountered during flight. That AD was prompted by a significant number of reports of aileron control stiffness. We issued that AD to prevent aileron control stiffness during flight, which could result in the reduction or possible loss of controllability of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2002–19–07, Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, issued Canadian airworthiness directive CF–2002–35R2 on January 6, 2005 (CF–2002–35R1, dated August 16, 2002, was referenced in AD 2002–19–07). TCCA mandated the service information described below and a briefing to advise flight crews that aileron control checks are no longer required to ensure the continued airworthiness of the affected airplanes in Canada.

The airplane manufacturer has issued Canadair Regional Jet Temporary Revision (TR) 2B–2068, dated December 13, 2004, which describes, among others, the tasks specified in the following table. Accomplishing the applicable initial tasks eliminates the need for the AFM revisions for the aileron control check required by AD 2002–19–07. The compliance time for the applicable initial tasks range between 1,000 flight hours and 10,500 flight hours.

TABLE—AFFECTED TASK NUMBERS

Task No.	Description
R22–11–A083–01	Lubrication of aileron autopilot servo and servo mount engage clutch faces.
R27–00–A053–01	Replacement of the aileron control pulleys with new or serviceable parts.
R27–11–A082–01	Lubrication of the aileron control cables at the wing pulley interfaces.
R27–11–A082–02	Lubrication of the aileron rear quadrant and trim lever bearings.

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

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 2002–19–07. This proposed AD would retain the requirements of the existing AD (i.e., AFM revisions). This proposed AD would also require revising the Airworthiness Limitations (AWL) section of the Instructions of Continued Airworthiness to incorporate certain repetitive tasks for the aileron control system specified in Canadair Regional Jet TR 2B–2068 described previously. After accomplishing the applicable initial tasks, the AFM revisions for the aileron control checks required by AD 2002–19–07 may be removed from the AFM.

Difference Between the Proposed AD and Canadian Airworthiness Directive

Canadian airworthiness directive CF–2002–35R2 mandates revising the AFM by inserting a copy of the changes specified in Canadair Regional Jet TR RJ/142, dated August 16, 2004, into AFM CSP A–012. The TR specifies to delete the aileron control check and procedures covering suspected frozen ailerons, which were incorporated by the AFM revisions required by AD 2002–19–07 (paragraph (g) of this proposed AD). We have determined that the following sentence in paragraph (i) of the proposed AD would accomplish the intent of the Canadian airworthiness directive: ''After accomplishing the applicable initial tasks, the AFM revisions required by paragraph (g) of this AD and allowed by paragraph (h) of this AD may be removed from the AFM.'' We have coordinated this difference with TCCA.

Clarification of Compliance Times Specified in Service Information

Canadair Regional Jet TR 2B–2068 recommends accomplishing the applicable initial tasks no later than the applicable compliance time ''from November 5, 2004.'' This proposed AD would require accomplishing the task within the applicable compliance time ''after the effective date of this AD.''

Change to Existing AD

This proposed AD would retain all requirements of AD 2002–19–07. Since AD 2002–19–07 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2002–19–07	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AFM revisions (required by AD 2002–19–07).	1	$65	None	$65	727	$47,255
AWL revision (new proposed action)	1	65	None	65	727	47,255

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing amendment 39–12887 (67 FR 60117, September 25, 2002) and adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly Canadair): Docket No. FAA–2005–21599; Directorate Identifier 2005–NM–036–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 22, 2005.

Affected ADs

(b) This AD supersedes AD 2002–19–07, amendment 39–12887 (67 FR 60117, September 25, 2002).

Applicability

(c) This AD applies to all Bombardier Model CL–600–2B19 (Regional Jet series 100 & 440) airplanes, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (m) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Unsafe Condition

(d) This AD was prompted by the development of terminating actions for the Airplane Flight Manual (AFM) revisions. We are issuing this AD to prevent aileron control stiffness during flight, which could result in the reduction or possible loss of controllability of the airplane.

Compliance

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

Requirements of AD 2002–19–07

AFM Revisions

(f) Within 14 days after October 10, 2002 (the effective date of AD 2002–19–07), insert the procedures for aileron system jams specified in Canadair Regional Jet Temporary Revision (TR) RJ/109–2, dated August 9, 2002, into the Emergency Procedures and Abnormal Procedures Sections, as applicable, of the FAA-approved Canadair Regional Jet AFM.

(g) Upon the accumulation of 5,000 total flight hours, or within 14 days after October 10, 2002, whichever occurs later, insert the procedures for the aileron control check specified in Canadair Regional Jet TR RJ/109–2, dated August 9, 2002, into the Limitations

and Normal Procedures Sections, as applicable, of the Canadair Regional Jet AFM.

Note 2: The Limitations and Normal Procedures specified by paragraph (g) of this AD are required to be implemented only when an airplane has accumulated 5,000 total flight hours. However, individual pilots may operate other airplanes that have not yet accumulated 5,000 total flight hours, and that are not subject to those limitations and procedures. Therefore, to avoid any confusion or misunderstanding, it is important that airlines have communication mechanisms in place to ensure that pilots are aware, for each flight, whether the Limitations and Normal Procedures apply.

(h) When the information in Canadair Regional Jet TR RJ/109–2, dated August 9, 2002, of the Canadair Regional Jet AFM, has been incorporated into the FAA-approved general revisions of the AFM, the TR may be removed from the AFM.

New Actions Required by This AD

Revision of Airworthiness Limitations (AWL) Section

(i) Within 60 days after the effective date of this AD, revise the AWL section of the Instructions of Continued Airworthiness by incorporating the tasks specified in Table 1 of this AD and the corresponding ''Task Threshold/Interval'' of Canadair Regional Jet TR 2B–2068, dated December 13, 2004, into Appendix B—Airworthiness Limitations of Part 2 of Canadair Regional Jet Model CL–600–2B19 Maintenance Requirements Manual. Thereafter, except as provided in paragraph (m) of this AD, no alternative lubrication/replacement intervals may be approved for the aileron control system. After accomplishing the applicable initial tasks, the AFM revisions for the aileron control check required by paragraph (g) of this AD and allowed by paragraph (h) of this AD may be removed from the AFM.

TABLE 1.—AFFECTED TASK NUMBERS

Task No.	Description
(1) R22–11–A083–01	Lubrication of aileron autopilot servo and servo mount engage clutch faces.
(2) R27–00–A053–01	Replacement of aileron control pulleys with new or serviceable parts.
(3) R27–11–A082–01	Lubrication of the aileron control cables at the wing pulley interfaces.
(4) R27–11–A082–02	Lubrication of the aileron rear quadrant and trim lever bearings.

(j) For airplanes that have exceeded the task threshold for the new tasks specified in paragraph (i) of this AD as of the effective date of this AD: Do the initial tasks at the applicable ''Phase-In'' time specified in Canadair Regional Jet TR 2B–2068, dated December 13, 2004; except where the TR specifies accomplishing the task no later than the applicable compliance time ''from November 5, 2004,'' this AD requires accomplishing the task within the applicable compliance time ''after the effective date of this AD.''

(k) When the information in Canadair Regional Jet TR 2B–2068, dated December 13, 2004, is included in the general revisions of the Maintenance Requirements Manual, this TR may be removed.

Flight Crew Briefing

(l) After accomplishing the applicable initial tasks required by paragraph (i) of this AD, brief flight crews that there is no longer a requirement to perform aileron control checks following takeoff from a wet or contaminated runway.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(n) Canadian airworthiness directive CF–2002–35R2, issued January 6, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on June 15, 2005.

Kevin Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12298 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21594; Directorate Identifier 2005–NM–067–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10 and DC–10–10F Airplanes; Model DC–10–15 Airplanes; Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) Airplanes; Model DC–10–40 and DC–10–40F Airplanes; Model MD–10–10F and MD–10–30F Airplanes; and Model MD–11 and MD–11F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas transport category airplanes. This proposed AD would require an inspection of the torque tube assembly for the rudder pedal for cracking; an inspection of the torque tube assembly to determine the thickness of the torque tube wall, if necessary; and replacing the rudder torque tube with a new or serviceable rudder torque tube, if necessary. This proposed AD is prompted by a report of a broken rudder pedal torque tube. We are proposing this AD to prevent failure of a rudder pedal torque tube, which could result in loss of rudder control and nose wheel steering controlled by the rudder pedal, and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by August 8, 2005.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21594; the directorate identifier for this docket is 2005–NM–067–AD.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21594; Directorate Identifier 2005–NM–067–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report indicating that an operator found a broken rudder pedal torque tube on a McDonnell Douglas MD–11 airplane, after hearing a loud bang and the sound of cracking metal before losing rudder input during a pre-flight check. The airplane had accumulated 3,313 landing cycles and 18,416 flight hours. Analysis by the operator and airplane manufacturer revealed that the wall thickness of the torque tube for the rudder pedal was below the minimum specifications at the point of failure. A thin wall and the existence of a weld applied to the outside surface of the wall during manufacture of the torque tube contributed to its failure. Failure of a rudder pedal torque tube could result in loss of rudder control and nose wheel steering controlled by the rudder pedal, and consequent reduced controllability of the airplane.

The torque tube assembly for the rudder pedals on certain Model MD–11 airplanes is identical to those on the affected Model DC–10–10 and DC–10–10F airplanes; Model DC–10–15 airplanes; Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes; Model DC–10–40 and DC–10–40F airplanes; Model MD–10–10F and MD–10–30F airplanes; and MD–11F airplanes. Therefore, all of these models may be subject to the same unsafe condition.

Relevant Service Information

We have reviewed the following Boeing Alert Service Bulletins:

- DC10–27A236, including Appendix A and Appendix B, dated February 17, 2005, for McDonnell Douglas Model DC–10–10 and DC–10–10F airplanes; Model DC–10–15 airplanes; Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes; Model DC–10–40 and DC–10–40F airplanes; and Model MD–10–10F and MD–10–30F airplanes; and
- MD11–27A083, including Appendix A and Appendix B, dated February 17, 2005, for McDonnell Douglas Model MD–11 and MD–11F airplanes.

The service bulletins describe the following procedures:

- Doing a special detailed eddy current inspection of the torque tube assembly for the rudder pedal for cracking.
- If no cracking is found, doing a special detailed ultrasonic inspection of the torque tube assembly to determine the wall thickness of the torque tube.
- If any cracking is found or if the wall thickness of the torque tube is below certain limits specified in Appendix B of the service bulletin, replacing the torque tube with a new or serviceable torque tube.

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

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 960 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 366 airplanes of U.S. registry. The proposed inspection would take about 16 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $380,640, or $1,040 per airplane.

For Model DC–10–10 and DC–10–10F airplanes; Model DC–10–15 airplanes; Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes; Model DC–10–40 and DC–10–40F airplanes; and Model MD–10–10F and MD–10–30F airplanes: The proposed replacement if necessary would take about 16 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $12,892 per airplane. Based on these figures, the estimated cost of the proposed replacements is $13,932 per airplane.

For Model MD–11 and MD–11F airplanes: The proposed replacement if necessary would take about 5 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $12,892 per airplane. Based on these figures, the estimated cost of the proposed replacements is $13,217 per airplane.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket No. FAA–2005–21594; Directorate Identifier 2005–NM–067–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by August 8, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in Table 1 of this AD; certificated in any category.

TABLE 1—APPLICABILITY

McDonnell Douglas—	As identified in—
Model DC–10–10 and DC–10–10F airplanes; Model DC–10–15 airplanes; Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes; Model DC–10–40 and DC–10–40F airplanes; and Model MD–10–10F and MD–10–30F airplanes.	Boeing Alert Service Bulletin DC10–27A236, dated February 17, 2005.
Model MD–11 and MD–11F airplanes	Boeing Alert Service Bulletin MD11–27A083, dated February 17, 2005.

Unsafe Condition

(d) This AD was prompted by a report of a broken rudder pedal torque tube. We are issuing this AD to prevent failure of a rudder pedal torque tube, which could result in loss of rudder control and nose wheel steering controlled by the rudder pedal, and consequent reduced controllability of the airplane.

Compliance

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

Eddy Current Inspection and Replacement if Necessary

(f) Within 6 months after the effective date of this AD, do a special detailed eddy current inspection of the torque tube assembly for the rudder pedal for cracks, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–27A236, including Appendix A and Appendix B, dated February 17, 2005; or Boeing Alert Service Bulletin MD11–27A083, including Appendix A and Appendix B, dated February 17, 2005; as applicable. If any crack is found, before further flight, replace the rudder pedal torque tube with a new or serviceable rudder pedal torque tube, in accordance with the applicable service bulletin.

Ultrasonic Inspection and Replacement, if Necessary

(g) If no cracking is found during the special detailed eddy current inspection required by paragraph (f) of this AD, before further flight, do a special detailed ultrasonic inspection of the torque tube assembly for the rudder pedal to determine the wall thickness of the rudder pedal torque tube, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–27A236, including Appendix A and Appendix B, dated February 17, 2005; or Boeing Alert Service Bulletin MD11–27A083, including Appendix A and Appendix B, dated February 17, 2005; as applicable.

(1) If the wall thickness of the torque tube is within the limits identified as area C in Appendix B of the applicable service bulletin, no further action is required by this AD.

(2) If the wall thickness of the torque tube is within the limits identified as area B in Appendix B of the applicable service bulletin, within 6,000 flight hours after doing the special detailed ultrasonic inspection, replace the torque tube with a new or serviceable torque tube, in accordance with the applicable service bulletin.

(3) If the wall thickness of the torque tube is below the minimum limits, which are identified as area A in Appendix B of the applicable service bulletin, before further flight, replace the torque tube with a new or serviceable torque tube, in accordance with the applicable service bulletin.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on June 14, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12299 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21611; Directorate Identifier 2004–NM–234–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes) and Model A310 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A300–600 and A310 series airplanes. This proposed AD would require inspecting for certain serial numbers on elevators, and doing a detailed inspection, visual inspection with a low-angle light, and tap-test inspection of the upper and lower surfaces of the external skins on certain identified elevators for any damage (*i.e.*, debonding of the graphite fiber reinforced plastic/Tedlar film protection, bulges, debonding of the honeycomb core to the carbon fiber reinforced plastic, abnormal surface reflections, and torn-out plies), and corrective actions if necessary. This proposed AD is prompted by reports of debonded skins on the elevators. We are proposing this AD to detect and correct debonding of the skins on the elevators, which could cause reduced structural integrity of an elevator and reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by July 22, 2005.

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

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

For service information identified in this proposed AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21611; the directorate identifier for this docket is 2004–NM–234–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–21611; Directorate Identifier 2004–NM–234–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes), and Model A310 series airplanes. The DGAC advises that there have been reports of debonding of the external Graphite Fiber Reinforced Plastic (GFRP)/Tedlar film protection from the outer skin of the elevator upper panel; and of the honeycomb core from the carbon fiber reinforced plastic (CFRP) inner skin of the upper panel. The debonding was found during a maintenance inspection. The debonding of the external GFRP/Tedlar film protection can result in the presence of water inside the CFRP honeycomb core panel and consequent debonding of the honeycomb core. This condition, if not detected and corrected in a timely manner, could result in reduced structural integrity of the elevator and reduced controllability of the airplane.

Relevant Service Information

Airbus has issued All Operator Telex (AOT) A300–600–55A6032, dated June 23, 2004 (for Model A300–600 series airplanes); and AOT A310–55A2033, dated June 23, 2004 (for Model A310 series airplanes). The AOTs describe procedures for determining the serial number of the elevator, doing repetitive detailed inspections, visual inspections with a low-angle light, and tap-test inspections of the upper and lower surfaces of the external skins on the identified elevators for any damage (*i.e.*, debonding of the graphite GFRP/Tedlar film protection, bulges, debonding of the honeycomb core to the carbon fiber reinforced plastic, abnormal surface reflections, and torn-out plies), contacting Airbus for an alternative inspection if interested, and doing corrective actions. The tap-test inspections may involve using a manual hammer. The alternative inspection may involve a thermographic inspection (in lieu of the tap-test inspection). The corrective actions may involve replacing the GFRP/Tedlar film, reporting damage to Airbus, replacing the elevator, and replacing the honeycomb core. The DGAC mandated the service information

and issued French airworthiness directive F–2004–131(B), dated August 4, 2004, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as described below in ''Differences Between this Proposed AD and the AOTs.''

Differences Between This Proposed AD and the AOTs

The AOTs specify that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the DGAC approve would be acceptable for compliance with this proposed AD.

Operators should note that, although the Accomplishment Instructions of the referenced AOTs describe procedures for submitting inspection reports, this proposed AD would not require those actions. The FAA does not need this information from operators.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Costs of Compliance

This proposed AD would affect about 172 airplanes of U.S. registry.

The proposed inspection for the serial number would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $11,180, or $65 per airplane.

The proposed detailed inspection, visual inspection with a low-angle light, and tap-test inspection of the elevator would take about 3 work hours per elevator (two elevators per airplane), at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $67,080, or $390 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2005–21611; Directorate Identifier 2004–NM–234–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 22, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes); and Model A310 series airplanes, certificated in any category; equipped with carbon fiber elevators having part number (P/N) A55276055000 (left-hand side) or P/N A55276056000 (right-hand side).

Unsafe Condition

(d) This AD was prompted by reports of debonded skins on the elevators. We are issuing this AD to detect and correct debonding of the skins on the elevators, which could cause reduced structural integrity of an elevator and reduced controllability of the airplane.

Compliance

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

Inspection for Serial Number, Repetitive Inspections, and Corrective Actions

(f) Within 600 flight hours after the effective date of this AD, inspect to determine if the serial number (S/N) of the elevator is listed in Airbus All Operators Telex (AOT) A300–600–55A6032, dated June 23, 2004 (for Model A300–600 series airplanes); or in Airbus AOT A310–55A2033, dated June 23, 2004 (for Model A310 series airplanes).

(1) If the S/N does not match any S/N on either AOT S/N list, no further action is required by this paragraph.

(2) If the S/N matches a S/N listed in an AOT, before further flight, do the actions listed in Table 1 of this AD, and any corrective action as applicable in accordance with Airbus AOT A300–600–55A6032, dated June 23, 2004; or in Airbus AOT A310–55A2033, dated June 23, 2004. Repeat the inspections at intervals not to exceed 600 flight hours. Do applicable corrective actions before further flight.

TABLE 1.—REPETITIVE INSPECTIONS

Do a—	Of the—	For any—
Detailed inspection	Elevator upper and lower external skin surfaces.	Damage (i.e., breaks in the graphite fiber reinforced plastic (GFRP)/Tedlar film protection, debonded GFRP/Tedlar film protection, bulges, torn-out plies).
Visual inspection with a low-angle light.	Elevator upper and lower external skin surfaces.	Differences in the surface reflection.
Tap-test inspection	Upper and lower external skin surfaces of the honeycomb core panels in the elevator.	Honeycomb core that has debonded from the carbon fiber reinforced plastic (CFRP).

Note 1: For the purposes of this AD, a detailed inspection is ''an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirrors magnifying lenses, etc. may be necessary. Surface cleaning and elaborate procedures may be required.''

Repair Approval

(g) Where the service bulletin says to contact the manufacturer for repair instructions, or an alternative inspection method: Before further flight, repair or do the alternative inspection method according to a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Parts Installation

(h) As of the effective date of this AD, no carbon fiber elevator having part number (P/N) A55276055000 (left-hand side) or P/N A55276056000 (right-hand side) may be installed on any airplane unless it is inspected according to paragraph (f) of this AD.

No Reporting Required

(i) Although the AOTs referenced in this AD specify to submit inspection reports to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(k) French airworthiness directive F–2004–131, dated August 4, 2004, also addresses the subject of this AD.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12300 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21595; Directorate Identifier 2002–NM–321–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–215–1A10 (Water Bomber), CL–215–6B11 (CL215T Variant), and CL–215–6B11 (CL415 Variant) Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Bombardier Model CL–215–1A10 (Water Bomber), CL–215–6B11 (CL215T Variant), and CL–215–6B11 (CL415 Variant) series airplanes. The existing AD currently requires repetitive ultrasonic inspections to detect cracking of the lower caps of the wing front spar and rear spar, and corrective action if necessary. This proposed AD would reduce the threshold to do the initial inspections and revise the repetitive inspection interval. This proposed AD also adds a repetitive ultrasonic inspection of the wing lower skin. This proposed AD is prompted by reports of cracks in the front and rear spar lower caps. We are proposing this AD to detect and correct cracking of the lower caps of the wing front spar and rear spar, which could result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by July 22, 2005.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21595; the directorate identifier for this docket is 2002–NM–321–AD.

FOR FURTHER INFORMATION CONTACT: David Lawson, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7327; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21595; Directorate Identifier 2002–NM–321–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On February 4, 1998, we issued AD 98–04–08, amendment 39–10321 (63 FR 7640, February 17, 1998), for certain Bombardier Model CL–215–1A10 (Water Bomber) and CL–215–6B11 (CL215T Variant), and CL–215–6B11 (CL415 Variant) series airplanes, to require repetitive ultrasonic inspections to detect cracking of the lower caps of the wing front and rear spars, and corrective action if necessary. That action was prompted by Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, issuing mandatory continuing airworthiness information to detect and correct cracking of the lower caps of the wing front spar and rear spar, which could result in reduced structural integrity of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 98–04–08, cracks were found in the front and rear spar caps at wing station 51 on several in-service airplanes. Some cracks propagated through the rear spar cap and fail-safe straps into the rear spar web and lower wing skin. As a result of these cracks, TCCA issued Canadian airworthiness directives CF–1992–26R1, dated September 24, 2002, and CF–1993–07R1, dated September 25, 2002, to ensure the continued airworthiness of these airplanes in Canada. The revised Canadian airworthiness directives mandate initial ultrasonic inspections to detect cracking of the lower caps of the wing front and rear spars for airplanes with 2,500 or more flight hours or 8,000 or more water drops; and repair of any cracked spar before further flight. Canadian airworthiness directive CF–1992–26R1 also adds an ultrasonic inspection to detect cracking of the wing lower skin.

Relevant Service Information

Bombardier has issued Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001; and Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001. Revision 1 of the service bulletins was referenced in the existing AD as the source of service information for doing the ultrasonic inspections for cracking of the rear and front spar lower caps, and any necessary corrective actions. Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001; and Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001; contain similar actions to those specified in Revision 1 of the service bulletins. Revision 3 of Bombardier Alert Service Bulletin 215–A454 also adds repetitive ultrasonic inspections for cracking of the wing lower skin. The corrective actions include reworking the rear and front spar lower caps, repairing any cracking, and contacting the manufacturer if cracking is found. The service bulletins also specify to submit inspection results to the manufacturer.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 98–04–08 and would continue to require repetitive ultrasonic inspections for cracking of the front spar lower cap and rear spar lower cap, and corrective action if necessary. Consistent with the Canadian AD, this AD reduces the initial inspection threshold and repetitive inspection interval. This proposed AD would also require repetitive ultrasonic inspections for cracking of the wing lower skin and the submission of a report of any inspection results. This AD requires that the actions be accomplished in accordance with the service information described previously, except as discussed under ''Difference Between the Proposed AD and the Service Bulletins.''

Difference Between the Proposed AD and the Service Bulletins

The service bulletins specify that you may contact the manufacturer for instructions on how to repair certain conditions, but this AD requires you to repair those conditions using a method that we or TCCA (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this AD, a repair we or TCCA approve would be acceptable for compliance with this AD.

Changes to Existing AD

This proposed AD would retain certain requirements of AD 98–04–08. Since AD 98–04–08 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 98–04–08	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraphs (f), (g), (h) and (j).

In addition, we have revised the applicability of the existing AD to identify model designations as published in the most recent type

certificate data sheet for the affected models.

Clarification of Inspection Language

The service bulletins and the Canadian airworthiness directives state that operators should ''visually inspect'' for certain cracks. This proposed AD refers to that inspection as a general visual inspection. We have defined this type of inspection in Note 1 of the proposed AD.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

This proposed AD would affect about 3 airplanes of U.S. registry.

The actions that are required by AD 98–04–08 and retained in this proposed AD take about 16 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the currently required actions is $1,040 per airplane, per inspection cycle.

The new proposed inspection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the new inspections specified in this proposed AD for U.S. operators is $195, or $65 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing amendment 39–10321 (63 FR 7640, February 17, 1998) and adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly Canadair): Docket No. FAA–2005–21595; Directorate Identifier 2002–NM–321–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 22, 2005.

Affected ADs

(b) This AD supersedes AD 98–04–08, amendment 39–10321 (63 FR 7640, February 17, 1998).

Applicability

(c) This AD applies to Bombardier Model CL–215–1A10 (Water Bomber) and CL–215–6B11 (CL215T Variant), and CL–215–6B11 (CL415 Variant) series airplanes; certificated in any category; serial numbers 1001 through 1125 inclusive.

Unsafe Condition

(d) This AD was prompted by reports of cracks in the front and rear spar lower caps. We are issuing this AD to detect and correct cracking of the lower caps of the wing front spar and rear spar, which could result in reduced structural integrity of the airplane.

Compliance

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

Restatement of Certain Requirements of AD 98–04–08

Initial Inspection of AD 98–04–08 With New Threshold

(f) At the time specified in paragraph (g) of this AD: Perform an ultrasonic inspection to detect cracking of the lower cap of the wing front and rear spars at wing station 51, in accordance with the Accomplishment Instructions of Canadair Alert Service Bulletin 215–A463, Revision 1, dated May 25, 1995, or Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar); and Canadair Alert Service Bulletin 215–A454, Revision 1, dated May 25, 1995, Bombardier Service Bulletin 215–A454, Revision 2, dated January 27, 1999, or Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001 (for the rear spar). As of the effective date of this AD, the inspection must be done in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar); and Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001 (for the rear spar).

(g) Do the inspections required by paragraph (f) of this AD at the earlier of the times specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Prior to the accumulation of 3,000 total flight hours, or within 25 flight hours after March 4, 1998 (the effective date of AD 98–04–08), whichever occurs later.

(2) At the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Prior to the accumulation of 2,500 total flight hours, or 8,000 total water drops, whichever occurs first.

(ii) Within 50 flight hours or 150 water drops after the effective date of this AD, whichever occurs first.

Repetitive Inspections With New Intervals

(h) Repeat the ultrasonic inspection specified in paragraph (f) of this AD at the times specified in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) For airplanes on which any ultrasonic inspection required by paragraph (a) of AD 98–04–08 has been done before the effective date of this AD: Within 600 flight hours after the last ultrasonic inspection, do the ultrasonic inspection specified in paragraph (f) of this AD. Repeat the ultrasonic inspection specified in paragraph (f) of this

AD thereafter at intervals not to exceed 600 flight hours or 2,000 water drops, whichever occurs first.

(2) For airplanes on which the ultrasonic inspection required by paragraph (a) of AD 98–04–08 has not been done before the effective date of this AD: After accomplishing the initial ultrasonic inspection specified in paragraph (f) of this AD, repeat the ultrasonic inspection specified in paragraph (f) of this AD thereafter at intervals not to exceed 600 flight hours or 2,000 water drops, whichever occurs first.

New Requirements of This AD

New Ultrasonic Inspection

(i) At the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD, do an ultrasonic inspection for cracks of the wing lower skin, in accordance with Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001. Thereafter, do the ultrasonic inspection for cracks of the wing lower skin at the times specified for the ultrasonic inspection in paragraph (h) of this AD.

(1) Within 50 flight hours or 150 water drops after the effective date of this AD, whichever occurs first.

(2) Before further flight after accomplishing the first ultrasonic inspection required by paragraph (f) or (h) of this AD after the effective date of this AD.

Cracking Detected

(j) If any cracking is detected during any inspection required by paragraph (f), (h), or (i) of this AD, before further flight, accomplish paragraphs (j)(1) and (j)(2) of this AD.

(1) Rework the lower cap of the front or rear spar, as applicable, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar); and Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001 (for the rear spar).

(2) After doing the rework specified in paragraph (j)(1) of this AD, do a general visual inspection, from inside the wing box, to detect cracks of the front spar web or rear spar web, as applicable, and the lower skin area, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin 215–A463, Revision 2, dated March 13, 2001 (for the front spar); and Bombardier Alert Service Bulletin 215–A454, Revision 3, dated March 13, 2001 (for the rear spar). If any cracking is detected, before further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

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

Actions Accomplished According to Previous Issues of the Service Bulletins

(k) Actions accomplished before the effective date of this AD in accordance with Canadair Alert Service Bulletin 215–A463, dated April 8, 1993; Canadair Alert Service Bulletin 215–A463, Revision 1, dated May 25, 1995; Canadair Alert Service Bulletin 215–A454, dated October 13, 1993; Canadair Alert Service Bulletin 215–A454, Revision 1, dated May 25, 1995; and Canadair Alert Service Bulletin 215–A454, Revision 2, dated January 27, 1999; are considered acceptable for compliance with the corresponding actions specified in this AD.

Actions Accomplished According to Alert Wire

(l) Actions accomplished before the effective date of this AD in accordance with Bombardier Alert Wire 215–A454, dated December 23, 1992; and Bombardier Alert Wire 215–A463, dated March 26, 1993; are considered acceptable for compliance with the corresponding actions specified in this AD.

Reporting Requirement

(m) For any inspection required by this AD that is accomplished after the effective date of this AD, within 30 days after accomplishing the inspection, submit a report of any inspection results (both positive and negative findings) to Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD, and assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance (AMOCs)

(n) The Manager, New York ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(o) Canadian airworthiness directives CF–1992–26R1, dated September 24, 2002, and CF–1993–07R1, dated September 25, 2002, also address the subject of this AD.

Issued in Renton, Washington, on June 14, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12302 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–211–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340–200, –300, –500, and –600 Series Airplanes

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

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Airbus Model A330 and A340–200, –300, –500, and –600 series airplanes. That action would have required a one-time inspection of each emergency evacuation slide raft installed on Type ''A'' exit doors equipped with regulator valves having a certain part number to determine if a discrepant regulator valve is installed on the pressure bottle that inflates the slide/raft, and an interim modification of any discrepant valve if necessary. That action also would have required eventual modification of all affected regulator valves, which would have terminated the requirements of the proposed AD. This new action revises the original NPRM by requiring part number identification and a new modification for affected airplanes, removing the one-time inspection and interim modification, and removing certain airplanes from the applicability. The actions specified by this new proposed AD are intended to prevent failure of an emergency evacuation slide raft to deploy and inflate during an emergency situation, which could impede an evacuation and result in injury to passengers or crewmembers. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 18, 2005.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–211–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using

the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–211–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–211–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–211–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Airbus Model A330–200 and –300 and A340–200, –300, –500, and –600 series airplanes, was published as a notice of proposed rulemaking (NPRM) (hereafter referred to as the ''original NPRM'') in the **Federal Register** on April 22, 2004 (69 FR 21774). The original NPRM would have required a one-time inspection of each emergency evacuation slide raft installed on Type ''A'' exit doors equipped with regulator valves having a certain part number, to determine if a discrepant regulator valve is installed on the pressure bottle that inflates the slide/raft, and an interim modification of any discrepant valve. The original NPRM also would have required eventual modification of all affected regulator valves, which would terminate the requirements of the AD. The original NPRM was prompted by in-service maintenance testing of the emergency escape slides on Type ''A'' exit doors, which resulted in failure of the slides to automatically deploy. That condition, if not corrected, could result in failure of an emergency evacuation slide raft to deploy and inflate during an emergency situation, which could impede an evacuation and result in injury to passengers or crewmembers.

Actions Since Issuance of Original NPRM

Since the issuance of the original NPRM, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, issued French airworthiness directive 2003–213(B) R2, dated July 3, 2004. That airworthiness directive cancels the requirements in French airworthiness directive 2003–213(B) R1, is replaced by another French airworthiness directive issued by the DGAG: F–2004–094 R1, dated February 16, 2005. Airworthiness directive F–2004–094 R1 mandates a new modification of the Vespel piston of the regulator valve, and limits the applicability specified in airworthiness directive 2003–213(B) R1 to airplanes with slide rafts and slides fitted on Type A passenger/crew doors and Type 1 emergency doors having certain part numbers.

Explanation of New Relevant Service Information

Airbus has issued Service Bulletins A330–25–3225, Revision 01 (for Model A330 series airplanes); and A340–25–4228, Revision 01 (for Model A340–200 and –300 series airplanes); both dated September 30, 2004; and A340–25–5054 (for Model A340–500 and –600 series airplanes), dated August 2, 2004. The service bulletins describe procedures for modification of the regulator valves of the slide and slide raft assemblies. Accomplishing the modification eliminates the need for the one-time inspection that would have been required by the original NPRM. The service bulletins reference Goodrich Service Bulletins 25A341, Revision 1, dated May 21, 2003; and 25–347, Revision 1, dated August 30, 2004; as additional sources of service information for accomplishing the modification of the regulator valves. Service Bulletin A340–25–4228, Revision 01, recommends concurrent accomplishment of Airbus Service Bulletin A340–25–4152, dated August 7, 2001; and Service Bulletin A330–25–3225, Revision 01, recommends concurrent accomplishment of Airbus Service Bulletin A330–25–3126, dated August 7, 2001.

Other Relevant Rulemaking

This proposed AD is related to AD 2003–03–06, amendment 39–13030 (68 FR 4378, January 29, 2003). That AD references Airbus Service Bulletins A340–25–4152, dated August 7, 2001; and A330–25–3126, dated August 7, 2001; for modifying the escape slides/slide rafts on the passenger/crew doors and the emergency exit doors. That AD is applicable to Airbus Model A330 and A340 series airplanes and requires a one-time inspection of the rail release pins and parachute pins of the escape slide/raft pack assembly for correct installation; corrective actions if necessary; and modification of the escape slides/slide rafts on the passenger, crew, and emergency exit doors.

Conclusion

Since certain changes discussed above expand the scope of the originally proposed rule, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Comments

Comments were submitted on the original NPRM. Due to the release of new service information, those comments are no longer applicable and are not addressed by this supplemental NPRM.

Differences Among Supplemental NPRM, French Airworthiness Directive, and Service Information

The effectivity of the French airworthiness directive includes only airplanes that have emergency slides or slide rafts having certain part numbers and fitted on certain door types and locations. This proposed AD would apply to all airplanes of the affected models, and would require determining if slides or slide rafts having the part numbers specified in the French airworthiness directive are installed. (No further action would be required if no slides or slide rafts having the subject part numbers are installed.) We find that it is necessary to expand the applicability to ensure that the modification that would be required by this proposed AD is performed if slides or slide rafts having an affected part number are installed in the future.

Service Bulletin A340–25–4228, Revision 01, recommends concurrent accomplishment of Airbus Service Bulletin A340–25–4152, dated August 7, 2001; and Service Bulletin A330–25–3225, Revision 01, recommends concurrent accomplishment of Airbus Service Bulletin A330–25–3126, dated August 7, 2001. However, consistent with French airworthiness directive F–2004–094 R1, dated February 16, 2004, this proposed AD would not require accomplishing those service bulletins. Those service bulletins currently are referenced for accomplishing the actions required by AD 2003–03–06, described previously.

Cost Impact

We estimate that 17 Model A330 series airplanes of U.S. registry would be affected by this proposed AD.

It would take about 1 work hour to accomplish the proposed parts identification, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the proposed parts identification on U.S. operators is estimated to be $1,105, or $65 per airplane.

It would take about 13 work hours per slide (8 slides per airplane) to accomplish the proposed modification, at an average labor rate of $65 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $114,920, or $6,760 per airplane.

Currently, there are no affected A340–200, –300, –500, and –600 series airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, the proposed parts identification would take about 1 work hour, and the proposed modification would take about 104 work hours, at an average labor rate of $65 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, we estimate the cost of the proposed parts identification to be $65 per airplane, and the proposed modification to be $6,760 per airplane.

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

Authority for This Rulemaking

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

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket 2003–NM–211–AD.

Applicability: Model A330 and A340–200, –300, –500, and –600 series airplanes; certificated in any category; except Model A330 and A340–200 and –300 series airplanes on which Airbus Modifications 52708 and 52811 were done during production, and Model A340–500 and –600 series airplanes on which Airbus Modification 52708 was done during production, and on which no slide or slide raft has been removed since delivery from the manufacturer.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of an emergency evacuation slide raft to deploy and inflate during an emergency situation, which could impede an evacuation and result in injury to passengers or crewmembers, accomplish the following:

Service Information References

(a) The following information pertains to the service information referenced in this AD:

(1) The term ''service bulletin'' as used in this AD, means the Accomplishment Instructions of Airbus Service Bulletins A330–25–3225, Revision 01 (for Model A330 series airplanes), and A340–25–4228, Revision 01 (for Model A340–200 and -300 series airplanes), both dated September 30, 2004; and A340–25–5054 (for Model A340–500 and -600 series airplanes), dated August 2, 2004.

(2) The service bulletins refer to Goodrich Service Bulletins 25A341, Revision 1, dated May 21, 2003; and 25–347, Revision 1, dated August 30, 2004; as additional sources of service information for accomplishment of the modification specified in the service bulletins.

(3) Accomplishing the modification before the effective date of this AD in accordance with Airbus Service Bulletin A330–25–3225 or A340–25–4228, both dated August 2, 2004; is considered acceptable for compliance with the modification required by this AD.

Part Number Identification/Modification

(b) Within 18 months after the effective date of this AD: Determine the part number of the emergency slides or slide rafts fitted on the door types and locations listed in Table 1 of this AD. If no affected slides or slide rafts are found installed on the airplane, then no further action is required by this paragraph. If any affected slides or slide rafts are found installed on the airplane: Modify the regulator valves of the slide and slide raft assemblies at the applicable time specified in paragraph (b)(1) or (b)(2) of this AD, in accordance with the applicable service bulletin.

(1) For airplanes on which the regulator valves have not been modified as of the effective date of this AD per Goodrich Service Bulletin 25A341, Revision 1, dated May 21, 2003: Before further flight.

(2) For airplanes on which the regulator valves have been modified as of the effective date of this AD per Goodrich Service Bulletin 25A341, Revision 1, dated May 21, 2003: Within 18 months after the effective date of this AD.

TABLE 1.—PART NUMBERS

Door type	Door location	Goodrich slide/slide raft part number
A	1 and 4, LH and RH	7A1508–001, -003, -005, -007, -013, -015, -017, -101, -103, -105, -107, -109, -113, -115, or -117
A	2, LH	7A1539–001, -003, -005, -007, -013, -015, -017, -101, -103, -105, -107, -109, -113, -115, or -117
A	2, RH	7A1539–002, -004, -006, -008, -014, -016, -018, -102, -104, -106, -108, -110, -114, -116, or -118
A	3, LH	7A1510–001, -003, -005, -007, -013, -015, -017, -101, -103, -105, -107, -109, -113, -115, or -117; or 4A3934–1, -3
A	3, RH	7A1510–002, -004, -006, -008, -014, -016, -018, -102, -104, -106, -108, -110, -114, -116, or -118; or 4A3934–2, -4
1	3, LH and RH	7A1509–001, -003, -005, -007, -013, -015, -017, -101, -103, -105, -107, -109, -113, -115, or -117
1	3, LH	4A3928–1
1	3, RH	4A3928–2

Parts Installation

(c) As of the effective date of this AD, no person may install a regulator valve having a part number listed in the old part number column specified in Paragraph 1.L. of the applicable service bulletin on any airplane, unless that regulator valve has been modified in accordance with paragraph (b) of this AD.

Alternative Methods of Compliance

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

Note 1: The subject of this AD is addressed in French airworthiness directives F–2003–213(B) R2, dated July 3, 2004, and F–2004–094 R1, dated February 16, 2004.

Issued in Renton, Washington, on June 14, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12303 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2004–NM–36–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ and EMB–145XR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135BJ and EMB–145XR series airplanes, that would have required installation of an additional indication device to the clear-ice indication system. This new action revises the proposed rule by changing the description of the unsafe condition, and by adding instructions for modifying certain existing circuits, replacing an existing indicator lamp with a new, improved lamp, and performing other required corrections/modifications. The actions specified by this new proposed AD are intended to prevent undetected build-up of clear ice on the wing surfaces, which could lead to reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 18, 2005.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2004–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2004–NM–36–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2004–NM–36–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2004–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135BJ and EMB–145XR series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 3, 2004 (69 FR 24095). The original NPRM would have required installation of an additional indication device to the clear-ice indication system. The original NPRM was prompted by a report that a risk assessment has shown that the reliability level of the clear-ice indication system is not sufficient. The original NPRM stated that that condition, if not corrected, could result in an undetected in-flight buildup of clear ice on airplane control surfaces, which could lead to reduced controllability of the airplane.

Comments

Due consideration has been given to the comments received in response to the original NPRM.

Support for the Original NPRM

One commenter supports the original NPRM and asserts support for all actions related to improved detection of airframe icing.

Request To Revise Unsafe Condition

Another commenter, the manufacturer, requests that the description of the unsafe condition be revised. The commenter states that ''* * * undetected in-flight buildup of clear ice on airplane control surfaces, * * *'' is not correct, since the clear ice system operates only when the airplane is on the ground, and that the ice builds up on the ''wing surfaces,'' not the ''airplane control surfaces.''

We agree with this request. We have determined that the description of the unsafe condition as written in the original NPRM is incorrect, and have therefore revised the wording to read ''* * * undetected buildup of clear ice on the wing surfaces, ''* * *'' in this supplemental NPRM.

Request To Cite New Service Information

The same commenter requests that we change the citations for applicable service information specified in the original NPRM. The commenter states that it has received reports of problems in accomplishing the service bulletins and has issued new revisions. These service bulletins include the following revisions:

- Changed and restructured effectivity;
- Additional instructions added to the Accomplishment Instructions; and
- Changes and additions to certain parts kits, text, and figures.

The commenter also states that the concurrent accomplishment of EMBRAER Service Bulletin 145LEG–25–0027, dated May 7, 2003, is unnecessary and should be deleted. The commenter states that the concurrent service bulletin has no effect on correcting the unsafe condition.

The commenter requests that the original NPRM be revised to reference these revised service bulletins as the appropriate sources of information for accomplishing the specified actions.

We agree with this request. We have determined that the revisions to the service bulletins clarify and improve operator ability to correct the unsafe condition and that the specified concurrent action is unnecessary. Therefore, we have revised the supplemental NPRM to reference EMBRAER Service Bulletins 145–30–0035, Revision 02 (for Model EMB–145XR series airplanes), dated January 6, 2005; and 145LEG–30–0002, Revision 01 (for Model EMB–135BJ series airplanes), dated January 4, 2005; as the appropriate sources of service information for accomplishing the proposed actions. We have revised the Cost Impact and Applicability sections and paragraphs (a), (b), and (c) of the supplemental NPRM; deleted paragraph (d) of the original NPRM; and reidentified paragraph (e) of the supplemental NPRM accordingly.

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, approved EMBRAER Service Bulletins 145–30–0035, Revision 02, and 145LEG–30–0002, Revision 01, but, at this time, does not intend to revise Brazilian airworthiness directive 2004–01–01, dated January 27, 2004 (which the original NPRM references as the Brazillian airworthiness directive that parallels the original NPRM). The DAC does not consider it neccessary to revise Brazilian airworthiness directive 2004–01–01 because that airworthiness directive refers to EMBRAER Service Bulletins 145–30–0035, Revision 01, and 145LEG–30–0002, or further approved revisions, as the acceptable sources of service information for certain actions in that airworthiness directive. However, as stated above, we have determined that it is necessary to issue a supplemental NPRM and reopen the comment period to provide additional opportunity for public comment. We have coordinated this issue with the DAC.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that about 49 airplanes of U.S. registry would be affected by this proposed AD. The average labor rate is $65 per work hour.

For 41 Model EMB–145XR airplanes, it would take 16 work hours per airplane to accomplish the proposed actions. Required parts would cost between $242 and $817 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model EMB–145XR airplanes is estimated to be between $52,562 and $76,137, or between $1,282 and $1,857 per airplane.

For 8 Model EMB–135BJ airplanes, it would take 16 work hours per airplane to accomplish the proposed actions. Required parts would cost between $240 and $820 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model EMB–135BJ airplanes is estimated to be between $10,240 and $14,856, or between $1,280 and $1,857 per airplane.

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

Authority for This Rulemaking

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

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2004–NM–36–AD.

Applicability: Model EMB–145XR series airplanes, as listed in EMBRAER Service Bulletin 145–30–0035, Revision 02, dated January 6, 2005; and Model EMB–135BJ series airplanes, as listed in EMBRAER Service Bulletin 145LEG–30–0002, Revision 01, dated January 4, 2005; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected build-up of clear ice on the wing surfaces, which could lead to reduced controllability of the airplane, accomplish the following:

Modification of Clear-Ice Indication System

(a) For Model EMB–145XR series airplanes: Within 24 months or 5,000 flight hours after the effective date of this AD, whichever comes first, perform the actions specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–30–0035, Revision 02, dated January 6, 2005.

(1) Install complete electrical connections and provisions to add an additional indication device to the clear-ice indication system, as specified in the Accomplishment Instructions, Part I.

(2) Replace the existing clear-ice indication lamp with a new lamp having a new part number, as specified in the Accomplishment Instructions, Part II.

(b) For Model EMB–135BJ series airplanes: Within 24 months or 5,000 flight hours after the effective date of this AD, whichever comes first, perform the actions of paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–30–0002, Revision 01, dated January 4, 2005.

(1) Install complete electrical connections and provisions to add an additional indication device to the clear-ice indication system, as specified in the Accomplishment Instructions, Part I.

(2) Modify the electrical connections of factory-provisioned airplanes to add an additional indication device to the clear-ice indication system, as specified in the Accomplishment Instructions, Part II.

(3) Remove the ''Clear-Ice Inoperative'' placard and reactivate the clear-ice additional indicator lamp, as specified in the Accomplishment Instructions, Part III.

(4) Replace the existing clear-ice indicator lamp with a new, improved lamp having a new part number, as specified in the Accomplishment Instructions, Part IV or Part V.

Actions Accomplished per Previous Issues of Service Bulletins

(c) Actions accomplished before the effective date of this AD in accordance with Part I of EMBRAER Service Bulletin 145–30–0035, dated July 16, 2003, or Revision 01, dated September 2, 2003; or Part I, Part II, and Part III of EMBRAER Service Bulletin 145LEG–30–0002, dated September 2, 2004; as applicable; are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance

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

Note 1: The subject of this AD is addressed in Brazilian airworthiness directive 2004–01–01, dated January 27, 2004.

Issued in Renton, Washington, on June 14, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12314 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21381; Airspace Docket No. 05–ASW–2]

RIN 2120–AA66

Proposed Establishment of Area Navigation Routes; Southwestern and South Central United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish three area navigation (RNAV) routes in Southwestern and South Central United States in support of the High Altitude Redesign (HAR) program. The FAA is proposing this action to enhance safety and to improve the efficient use of the navigable airspace.

DATES: Comments must be received on or before August 8, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2005–21381 and Airspace Docket No. 05–ASW–2, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Steve Rohring, 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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2005–21381 and Airspace Docket No. 05–ASW–2) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2005–21381 and Airspace Docket No. 05–ASW–2.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

As part of the on-going National Airspace Redesign, the FAA implemented the HAR program. This program focuses on developing and implementing improvements in navigation structure and operating methods to allow more flexible and efficient en route operations in the high altitude airspace environment. In support of this program, the FAA is establishing RNAV routes to provide greater freedom to properly equipped users and to achieve the economic benefits of flying user-selected, non-restrictive routings.

The new RNAV routes will be identified by the letter prefix ''Q'' followed by a number consisting of from one to three digits. The International Civil Aviation Organization (ICAO) has allocated the ''Q'' prefix, along with the number set 1 through 499, for use by the United States for designating domestic RNAV routes.

Related Rulemaking

On April 8, 2003, the FAA published the Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes, and Reporting Points rule in the **Federal Register** (68 FR 16943). The purpose of the rule was to facilitate the establishment of RNAV routes in the National Airspace System for use by aircraft with advanced navigation system capabilities. This rule adopted certain amendments proposed in Notice No. 02–20, Area Navigation and Miscellaneous Amendments. The rule revised and adopted several definitions in FAA regulations, including Air Traffic Service Routes, to be in concert with ICAO definitions and reorganized the structure of FAA regulations concerning the designation of Class A, B, C, D, and E airspace areas, airways, routes, and reporting points.

On May 9, 2003, the FAA published a final rule in the **Federal Register** (68 FR 24864) establishing 11 new RNAV routes along high-density air traffic tracks in the western and north central United States in support of Phase I of the HAR. Additionally, on February 7, 2005, the FAA published in the **Federal Register** (70 FR 6376) a notice of proposed rulemaking to establish eight RNAV routes in Florida in support of this program.

The Proposal

The FAA is proposing to amend Title 14 Code of Federal Regulations (14 CFR) part 71 to establish three RNAV routes in Southwestern and South Central

United States within the airspace assigned to the Albuquerque and Fort Worth Air Route Traffic Control Centers (ARTCC). These routes are proposed as part of the HAR program to enhance safety and to facilitate the more flexible and efficient use of the navigable airspace for en route instrument flight rules operations within the Albuquerque and the Fort Worth ARTCCs' areas of responsibility.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, 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 2006 Area Navigation Routes

* * * * *

Q–20 JCT to CNX [New]		
JCT	VORTAC	(Lat. 30°35′53″ N., long. 099°49′03″ W).
FUSCO	WP	(Lat. 31°11′02″ N., long. 101°19′30″ W).
UNNOS	WP	(Lat. 32°57′00″ N., long. 103°56′00″ W).
HONDS	WP	(Lat. 33°33′60″ N., long. 104°51′12″ W).
CNX	VORTAC	(Lat. 34°22′01″ N., long. 105°40′41″ W).
Q–22 GUSTI to CATLN [New]		
GUSTI	WP	(Lat. 29°58′15″ N., long. 092°54′35″ W).
OYSTY	WP	(Lat. 30°28′15″ N., long. 090°11′49″ W).
RUBAE	WP	(Lat. 30°55′27″ N., long. 088°22′11″ W).
CATLN	WP	(Lat. 31°18′26″ N., long. 087°34′48″ W).
Q–24 LCH to PAYTN [New]		
LCH	VORTAC	(Lat. 30°08′29″ N., long. 093°06′20″ W).
BTR	VORTAC	(Lat. 30°29′06″ N., long. 091°17′39″ W).
IRUBE	WP	(Lat. 31°00′16″ N., long. 088°56′19″ W).
PAYTN	WP	(Lat. 31°28′04″ N., long. 087°53′08″ W).

* * * * *

Issued in Washington, DC, on June 10, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–12122 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21337; Airspace Docket No. 05–ACE–16]

Proposed Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Storm Lake, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to create a Class E surface area at Storm Lake, IA. It also proposes to modify the Class E5 airspace at Storm Lake, IA.

DATES: Comments for inclusion in the Rules Docket must be received on or before July 18, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–21337/ Airspace Docket No. 05–ACE–16, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–21337/Airspace Docket No. 05–ACE–16.'' The postcard

will be date/time stamped and returned to the commenter.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This notice proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace designated as a surface area for an airport at Storm Lake, IA. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures to Storm Lake Municipal Airport. Weather observations would be provided by an Automatic Weather Observing/Reporting System (AWOS) and communications would be direct with Fort Dodge Automated Flight Service Station.

This notice also proposes to revise the Class E airspace area extending upward from 700 feet above the surface at Storm Lake, IA. An examination of this Class E airspace area for Storm Lake, IA revealed noncompliance with FAA directives. This proposal would correct identified discrepancies by decreasing the width of the southeast extension from 2.6 miles to 2.5 miles each side of the 167° bearing from Storm Lake NDB and creating an extension within 2.5 miles each side of the 357° bearing from the Storm Lake NDB extending from the 6.6-mile radius of the airport to 7 miles north of the airport, defining airspace of appropriate dimensions to protect aircraft departing and executing instrument approach procedures to Storm Lake Municipal Airport and bringing the airspace area into compliance with FAA directives. Both areas would be depicted on appropriate aeronautical charts.

Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1 Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of the same Order. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority since it would contain aircraft executing instrument approach procedures to Storm Lake Municipal Airport.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendement

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ACE IA 32 Storm Lake, IA

Storm Lake Municipal Airport, IA
(Lat. 42°35′50″ N., long. 95°14′26″ W.)

Storm Lake NDB
(Lat. 42°36′02″ N., long. 95°14′40″ W.)

Within a 4.1-mile radius of Storm Lake Municipal Airport, and within 2.5 miles each side of the 167° bearing from the Storm Lake NDB extending from the 4.1-mile radius of the airport to 7 miles south of the airport, and within 2.5 miles each side of the 357° bearing from the Storm Lake NDB extending from the 4.1-mile radius of the airport to 7 miles nothr of the airport.

* * * * *

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

* * * * *

ACE IA E5 Storm Lake, IA

Storm Lake Municipal Airport, IA
(Lat. 42°35′50″ N., long 95°14′26″ W.)
Storm Lake NDB
(Lat. 42°36′02″ N., long 95°14′40″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6 mile radius of Storm Lake Municipal Airport, and within 2.5 miles each side of the 167° bearing from the Storm Lake NDB extending from the 6.6-mile radius of the airport to 7 miles of south of the airport and within 2.5 miles each side of the 357° bearing from the Storm Lake NDB extending from the 6.6-mile radius of the airport to 7 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on June 6, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–12378 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

28 CFR Part 905

[NCPPC 111]

Qualification Requirements for Participation in the National Fingerprint File Program

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Proposed rule.

SUMMARY: The Compact Council (Council), established pursuant to the National Crime Prevention and Privacy Compact (Compact) Act of 1998, is publishing a proposed rule requiring a Compact Party to meet minimum qualification standards while participating in the National Fingerprint File (NFF) Program.

DATES: Submit comments on or before July 22, 2005.

ADDRESSES: Send all written comments concerning this proposed rule to the Compact Council Office, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Attention: Todd C. Commodore. Comments may also be submitted by fax at (304) 625–5388. To ensure proper handling, please reference ''NFF Program Qualification Requirements Docket No. 111'' on your correspondence. You may view an electronic version of this proposed rule at *http://www.regulations.gov*. You may also comment via electronic mail at *tcommodo@leo.gov* or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically you must include NCPPC Docket No. 111 in the subject box.

FOR FURTHER INFORMATION CONTACT: Ms. Donna M. Uzzell, Compact Council Chairman, Florida Department of Law Enforcement, P.O. Box 1489, Tallahassee, FL 32302, telephone number (850) 410–7100.

SUPPLEMENTARY INFORMATION: This proposed rule requires all Compact Parties to comply with minimum qualification standards while participating in the NFF Program. The standards entitled ''National Fingerprint File Qualification Requirements'' are published in the Notices section of today's **Federal Register**; hereafter, interested parties should acquire a copy of the most current NFF Qualification Requirements by contacting the Compact Council Office at the address shown above.

Background

Compact Article VI establishes a Council which has the authority to promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice purposes, not to conflict with the FBI administration of the III System for criminal justice purposes. An integral part of the III System is the National Fingerprint File (NFF), which the Compact defines as ''a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.'' The Council believes the promulgation of this rule and its accompanying notice will clarify for current and future NFF Program participants the requirements by which a participant's NFF performance will be measured. The notice related to this proposed rule contains two sets of Qualification Requirements—one applicable to State NFF participants and an analogous set for the FBI's NFF participation. The following paragraphs provide justification for both State and FBI participation in the NFF.

Party State NFF Participation

Compact Article III outlines the responsibilities of the Compact Parties. Article III(b)(3) provides that each Compact Party State shall participate in the NFF. *See* 42 U.S.C. 14616, Article III. The Compact does not set out a time line for NFF participation; to date, six Compact Party States participate in the NFF, while an additional ten are in various stages of preparation to join the NFF Program. The FBI Criminal Justice Information Services (CJIS) Division's staff provides training and guidance to criminal history record repository staff as the State prepares for NFF participation.

The CJIS Audit staff will measure a State's performance in the NFF Program using audit criteria that align with the State NFF Qualification Requirements. The Council published a proposed rule on February 17, 2005, establishing sanctions for noncompliance with its rules, procedures, and standards for the noncriminal justice use of the III System. The sanctions process outlined therein will be used by the Council to address noncompliance findings related to the noncriminal justice use of III, while noncompliance findings related to the criminal justice use of III will continue to be addressed by the CJIS Advisory Policy Board (APB).

FBI NFF Participation

The FBI CJIS Division has maintained the NFF since its inception in 1991 as a pilot project. The CJIS Division remains an integral part of the NFF Program which, when fully implemented, will result in a national decentralized criminal history record system. Article II of the Compact requires the FBI to, among other things, permit use of the National Identification Index and the NFF by each Party State. Article II also establishes an obligation for all Compact Parties to adhere to the Compact and the Compact Council's related rules, procedures, and standards.

Compact Article III requires the FBI Director-appointed Compact Officer to ensure the Department of Justice and other agencies and organizations that submit criminal history search requests to the FBI comply with the provisions of the Compact and with the Council's rules, procedures, and standards governing the use the III System for noncriminal justice purposes. Audit reports of the FBI's criminal history record repository will be provided to the Council, which will use the results to ensure CJIS Division compliance with the FBI NFF Qualification Requirements. (The FBI and its CJIS APB maintain purview over the criminal justice use of the III system. The APB has endorsed the referenced NFF Qualification Requirements and will be consulted in any future revisions.)

Administrative Procedures and Executive Orders

Administrative Procedure Act

The Compact Council, composed of 15 members including 11 state and local governmental representatives, is authorized to promulgate rules, procedures, and standards for the effective and proper use of the III System for noncriminal justice purposes. The Compact Council is publishing this rule in compliance with the mandate that rules, procedures, or standards established by the Council be published in the **Federal Register**. *See* 42 U.S.C. 14616, Articles II(4), VI(a)(1), and VI(e). This publication complies with those requirements.

Executive Order 12866

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

Executive Order 13132

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this rule fully complies

with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

Executive Order 12988

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

Unfunded Mandates Reform Act

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801–804) is not applicable to the Council's rule because the Compact Council is not a ''Federal agency'' as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. *See* 5 U.S.C. 804.

List of Subjects in 28 CFR Part 905

Crime, Privacy, Information, Safety.

Accordingly, title 28 of the Code of Federal Regulations is proposed to be amended by adding Part 905 to read as follows:

PART 905—NATIONAL FINGERPRINT FILE (NFF) PROGRAM QUALIFICATION REQUIREMENTS

Sec.
905.1 Definition.
905.2 Purpose and authority.
905.3 Participation in the NFF Program.

Authority: 42 U.S.C. 14616.

§ 905.1 Definition.

''National Fingerprint File'' means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

§ 905.2 Purpose and authority.

The purpose of this part 905 is to require each National Fingerprint File (NFF) participant to meet the standards set forth in the NFF Qualification Requirements as established by the Compact Council (Council). The Council is established pursuant to the National Crime Prevention and Privacy Compact Act (Compact), title 42, U.S.C., 14616.

§ 905.3 Participation in the NFF Program.

Each NFF Program participant shall meet the standards set forth in the NFF Qualification Requirements as established by the Council and endorsed by the FBI's Criminal Justice Information Services Advisory Policy Board; however, such standards shall not interfere or conflict with the FBI's administration of the III, including the NFF, for criminal justice purposes. Each participant's performance will be audited and measured by criteria designed to assess compliance with those requirements. Measurements by which to determine compliance to the NFF Qualification Requirements are outlined in the FBI and State Sampling Standards. (For a copy of the standards, contact the FBI Compact Officer, 1000 Custer Hollow Road, Module C–3, Clarksburg, WV 26306–0001.)

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05–12330 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–02–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 102–117 and 102–118

[FMR Case 2005–102–4]

RIN 3090–AI11

Federal Management Regulation; Transportation Management and Transportation Payment and Audit—Data Collection Standards and Reporting Requirements

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration is amending the Federal Management Regulation (FMR) by adding specific data collection standards and reporting requirements. The FMR and any corresponding documents may be accessed at GSA's Web site at *http://www.gsa.gov/fmr*.

DATES: Comments are due on or before August 22, 2005.

ADDRESSES: Submit comments identified by FMR case 2005–102–4 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web Site: *http://www.gsa.gov/fmr*. Click on the FMR case number to submit comments.
- E-mail: *fmrcase.2005–102–4@gsa.gov*. Include FMR case 2005–102–4 in the subject line of the message.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FMR case 2005–102–4 in all correspondence related to this case. All comments received will be posted without change to *http://www.gsa.gov/fmr*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 208–7312 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Elizabeth Allison, Office of Governmentwide Policy, Transportation Management Policy Division, at (202) 219–1792 or e-mail at *elizabeth.allison@gsa.gov*. Please cite FMR case 2005–102–4.

SUPPLEMENTARY INFORMATION:

A. Background

Part 102–117 of the Federal Management Regulation (FMR) (41 CFR part 102–117, Transportation Management), currently states that there is no requirement for reporting on agency transportation activities. Over the past several years, the General Services Administration (GSA) has worked with the Governmentwide Transportation Policy Council (GTPC) interagency working group to develop standards for transportation data collection.

GSA and its partner agencies determined that better information about agency transportation services would provide critical input for more informed decision making. Transportation is often viewed as support for other essential activities, and data is often not accorded high visibility or priority in determining budget allocations. The data necessary to facilitate sound transportation policy making are seriously inadequate, and the organization of data collection activities in the agencies is not conducive to providing them. The decentralized programs of the agencies, although appropriate to the missions of the operating administrations, are not

well structured to address the strategic, cross-cutting, system wide issues that face agencies today.

As leaders in Government, it is paramount that transportation managers make informed transportation decisions based on fact. Quality data is paramount in identifying alternative strategies and evaluating performance and results. Data will further provide accurate, reliable budget figures to advance the effective use of data for informed decision making and accurate agency budget submissions.

B. Substantive Changes

This proposed rule adds the requirement and clarifies the collection of transportation data, analysis and reporting to improve information needs of decision makers in FMR Part 102–117 and links prepayment audit in FMR Part 102–118 to data collection in FMR Part 102–117. To ensure that the agency transportation managers have a more solid knowledge base to support investment and regulatory decisions, which involve billions of dollars, GSA proposes to institute an annual Governmentwide transportation data call.

C. Executive Order 12866

GSA has determined that this proposed rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

D. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for notice and comment; therefore the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply because the rule only applies to internal agency management and will not have a significant effect on the public.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 102–117 and 102–118

Accounting, Claims, Government property management, Reporting and recordkeeping requirements, Surplus Government property, Transportation.

Dated: May 18, 2005.

G. Martin Wagner,

Associate Administrator,Office of Governmentwide Policy.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR parts 102–117 and 102–118 as follows:

PART 102–117—TRANSPORTATION MANAGEMENT

1. The authority citation for 41 CFR part 102–117 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 481, *et seq.*

2. Amend § 102–117.25 by adding, in alphabetical order, the definitions ''Barge'', ''Boxcar'', ''Break bulk'', ''Bulk cargo'', ''Container'', ''Dry bulk'', ''Flatcar'', ''Intermodal'', ''LASH (Lighter Aboard Ship) barge'', ''Less-than-truck load (LTL)'', ''Liquid bulk'', ''Measured ton'', ''Specialized cargo'', ''Ton mile'', and ''Truck Load''; and by revising the definition ''Mode'' to read as follows:

§ 102–117.25 What definitions apply to this part?

* * * * *

Barge means a flat-bottomed boat designed to carry cargo on inland waterways, usually without engines or crew accommodations. Small barges for carrying cargo between ship and shore are known as lighters.

* * * * *

Boxcar means an enclosed railcar, typically 40 to 50 feet long, used for packaged freight and some bulk commodities.

Break bulk means general freight or cargo that is transported in units and not containerized. Examples of break bulk are lumber and steel. Break bulk cargo is the separation of a consolidated bulk load into smaller individual shipments for delivery to the ultimate consignee. Freight may be moved intact inside a trailer or it may be interchanged and re-handled to connecting carriers.

Bulk cargo means freight or cargo transported in mass, not in packages or containers. Examples of bulk cargo are grain or fertilizer.

* * * * *

Container usually means a large box (10 to 40 feet long) into which freight is loaded or for holding/bundling commodities. Examples of containers are boxes, crates, cartons, cans or barrels.

* * * * *

Dry bulk means merchandise other than liquid carried in bulk, *i.e.*, grain and fertilizer.

* * * * *

Flatcar means a railcar without sides used for hauling machines.

* * * * *

Intermodal denotes movements of cargo containers interchangeably between transport modes, *i.e.*, motor, water, and air carriers.

LASH (Lighter Aboard Ship) barge means a covered barge that is loaded on board ocean going ships for movement to foreign destinations.

Less-than-truck load (LTL) means a shipment weighing less than the minimum weight needed to use the lower truck load rate.

* * * * *

Liquid bulk means merchandise other than dry bulk carried in bulk, *i.e.*, oil and propane.

Measured ton equals 40 cubic feet, used in water transportation rate setting.

Mode refers to the different methods of shipment *i.e.*, motor, water or air.

* * * * *

Specialized cargo means non containerized cargo such as automobiles or cattle.

* * * * *

Ton mile means the transportation of one ton of freight for a distance of one mile.

* * * * *

Truck Load means the quantity of freight required to fill a trailer; usually more than 10,000 pounds.

* * * * *

§§ 102–117.355 and 102–117.360 [Redesignated as §§ 102–117.400 and 102–117.405]

3. Redesignate §§ 102–117.355 and 102–117.360 as §§ 102–117.400 and 102–117.405, respectively.

4. Revise Part 102–117, Subpart K, to read as follows:

PART 102–117—TRANSPORTATION MANAGEMENT

Subpart K—Reports

Sec.

102–117.345 Is there a requirement for me to report to GSA on my transportation activities?
102–117.350 What data do I have to report?
102–117.355 What data form do I have to use?
102–117.360 When do I have to report?
102–117.365 How can the data be collected?
102–117.370 Are there other reporting requirements?

102–117.375 What tasks does proper reporting of data involve?
102–117.380 Why is it important to report data and what is the value of the data collected to my agency?
102–117.385 What are the consequences of not reporting?
102–117.390 Where do I find further information or assistance?
102–117.395 How will GSA use reports I submit?

Subpart K—Reports

§ 102–117.345 Is there a requirement for me to report to GSA on my transportation activities?

(a) Yes, your agency must report your transportation activities to GSA on an annual basis.

(b) Monthly reports with year to date information will be gathered and maintained by the transportation manager with an annual report forwarded to GSA.

§ 102–117.350 What data do I have to report?

There are five groups of data which you may be obligated to report. Which categories you have to report on is largely dependent on the specific transportation activities of your agency. Your agency must collect information on the following categories:

(a) Mode.

(b) Measure.

(1) Weight-tons (short tons 2000 lbs), pounds;

(2) Volume-cubage;

(3) Cost dollars paid per shipment and/or weight measure, volume, value; and

(4) Number of transactions and/or orders.

(c) Geography.

(1) Domestic by key regions.

(2) International.

(d) Key Corridors (Key city or origin and destination pairs).

(1) Federal Budget Object Classification 22, less than $1 million top 10 pairs.

(2) Federal Budget Object Classification 22, $1 million to $10 million top 15 pairs.

(3) Federal Budget Object Classification 22, $10 million up top 20 pairs.

(e) Commodities.

(1) General freight.

(2) Household goods shipments.

(3) Hazardous cargo shipments.

§ 102–117.355 What data form do I have to use?

The following format is suggested but not mandatory for reporting your data. All reports will be electronically stored, processed and sent electronically. Agencies may use any available electronic system, but systems must be capable of interfacing with other systems and GSA.

BILLING CODE 6820–14–P

Domestic Transportation Data Reporting, Collation and Analysis Format

Agency
Region
Period

Mode	Quarter 1				
	# Orders	# Shipments	Short Tons Shipped	Volume Cubage	Total $ Expended
* Truck Load					
* LTL					
* Dry Bulk					
* Liquid Bulk Truck					
* Bulk Gas Truck					
* Household Goods Shipments					
* Rail-Intermodal Container					
* Box Car					
* Dry Bulk Car					
* Liquid Bulk Car					
* Gas Bulk Car					
* Flat Car					
* Other Rail					
* Ocean Container					
* Break Bulk Cargo					
* Dry Bulk					
* Liquid Bulk					
* Gas Bulk					
* Specialized Project Cargo					
* Barge-Ocean-Container					
* Barge-Inland-Container					
* Barge-Ocean-Dry Bulk					
* Barge-Inland-Dry Bulk					
* Barge-Ocean-Liquid Bulk					
* Barge-Inland-Liquid Bulk					
* Barge-Ocean Gas Bulk					
* Barge-Inland Gas Bulk					
* LASH Barge					
* Air-Container					
* Air-Not-Containerized					
* Air-Specialized Lift					
* Pipeline-Liquid					
* Pipeline-Gas					
Key Corridor Data Identify Top 10 Corridors					

International Transportation Data Collation and Analysis Format

Agency
Region
Period

Quarter 1

Mode	# Orders International	#Shipment International	Short Tons Shipped International	Volume Cubage International	Total $ Expended International
* Truck Load					
* LTL					
* Dry Bulk					
* Liquid Bulk Truck					
* Bulk Gas Truck					
* Household Goods Shipments					
* Rail-Intermodal Container					
* Box Car					
* Dry Bulk Car					
* Liquid Bulk Car					
* Gas Bulk Car					
* Flat Car					
* Other Rail					
* Ocean Container					
* Break Bulk Cargo					
* Dry Bulk					
* Liquid Bulk					
* Gas Bulk					
* Specialized Project Cargo					
* Barge-Ocean-Container					
* Barge-Inland-Container					
* Barge-Ocean-Dry Bulk					
* Barge-Inland-Dry Bulk					
* Barge-Ocean-Liquid Bulk					
* Barge-Inland-Liquid bulk					
* Barge-Ocean Gas Bulk					
* Barge-Inland Gas Bulk					
* LASH Barge					
* Air-Container					
* Air-Not-Containerized					
* Air-Specialized Lift					
* Pipeline-Liquid					
* Pipeline-Gas					
Key Corridor Data Identify Top 10 Corridors					

BILLING CODE 6820–14–C

§ 102–117.360 When do I have to report?

Annual data reports to GSA are due by February 1 of each year and must contain data related to the previous fiscal year. The first annual report will be due February 1, 2007. Reports will be sent to GSA, Office of Governmentwide Policy, Office of Travel, Transportation and Asset Management, *http://www.gsa.gov/transportationpolicy.*

§ 102–117.365 How can the data be collected?

(a) A variety of transportation data is currently available, from microscopic, local data to macroscopic summary data and from hard-copy to stored electronic data.

(b) Agencies that utilize the Transportation Management Services Solution (TMSS) may download the requested information through the report module.

(c) All other agencies must have electronic systems in place.

§ 102–117.370 Are there other reporting requirements?

No, there are no other reporting requirements.

§ 102–117.375 What tasks does proper reporting of data involve?

Proper reporting of data involves three main tasks:

(a) Identifying your agency's reporting obligations.

(b) Collecting the necessary data.

(c) Checking the data for accuracy and consistency.

§ 102–117.380 Why is it important to report data and what is the value of the data collected to my agency?

It is important to report data to identify and publicize sources of data on commodity movement, international trade, and freight transportation within the Federal Government. Information about agency transportation services will provide critical input for more informed decision making. This information will assist analysts and decision makers on the cost-effective ways to fulfill essential transportation needs; consider consolidated use of transportation services; more efficient use of agency transportation resources and more effective use of new or existing procurements. Quality data is paramount in identifying alternative strategies and evaluating performance and results. Data will further provide accurate, reliable budget figures to advance the effective use of data for accurate agency submissions.

§ 102–117.385 What are the consequences of not reporting?

Agencies not submitting data or submitting inconsistent data will be requested by the General Services Administration (GSA) to comply with the data reporting requirements. GSA will report compliance to the Office of Management and Budget (OMB).

§ 102–117.390 Where do I find further information or assistance?

If you need further information or assistance, contact: General Services Administration, Office of Travel, Transportation and Asset Management (MT), 1800 F Street, NW., Washington, DC 20405, or e-mail at *http://www.policyworks.gov/transportation.*

§ 102–117.395 How will GSA use reports I submit?

(a) Reporting on transportation and transportation related services will provide GSA with—

(1) The ability to assess the magnitude and key characteristics of transportation within the Government (*e.g.*, how much agencies spend; what type of commodity is shipped; etc.);

(2) Data to analyze and recommend changes to policies, standards, practices, and procedures to improve Government transportation; and

(3) A better understanding of how your activity relates to other agencies and your influence on the Government wide picture of transportation services.

(4) This data and analysis will further enable agencies to more accurately report budgets and expenses in the Federal Budget under Object Classification 22, Transportation of Things.

(b) In addition, this information will assist you in showing your management the magnitude of your agency's transportation program and the effectiveness of your efforts to control cost and improve service.

PART 102–118—TRANSPORTATION PAYMENT AND AUDIT

5. The authority citation for 41 CFR part 102–118 continues to read as follows:

Authority: 31 U.S.C. 3726; and 40 U.S.C. 481, *et seq.*

6. Revise § 102–118.280 to read as follows:

§ 102–118.280 What advantages does the prepayment audit offer my agency?

(a) Prepayment auditing will allow your agency to detect and eliminate billing errors before payment and will eliminate the time and cost of recovering agency overpayments.

(b) Prepayment auditing will give you data on what is spent on transportation and provides accurate, reliable budget figures for informed decision making and accurate agency budget submissions.

(c) Quality data is paramount in identifying alternative strategies and evaluating performance and results.

7. Add §§ 102–118.281 and 102–118.282 to read as follows:

§ 102–118.281 How can my agency use the data collected in the prepayment audit?

Your agency can use the data collected in the prepayment audit to—

(a) Analyze cost-effective ways to fulfill essential transportation needs;

(b) Consider consolidated use of transportation services;

(c) Use agency transportation resources more effectively; and

(d) Use new or existing procurements more effectively.

§ 102–118.282 Is my agency required to report to the General Services Administration (GSA) on my transportation activities?

(a) Yes, your agency must report your transportation activities to the General Services Administration (GSA) on an annual basis.

(b) Monthly reports with year to date information will be gathered and maintained by the transportation manager with an annual report forwarded to GSA. See §§ 102–117.345 through 102.117.395 of this chapter for more details on the reporting requirement.

[FR Doc. 05–12282 Filed 6–21–05; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–05–21305; Notice 1]

Pipeline Safety: Use of Polyamide-11 Plastic Pipe in Gas Pipelines

AGENCY: Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: Request for comments.

SUMMARY: The Office of Pipeline Safety (OPS) seeks public comments on two petitions for rulemaking filed by Arkema, Inc. The petitions request changes to the gas pipeline safety regulations to increase the design factor for new polyamide—11 (PA–11) pipe and to allow use of PA–11 pipe for systems operating at up to 200 pounds per square inch gauge pressure (psig). These requested changes will allow the use of PA–11 pipe in gas pipelines in place of metal pipe.

DATES: Interested persons are invited to submit written comments by August 22, 2005. Late-filed comments will be considered to the extent practicable.

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

- *Mail:* Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., 20590–0001. Anyone wanting confirmation of mailed comments must include a self-addressed stamped postcard.
- *Hand delivery or courier:* Room PL–401, 400 Seventh Street, SW., Washington DC. The Dockets Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.
- *Web site:* Go to *http://dms.dot.gov,* click on ''Comments/Submissions'' and follow the instructions at the site.

All written comments should identify the docket number and notice number stated in the heading of this notice.

Docket access: For copies of this notice or other material in the docket, you may contact the Dockets Facility by phone (202–366–9329) or visit the facility at the above street address. For Web access to the dockets to read and download filed material, go to *http://dms.dot.gov/search.* Then type in the last four digits of the docket number shown in the heading of this notice, and click on ''Search''.

Anyone can search the electronic form of all comments filed in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the April 11, 2000 issue of the **Federal Register** (65 FR 19477) or go to *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Sanders (tel: 405–954–7214; E-mail: *Richard.Sanders@tsi.jccbi.gov*). General information about our pipeline safety program is available at this Web address: *http://ops.dot.gov.*

To view the petition, comments, and other material 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 Dockets Facility at the address under **ADDRESSES**.

SUPPLEMENTARY INFORMATION: On October 4, 2004, Arkema, Inc. submitted two petitions to the Pipeline and Hazardous Material Safety Administration's Office of Pipeline Safety. Arkema's petitions request that DOT revise 49 CFR 192.121 and 192.123 by increasing the design factor and the design pressure for PA–11 to allow the use of a PA–11 piping system at pressures up to 200 psig. Under the proposal, the design factor for PA–11 would be raised from 0.32 to 0.40, which would allow for a greater operating pressure. The operating pressure limit for 2-inch diameter pipes of this material would also be raised from 100 psig to 200 psig, to allow these pipe systems to be operated up to the pressure limit determined by the design factor.

Arkema asserts that pipelines with the new PA–11 material will pose less risk to the public at a design factor of 0.40 than older thermoplastic piping materials used with a 0.32 design factor and that allowing an increased design pressure will allow gas companies to replace metal piping systems with 2-inch plastic pipe operating up to 200 psig to avoid the risk of corrosion failure in steel pipes. A detailed technical justification, including performance test results for PA–11 pipe and a discussion of its history of use, is provided in the petition, which may be read in its entirety in the docket.

With this notice, OPS is seeking further information and inviting public comment on the performance of the PA–11 pipe and a potential increase in the design factor and the design pressure for new thermoplastic piping. OPS will consider Arkema Inc.'s petition, any comments received by the public, and other information to determine whether or not to initiate rulemaking.

Issued in Washington, DC, on June 15, 2005.

Joy Kadnar,

Director of Engineering and Emergency Support.

[FR Doc. 05–12356 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2005–21600]

RIN 2127–AI94

Federal Motor Vehicle Safety Standards; Designated Seating Positions and Seat Belt Assembly Anchorages

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We are proposing to amend the definition of ''designated seating position'' in the Federal motor vehicle safety standards (FMVSSs), and to establish a new procedure for determining the number of designated seating positions on bench and split bench seats. This document also proposes to apply that procedure to all types of vehicles, regardless of weight, and eliminate the existing exclusion for temporary or folding jump seats. The proposed rule would also revise test procedures for seat belt anchorage requirements so that they are suitable for side-facing, temporary or folding jump seats. NHTSA's goal in proposing these amendments is to improve the objectivity of the ''designated seating position'' definition and thereby facilitate efforts of the agency to ensure that the number of designated seating positions and occupant restraint systems in a vehicle is representative of real world occupancy.

The proposed rule would also revise the general incorporation by reference provision for the FMVSSs by providing a centralized index of all matters therein incorporated by reference.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than August 22, 2005.

ADDRESSES: You may submit comments [identified by the DOT DMS Docket Number above] by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- 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 am and 5 pm, Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the Supplementary Information section of this document. 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 under Rulemaking Analyses and Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Philip Oh of the NHTSA Office of Vehicle Safety by telephone at (202) 493–0195, and by fax at (202) 493–2290.

For legal issues, you may contact Christopher Calamita of the NHTSA Office of Chief Counsel by telephone at (202) 366–2992 and by fax at (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

Motor vehicle manufacturers are required to designate which locations in their vehicles are seating positions. The designation of a location as a seating position is important for a variety of reasons. For example, passenger cars are required, under Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire and rim selection,* to be clearly labeled with a maximum seating capacity. Moreover, FMVSS No. 208, *Occupant crash protection,* requires that each designated seating position, as defined in 49 CFR 571.3, in a light vehicle [1] be provided with the appropriate occupant crash protection system (*e.g.*, air bag, safety belts or both). If a vehicle has fewer designated seating positions than the number of seated individuals actually occupying it, some occupants would not be protected by safety belts or other crash protection systems.

In 1978, the agency expressed concern with the common practice of designating front seats as having two seating positions, although they had capacity to accommodate three adults (43 FR 21892; May 22, 1978; Docket No. 78–13). As a result of this practice, front center passengers were not provided with safety belt assemblies. In response to this concern, the agency amended the definition of ''designated seating position'' to specify dimensional parameters. The agency stated that this was ''intended to ensure that all positions likely to be used for seating will be equipped with occupant restraint systems'' (44 FR 23229; April 19, 1979). The portion of the definition of ''designated seating position'' relevant to the above discussion remains unchanged today.[2]

As discussed below, however, field data regarding vehicle occupancy indicates that there is some ambiguity in the current definition and that it might not always require what we believe should be a full complement of designated seating positions (DSPs) to accommodate real world use.

II. Safety Problem

Vehicle seat design and motor vehicle crash data indicate that in some instances real world occupancy rates exceed the number of designated seating positions in a vehicle, particularly on bench and split seats. The agency has placed a Preliminary Regulatory Evaluation (PRE) in the docket for this rulemaking that details our findings. Within the report, a survey of vehicle crash and fatality reporting systems data indicates that three passengers are occupying seats designated as having two seating positions (2–DSP seats). The agency reviewed and compared incidents involving three passengers occupying either a 2–DSP rear seat or a rear seat with three designated seating positions (3–DSP seat).

Additionally, the PRE shows a significant decrease in the belt usage rate when comparing incidents in which two passengers occupied a 2–DSP seat to incidents in which three passengers occupied a 2–DSP seat. The 1997 to 2001 National Automotive Sampling System (NASS) data indicated a drop in the belt usage rate for these cases from 53.25 percent to 27.67 percent, respectively. These FARS data indicate that an occupant is at higher risk when he or she is one of the three occupants in a rear 2–DSP seat than when in a 3–DSP seat. These risks appear to be independent of vehicle size and the presence of padded or carpeted barriers that are intended to limit capacity.

Vehicle size may not adequately limit the number of passengers occupying a vehicle seat from exceeding the designated capacity. The fatality rate for a passenger occupying a rear 2–DSP seat together with two other passengers was only slightly lower for occupants in a Geo Metro, a sub-compact, than the average rate for occupants of all vehicles surveyed: 6.02 versus 6.07 fatalities per one million registered vehicles.

The rate at which one of the three passengers occupying a 2–DSP seat is killed in a motor vehicle crash also appears to be independent of the presence of physical features, other than those discussed in the next paragraph, intended to limit occupancy. The Chevrolet Camaro, which features a carpeted drive shaft tunnel that separates the two rear designated seating positions, had a similar fatality rate to that of the Ford Mustang. While the Camaro has a carpeted barrier, the Ford Mustang has a rear bench seat with no barrier between the two designated seating positions. The fatality rate for instances of three passengers occupying a 2–DSP seat was actually slightly higher for the Camaro than for the Mustang; 7.81 versus 7.51 fatalities per one million registered vehicles, respectively.

Conversely, available data demonstrate that certain physical obstructions in the second row of seating can effectively limit the number of occupants to the number of designated seating positions. The Saturn SC Coupe 2 Door had no FARS fatalities involving three occupants in its 2–DSP second row of seating, and the Acura Integra 2 Door had only 2.44 such fatalities per one million registered vehicles. Both the Saturn SC Coupe and the Acura Integra had a hard plastic console that divides the rear seat into two seating positions, limiting seating capacity.

In cases in which the same vehicle model was manufactured in both a two-door (2–DSP second row seating) and a four-door (3–DSP second row seating) version, the PRE shows that the incident rate for occupants of the rear seat of the two door version, when occupied by three passengers, was two-thirds of that of the four-door version, or higher. While the incident rates may not directly correlate to the frequency of three occupants using a 2–DSP seat, the

[1] NHTSA uses the term ''light vehicle'' to refer to passenger cars, multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of not greater than 10,000 lb.

[2] The definition was amended again in 1995 to allow each wheelchair position to count as four designated seating positions for the purpose of determining vehicle classification in school buses only (57 FR 15504; March 24, 1995).

rates demonstrate that seats designated as having only two seating positions are being used by three occupants. As a result, at least one occupant would not have access to a safety belt assembly. A survey of State Data System (SDS) accident reports compared the two-door (with 2–DSP second row seating) and the four-door (with 3–DSP second row seating) models of the Ford Explorer and the Chevrolet S10 Blazer. The incident rate for second row occupants when three passengers occupied the second row of the two-door Ford was approximately 64 percent of that of the four-door model. For the Chevrolet models, incidents involving three passengers occupying the second row seat for the two-door model occurred at a rate of 78 percent of that of the four-door model.

III. Proposed Amendments

The agency is proposing to amend the definition of ''designated seating position'' to better ensure that seating position designations more accurately reflect real world occupancy. The proposed amendment would define ''designated seating position'' based on available hip room as measured according to procedures established by the Society of Automotive Engineers (SAE), with qualifications to provide for measurement of the largest hip room dimension and the incorporation of H-point in the measurement procedure. We are also proposing a formula to determine the appropriate number of designated seating positions on bench and split bench seats according to the hip room measurement. The formula proposed in this document would further clarify the appropriate number of designated seating positions for a vehicle seat.

We note that while the agency was already working internally to address the safety concerns discussed above, we received a petition for rulemaking from Strategic Safety requesting that the agency establish a more objective method for determining the number of designated seating positions (September 10, 2002; Docket No. NHTSA–2002–11398–7). Since the agency had already initiated work on the issue raised by Strategic Safety, we view its petition as moot.

A. ''Designated seating position''

If made final, today's proposal would establish a definition of ''designated seating position'' that is more reflective of the occupancy rates experienced in the real world. By expressly relying on a hip room measurement for a 5th percentile adult female, instead of the somewhat less precise and less certain criteria of being large enough to accommodate such a person, the definition would provide for more objective determinations of what is a ''designated seating position.''

We are also making the definition more objective by proposing to remove language that relies on the likelihood that a location will be used as a seat while a vehicle is in motion. Currently, a designated seat position is defined, in part, as:

> [Any] plan view location capable of accommodating a person at least as large as a 5th percentile adult female, if the overall seat configuration and design and vehicle design is such that the position is likely to be used as a seating position while the vehicle is in motion [.]

As evidenced by the current vehicle fleet experience, we believe that the ''likely to be used'' language does not provide adequate objectivity to determine when a vehicle seat designation is required. This difficulty leads to a safety concern when the number of seating positions designated for a seat differs from the real world occupancy of that seat. Therefore, we are proposing to replace the ''likely to be used'' language and incorporate the term ''seat,'' into the definition.

In relying on the term ''seat,'' we recognize that it is not practicable to design a vehicle to prevent all potential occupant misuse of interior positions. However, we believe there is abundant notice to drivers and occupants of light vehicles that the use of safety belts is essential, and therefore, that sitting in a location in a vehicle that is not equipped with a safety belt is inappropriate and dangerous. Vehicle literature and advertising, as well as numerous public outreach programs, inform and remind the public of the need to wear safety belts while riding in a vehicle. Vehicle owner's manuals are replete with exhortations on the importance of always wearing a safety belt. Further, the warning label required to be on the visor in every light vehicle expressly tells vehicle occupants to wear safety belts always. The public's awareness of these messages is evidenced by the fact that the national safety belt use rate increased from 71 percent in 2001 to 80 percent in 2004, an all time high.

Consistent with the current definition, the proposed definition would be based on accommodating a 5th percentile adult female.[3] However, unlike the current definition, the proposed definition would expressly and exclusively rely on a hip room measurement. A designated seating position would be any seating location that has at least 330 mm (13 inches) of hip room,[4] when measured according to the procedure described below.

B. Measuring Hip Room

NHTSA is proposing to establish a revised procedure for measuring hip room and to place it in a new section, § 571.10, *Designation of seating positions*. Section 571.10 would set out, with several modifications, the procedure in SAE Recommended Practice J1100 rev. February 2001, ''Motor Vehicle Dimensions,'' for measuring hip room. Under SAE J1100 rev. February 2001, hip room of a seat is the minimum dimension measured laterally between the interior trim[5] of a vehicle on the ''X'' plane through the seating reference point (SgRP) within 25 mm (1 inch) below, and 76 mm (3 inches) above the SgRP and 76 mm (3 inches) fore and aft of the SgRP. However, under the proposal, we would use the H-point as a reference as opposed to the SgRP. SgRP is a design point designated by a manufacturer, while the H-point is determined by measurements within the vehicle. Reliance on the H-point would permit making measurements across an array of seat positions, independent of a manufacturer's designation.

While the SAE procedure uses the minimum dimension measured laterally between interior trim of a vehicle on the ''X'' plane through the seating reference point, the agency is proposing to use the maximum dimension. Further, in the case of adjustable seats, the proposal would use the position that produces the maximum value. These two aspects of the proposal would result in the largest realistic hip room being measured, and thus would more accurately account for all potential seating. Further, the width of a seat would include any void between the seat and the adjacent interior trim or adjacent seat unless the void meets certain dimensional criteria.

Hip room would be considered to be continuous under § 571.10, unless there is a separation greater than 150 mm (5.9

[3] In examining the fatalities that occurred when a seat was occupied by more occupants than there were occupant protection systems, we found no definite skew toward child fatalities from the age distribution in the FARS data that would indicate a need to consider basing the definition on younger, smaller occupants.

[4] The 5th percentile female hip width specified in S7.1.4 of FMVSS No. 208 is of 325 mm (12.8 inches). We rounded the measurement to 330 mm (13 inches) for purposes of the formula proposed below.

[5] Interior trim is a molded plastic, fabric or other non-supportive surface within the occupant compartment (e.g., a molded arm rest, a carpeted door panel, etc.).

inches) between adjacent seat cushions, or between a seat cushion and the vehicle interior, and the separation contains either:

(1) A fixed, unpadded impediment that is at least 5 mm (0.2 inches) higher than the highest point on the upper surface of the seat cushion when viewed in profile, which extends for greater than two-thirds of the horizontal depth of the seat cushions;[6]

(2) A void that can accommodate a rectangular box 150 mm (5.9 inches) wide, 150 mm (5.9 inches) high, and two-thirds of the horizontal depth of the seat cushion in length, with the box sitting 2 mm (0.08 inches) below each point on the top profile of the seat cushion [7]; or

(3) A parking brake or gear shift handle, that when placed in the lowest possible position, is at least 25 mm (1.0 inches) higher than the highest point of the seat cushion.

These criteria are based on the designs observed in the FARS study and noted in the PRE, which demonstrated that impediments such as carpeted barriers are ineffective at preventing three people from sitting on a seat with only two designated seating positions. The agency requests comments on whether these specifications would result in seat designations more reflective of real world occupancy rates.

C. Number of Designated Seating Positions

Section 571.10 would also provide equations for use in determining the number of ''designated seating positions'' on a seat. The proposed equations for calculating the number of designated seating positions would be dependent upon the overall continuous hip room. For seats with less than 1400 mm (55 inches) of hip room, the measured hip room would be divided by 400[8] and rounded to the nearest whole number to produce the number of designated seating positions. For example, seats with approximately 1007 mm (39.5 inches) of hip room would be designated as having three seating positions.[9]

Based on the vehicles surveyed in the PRE, at a seat width of 1007 mm (39.5 inches) and more, three occupants were more likely to occupy a 2–DSP seat, unless a non-padded barrier was present. Requiring seats at least this width or wider to be designated as having three seating positions would present manufacturers several options for compliance. Manufacturers could comply by redesigning their seats to include the appropriate impediment, provide the necessary void between adjacent seat cushions, or by installing an additional seat belt assembly. We anticipate that manufacturers would be more likely to redesign such seats, if needed, to incorporate an impediment or void as necessary. The potential vehicle packaging and marketing issues associated with the addition of a seat belt assembly, along with compliance implications (e.g., dynamic crash testing, cargo capacity, etc.) would make this option unlikely. Additionally, issues of comfort might arise as a result of three occupants being seated at the location. Space limitations may make it difficult for occupants to use their respective safety belts when three occupants are seated at such a location.

For seats with 1400 mm (55 inches) or more of hip room, the measured hip room would be divided by 450 and rounded to the nearest whole number. The purpose of picking 450 as the divisor is to prevent larger 3–DSP seats from having to be designated as 4–DSP seats. The data do not demonstrate a problem with 3–DSP seats being occupied by four passengers, and does not demonstrate the potential for any benefit from such a requirement. In addition, for larger vehicles with longer bench seats (e.g., shuttle buses and limousines), the 450 divisor results in a designated seating position width that aligns with the width typically used by seating manufacturers. The rationale for using two different equations is further discussed in the Benefits and Costs section.

Under the current definition, any bench or split bench seat in a passenger car, truck, or multipurpose passenger vehicle with a gross vehicle weight rating (GVWR) less than 4,536 kilograms (10,000 lb), having greater than 1270 mm (50 inches) of hip room shall not have less than three designated seating positions. Under the proposed definition, the calculation for determining the number of designated seating positions on a bench or split seat would apply to all vehicles equipped with such seats regardless of the vehicle weight.

D. H-Point

This document also proposes to update the definition of ''H-Point,'' which is referred to in the proposed definition of ''designated seating position.'' The current definition of ''H-Point'' references the ''H-Point'' definition in SAE Recommended Practice J826, ''Devices for use in Defining and Measuring Vehicle Seating Accommodation'' (1962). Since the establishment of the ''H-point'' definition in 49 CFR § 571.3, SAE J826 has been updated (revised July 1995) and now refers to SAE J1100 for defining ''H-Point.'' This rulemaking proposes to reference SAE J1100 directly in defining ''H-point.'' While SAE J826 has been updated, there has been no significant change to the definition of ''H-Point.'' Further, the proposed ''H-point'' definition would specify that the H-point is to be determined using the 3–D test fixture.

E. Auxiliary Seating and Safety Belt Anchorages

We are proposing to include auxiliary seats and jump seats in the definition of ''designated seating position.'' Currently, the definition does not include these seats. Since these seats are not designated seating positions, they are not subject to the occupant crash protection requirements applicable to designated seating positions (e.g., safety belt requirements).

Presently, the agency urges that all occupants in light vehicles be appropriately restrained when a motor vehicle is in operation. When the agency originally adopted the designated seating position definition, safety belt use rates were well below 20 percent and the focus of the agency was not on temporary seats. Now that safety belt use rates are much higher, the agency is focused on all occupants being properly restrained. This includes those occupants on auxiliary seats.

If the proposed definition is adopted, auxiliary seats and folding jump seats would be required to meet all requirements in FMVSSs applicable to designated seating positions, including the requirements of FMVSS No. 210, *Seat belt assembly anchorages.*

Traditionally, manufacturers have classified some side-facing seats in light vehicles as auxiliary or jump seats. The current test procedures for the anchorage strength requirements as specified in S5.2 of FMVSS No. 210 were designed for forward and rear facing seats only. Under S5.2, a force must be applied in the direction in which the seat faces in a plane *parallel* to the longitudinal centerline of the vehicle. For side-facing seats, including auxiliary or jump seats, the direction that the seat faces is perpendicular to the longitudinal centerline of the

[6] A surface covered in carpet or other padding would not meet this condition. This is in response to the FARS incident data that showed the carpeted drive shaft tunnel failed to act as an impediment.

[7] See Figure 1 of the proposed regulatory text.

[8] Other international standards use a similar number to determine the number of seating positions; i.e., Australian Design Rule 5, Section 10; Automobile Type Approval Handbook for Japanese Certification, Section 11–1, Article 22.

[9] 1007 mm of measured hip room divided by 400 equals 2.5, which would then be rounded up to three.

vehicle. Consequently, a force cannot be applied simultaneously in the direction that a side-facing seat faces and in a plane parallel to the longitudinal centerline of the vehicle. To permit strength testing of seat belt anchorages at side-facing designated seating positions, we are proposing to amend S5 of FMVSS No. 210 to specify that for side-facing seats, the specified force would be applied in the direction that the seat faces in a vertical plane perpendicular to the longitudinal centerline of the vehicle.

F. Preemption

Under 49 U.S.C. 30103(b), when a safety standard is in effect under the FMVSSs, a State is preempted from adopting or retaining a standard that imposes a different standard of performance, except for vehicles obtained for its own use. This express preemption clause has been interpreted as limited to State statutes and regulations based on the presence in the Safety Act of a provision stating that compliance with a FMVSS does not exempt ''any person from any liability under common law'' (49 U.S.C. 30103(c); ''saving clause'').[10] However, neither the express preemption clause (by negative implication) nor the saving clause bars the preemption of state common law in instances in which state law (tort law) conflicts with uniform Federal safety regulations of national applicability.[11]

The definition of ''designated seating position'' would be established in the section for common definitions for the FMVSSs to accomplish NHTSA's essential safety objectives. As described below, differing definitions would not provide the important safety benefits that NHTSA envisions and could instead be detrimental to safety. Hence, any differing requirements would ''prevent or frustrate the accomplishment of a federal objective.'' *Crosby* v. *National Foreign Trade Council,* 530 U.S. 363 (2000). Therefore, if the proposed definition of ''designated seating position'' would be made final, section 30103(b) would preempt State statutes and regulations requiring the designation of more or different seating positions than those required by that definition.

In addition, if made final, this definition of ''designated seating position'' would preempt any conflicting determinations in state tort law as to whether a location is or ought to be a designated seating position. A tort law determination premised on the designation of more designated seating positions than those required by the proposed definition could have a negative safety impact. Such a determination could result in a location being equipped with a greater number of safety belts than required under the Federal standards. The installation of an excessive number of safety belts might decrease, not increase, safety. Seat belt comfort and convenience are important factors affecting the level of safety belt use. Occupants might be less likely to use safety belts because limited space would make such use difficult or uncomfortable (i.e., if too many safety belts were installed at a location, some occupants may end up sitting on buckles or be prevented from reaching his or her respective belt by the presence of another occupant). The potential for such a scenario would frustrate the efforts of this agency to base the number of designated seating positions, and thus the number of safety belts, on reasonably anticipated occupancy levels. This would hamper our efforts to promote increased safety belt use rates.

IV. Benefits and Costs

The agency has tentatively determined that there are three ways for manufacturers to address the proposed amendment to DSP: Add a lap/shoulder belt; create a space between the seats to restrict the number of seating positions; and design an impediment to reduce the likelihood of people sitting in between the outboard seats. If manufacturers were to add additional lap/shoulder belts, 5 lives would be saved and 41 AIS[12] 2–5 injuries would be prevented annually once the proposal is fully implemented. We believe the other two options would provide somewhat less benefit than supplying a lap/shoulder belt, although we are unable to quantify the benefits of an impediment and void because the benefits are influenced by occupant behavior. The cost of the proposed change in the DSP definition would depend on which options manufacturers implemented, ranging from approximately $12 million to $41.7 million.

The proposed inclusion of side-facing seats, jump seats, and auxiliary seats in the definition of designated seating position is not reflected in the benefit and cost analysis. The agency is unaware of any current vehicles with side-facing, jump seats, or auxiliary seats that would not already comply with this proposal, if it were made final.

Benefits

To estimate the number of lives saved and injuries that would be prevented if manufacturers chose to add safety belts, the agency relied on belt use rates, the estimated effectiveness of rear lap/shoulder belts, and the potential injuries and fatalities to unbelted rear seat occupants. Based on these estimates, the agency has tentatively determined that 5 lives would be saved, and 41 AIS 2–5 injuries would be prevented, annually.

To estimate seat belt usage, the agency relied on an adjusted average of the rear seat left, middle, and right positions derived from seat belt use rates generated by the General Estimates System (GES) and National Occupant Protection Use Survey (NOPUS).[13] Because GES data rely on reporting from vehicle occupants, it may overstate seat belt use. To correct for this, the agency divided the GES estimates by the seat belt use rate observed in the June 2002 NOPUS study to obtain a conservative usage rate.[14] This adjusted factor was then applied to an average of seat belt use rates for the rear left, rear middle, and rear right seat positions to generate a seat belt use rate of 64.6 percent for passenger cars and 64.1 percent for light trucks and vans (LTVs).

Based on previous studies, the agency has estimated the effectiveness of lap/shoulder belts in the rear seat of passenger cars and LTVs as follows:

ESTIMATED PERCENT EFFECTIVENESS OF REAR SEAT SAFETY BELTS [1]

Passenger cars	Rear seat lap/shoulder belt
AIS 2–5	[2] 49
Fatalities	44
LTVs	
AIS 2–5	[2] 78

[10] *Geier* v. *American Honda Motor Co., Inc.,* 529 U.S. 861 (2000).

[11] ''[T]he saving clause (like the express pre-emption provision) does not bar the ordinary working of conflict pre-emption principles.'' *Geier* v. *American Honda Motor Co., Inc.,* 529 U.S. 861, 869, emphasis original. Indeed, though we are setting forth the agency's intention in this particular matter, ''the failure of the **Federal Register** to address pre-emption explicitly is thus not determinative. *Id.* at 884.

[12] The AIS or Abbreviated Injury Scale is used to rank injuries by level of severity. An AIS 1 injury is a minor one, while an AIS 6 injury is one that is currently untreatable and fatal.

[13] Data for GES come from a nationally representative sample of police reported motor vehicle crashes of all types, from minor to fatal and relies in part on statements made by vehicle occupants. NOPUS data is generated through direct observation of occupant behavior.

[14] Because NOPUS is based on direct observation of occupant behavior as opposed to occupant reporting, the seat belt use rate is less likely to be overstated.

ESTIMATED PERCENT EFFECTIVENESS OF REAR SEAT SAFETY BELTS [1]—Continued

Passenger cars	Rear seat lap/shoulder belt
Fatalities	73

[1] "Final Regulatory Impact Analysis Extension of the Automatic Restraint Requirements of FMVSS No. 208 to Trucks, Buses, and Multipurpose Passenger Vehicles with a Gross Vehicle Weight Rating of 8,500 Pounds or Less and an Unloaded Vehicle Weight of 5,500 Pounds or Less," NHTSA, Plans and Policy, Office of Regulatory Analysis, November 1990.

[2] Assumed based on 5 percent increase in effectiveness of front seat AIS 2–5 injuries over fatalities.

The agency then estimated the potential injuries and fatalities that would occur if in instances in which three passengers occupied a second row seat with two designated seating positions and none of these passengers were restrained, to be 77 AIS 2–5 injuries and 21 fatalities. The agency also estimated the potential injuries and fatalities for LTV occupants in the same circumstances to be 111 AIS 2–5 injuries and 13 fatalities. All rear seat occupants were included in the analysis after initially concluding that the improper seating configuration would potentially affect all rear seat belt usage. The belt usage data showed a significant decrease in rate when comparing incidents in which two passengers occupied a 2–DSP seat to incidents in which three passengers occupied a 2–DSP seat; 53.25 percent belted rate versus 27.67 percent belted rate, respectively.

To compute the potential injuries prevented and lives saved, the agency multiplied the number of potential injuries by the effectiveness of the lap/shoulder belt and by the belt usage rate. This resulted in an estimation of 11 AIS 2–5 injuries and 2 fatalities prevented for passenger car occupants and 30 AIS 2–5 injuries and 3 fatalities prevented for LTV occupants. For a detailed discussion of the benefits calculation, see the preliminary regulatory evaluation placed in the docket for this rulemaking.

The benefits of incorporating a void or an impediment depend upon the occupant's response to the void or impediment. In some scenarios, the benefits would be the same as providing a lap/shoulder belt; *i.e.*, at the time of a vehicle purchase, if a consumer recognizes that there is not enough room for an additional passenger, even for occasional trips, the consumer may choose another model vehicle that has three designated seating positions. In this instance, three safety belts would be available, and the benefits would be the same as supplying a third safety belt.

If a seating position were unavailable (because of a void) or uncomfortable (because of an impediment), an occupant would be less likely to occupy that space. This would force the extra passenger either to forego the trip or to go in another vehicle. In either instance, this reduces the risk of three occupants occupying a 2–DSP seat. If a seating position is unavailable (because of a void) or uncomfortable (because of an impediment), but three occupants sit in the back seat regardless, no benefits will accrue.

Although we cannot estimate the benefits of a void or impediment, it appears that the overall benefits of providing a void or impediment would be somewhat less than supplying a lap/shoulder belt.

Costs

The cost of the proposed amendments would depend on whether a vehicle manufacturer maintained the two seating position designation for a vehicle's rear seat or if the manufacturer increased the designated number of seating positions for the rear seat to three. If a manufacturer were to maintain a seat's 2–DSP designation under the proposed definition, it could design an appropriate impediment between seat cushions or design an appropriate void. While there has been no detailed analysis of the cost of installing an impediment, the agency has estimated a cost based on the dealership retail prices. The total cost of installing a rear seat console to impede usage in passenger cars is approximately $8.03 million (688,207 × $11.67) and in LTVs is approximately $3.94 million (337,761 × $11.67). The actual cost may be less than the estimated amount since the agency did not assume a decrease in seat cost for the reduction of the seat foam material needed.

A manufacturer may also choose to employ a void. For passenger cars, incorporation of a void in the rear seats may produce no added cost; material could be taken out, but the seat would have to be stitched (more labor) to have the void appear finished. Manufacturers could also replace a bench seat with two bucket seats. We estimate the additional cost for substitution at $18.33 per replaced bench seat. If all affected vehicles had bench seats replaced with bucket seats, the total cost would be approximately $18.88 million.

A manufacturer could also choose to increase the number of designated seating positions at a seat and provide an additional seat belt as required under FMVSS No. 208. FMVSS No. 208 requires passenger cars, trucks, multipurpose passenger vehicles or buses with a GVWR less than 4,356 kilograms (10,000 pounds) to have seat belt assemblies for each designated seating position. The agency recently published a final rule requiring lap/shoulder belt assemblies in the rear center designated seating positions (69 FR 70904; December 8, 2004; Docket No. NHTSA–04–18726; Notice 1). Therefore, it used the cost of the lap/shoulder belt assembly in that rulemaking to estimate the cost of this compliance option.

For this analysis, the agency relied on an estimated average cost of installing a lap/shoulder belt in the rear center seat of $29.85.[15] For LTVs, the agency expects the rear center seat belt costs to be similar to those of passenger cars. Again, using the model year 2003 sales figure, we estimate that the cost for installing lap/shoulder belts in the rear center seats of vehicles with an increased number of designated seating positions would be approximately $30.74 million (1.03 million vehicles × $29.85).

For some vehicles, the addition of a seat belt assembly to the rear center seat would also require reinforcement of the seat to accommodate an anchorage for the shoulder portion of a lap/shoulder seat belt assembly. The rear seat of passenger cars and pick up trucks would not need to be reinforced because the anchors for the shoulder belt could be attached to the back package shelf or down to the floor frame of the vehicle without impinging on the floor space or trunk space. However, this would not be the case for passenger vans and sport utility vehicles (SUVs). In those instances, the floor space where an anchorage may be required would be located in occupant or cargo space. Therefore, the anchorage would need to be attached to the seat itself and the seat would need to be reinforced. This reinforcement would cost $32.79 ($2003) per seating position. The agency estimates that 337,761[16] vehicles would need to reinforce the rear seat to accommodate an additional seat belt assembly. The total cost of strengthening the rear seats of passenger vans and SUVs to accommodate the shoulder portion of the lap/shoulder belt would be $11.08 million ($32.79 × 337,761 vehicles). This would bring the total cost for adding lap/shoulder belts to the rear seats of motor vehicles increasing the second row seating

[15] In year 2003 dollars ($2003).

[16] Based on estimated model year 2003 sales of passenger vans and SUVs.

position from 2–DSP to 3–DSP to $41.7 million ($2003).

As previously stated, the proposed equation for calculating the number of designated seating positions varies depending on overall hip room; for seats with less than 1400 mm of hip room, the hip room is divided by 400, while a hip room measurement of anything equal to greater than 1400 mm would be divided by 450. If we used a divisor of 400 for all seats, regardless of width, a seat with 1400 mm of hip room would increase from 3–DSP under the existing definition in section 571.3 to a 4–DSP seat. Benefits for such a redesignation would be minimal because the rate at which four persons occupy a seat location currently designated as a 3–DSP seat is low. Further, the number of LTVs that would need to be modified would increase by approximately 3.4 times, resulting in cost range of $40.53 million to $217.6 million.

V. Incorporation by Reference

Under 1 CFR part 51, *Incorporation by Reference,* the agency must declare that the Director of the Federal Register has approved incorporation by reference of a publication into a regulation. If made final, this proposal would amend the general incorporation by reference provision at § 571.5, *Matters incorporated by reference,* to include a centralized index of all of the publications incorporated into part 571.

VI. Effective Date

If adopted, the amendments proposed in this rulemaking action would become effective on the third September 1st after the date of publication of a final rule in the **Federal Register**. For example, if a final rule were adopted on December 1, 2005, the rule would be effective beginning September 1, 2008. As stated above, we anticipate that manufacturers would incorporate a void or barrier in 2–DSP vehicle seats that, as currently configured, would become classified as having three designated seating positions. This would require less redesign than equipping these seats with an additional seat belt assembly. Based on this assumption, we have tentatively concluded that a minimum of two years would be adequate time for manufacturers to make any necessary changes. We request comment on this tentative conclusion.

VII. Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. (49 CFR 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto the Docket Management System website at *http://dms.dot.gov*. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[17] Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html*. DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf*.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''Simple Search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''Search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you

[17] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

periodically check the Docket for new material.

VIII. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budget impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This document proposes to amend the definition of designated seating position in 49 CFR 571.3. The proposed amendment would provide an objective procedure for determining the number of designated seating positions present in a vehicle, and provide manufacturers with a more objective method for delineating designated seating positions. Under the proposed definition, manufacturers could maintain a vehicle's current number of designated seating positions by incorporating design changes at a cost of $11.97 million. By way of example, the Subaru Baja is currently equipped with a barrier that would maintain a 2–DSP designation for the second row seat under the proposed amendment. Further, several previous vehicle models, *e.g.*, the Saturn SC Coupe and Acura Integra 2-door, were similarly equipped.

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The agency has prepared a regulatory evaluation as required by the DOT policies and procedures. A copy of that evaluation has been placed in the docket for this rulemaking.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this proposed action on small entities. I hereby certify that this notice of proposed rulemaking would not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). If adopted, the proposal would directly affect motor vehicle manufacturers and motor vehicle seat manufacturers. According to the size standards of the Small Business Association (at 13 CFR Part 121.601), the size standard for manufacturers of ''Automobile Manufacturing'' (NAICS Code 336111) is 1,000 employees or fewer. Manufacturers of vehicle seats are considered manufacturers of ''Motor Vehicle Seating and Interior Trim Manufacturing'' (NAICS Code 336360). The size standard for NAICS Code 336360 is 500 employees or fewer.

The majority of motor vehicle manufacturers would not qualify as a small business. These manufacturers, along with manufacturers that do qualify as a small business, would be able to maintain the current vehicle designated seating position designation through design changes outlined in the proposed definition. The definition would not require vehicles to have a certain number of designated seating positions, but would provide an objective metric to define the number of designated seating positions for a given seat.

Most of the seat manufacturers have 500 or fewer employees. But again, if design changes are required to maintain a seats 2–DSP designation, this could be done by designing a void to the specifications in the proposed definition at a minimal cost per seat. Accordingly, there would be no significant impact on small businesses, small organizations, or small governmental units by these amendments. For these reasons, the agency has not prepared a preliminary regulatory flexibility analysis.

C. Executive Order No. 13132

NHTSA has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132, Federalism and has determined that this proposal does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The proposal would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. The proposed rule has no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

The proposed rule is not intended to preempt state tort civil actions, except that the determination in those actions of what is a ''designated seating position'' would be governed by the definition and procedure contained in the Federal motor vehicle safety standards. We are unaware of any State standards or determinations setting forth a conflicting definition of ''designated seating position.'' Therefore, the agency believes that federalism implications from this preemption would be minor.

D. National Environmental Policy Act

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

E. Paperwork Reduction Act

This proposed amendment does not contain any collection of information requirements requiring review under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

F. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.''

The proposed amendment is based on the technical standard SAE J1100 ''Motor Vehicle Dimensions,'' revised February 2001 and incorporate SAE J826 ''Devices for use in Defining and Measuring Vehicle Seating Accommodations,'' revised July 1995. While the procedure for measuring hip room would be based on SAE J1100, the proposed procedure include several qualifiers. First, the proposed procedure would use the H-point rather than the SgRP. Second, the proposed procedure would use the maximum dimension

measured laterally between the trimmed surface on the ''X'' plane through the H-Point rather than the minimum. In addition, in the case of adjustable seats, the proposed procedure would use the position that would produce the maximum value. These qualifiers would allow for the largest realistic hip room to be measured, which would account for all potential seating. Finally, this proposal clearly states what is to be considered continuous seating area for the purposes of measuring hip room. This qualifier would objectively define what constitutes a discontinuity, *i.e.*, an impediment or void between seat cushions that would be considered sufficient to prevent occupant use.

G. Civil Justice Reform

This proposal would not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. As explained above, we are further proposing that the definition of ''designated seating position'' established in the Federal motor vehicle safety standards preempt State law, including State tort law, from establishing a definition that is not identical. We have tentatively determined that such preemption is required to eliminate the potential for varying definitions, which could result in a loss in safety. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This rulemaking would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health, or safety risks that disproportionately affect children. The proposed rule, if made final, would amend the definition of ''designated seating position.''

J. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If made final, this rulemaking would not be a significant energy action. Therefore, this proposal was not analyzed under E.O. 13211.

K. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

L. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

M. Privacy Act

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Part 571 as follows:

1. The authority citation for part 571 would continue to read as follows:

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

2. 49 CFR 571.3(b) would be amended by revising the definition of ''designated seating position'' and ''H-point'' to read as follows;

§ 571.3 Definitions.

* * * * *

(b) * * *

Designated seating position means a seat location that has at least 330 mm (13 inches) of hip room measured according to § 571.10(b) of this part. The number of designated seating positions at a seat location is determined according to the procedure set forth in § 571.10(a) of this part. For the sole purpose of determining the classification of any vehicle sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events, any location in such vehicle intended for securement of an occupied wheelchair during vehicle operation is

regarded as four designated seating positions.

* * * * *

H-Point means the Pivot Center of the torso and thigh on the Three-Dimensional device used in defining and measuring vehicle seating accommodation, as defined in SAE Recommended Practice J1100 rev. February 2001.

* * * * *

3. 49 CFR 571.5 would be revised to read as follows:

§ 571.5 Incorporations by reference.

(a) The materials listed in this section are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval unless a date is specified, and notice of any change in these materials will be published in the **Federal Register**. The materials are available for purchase at the corresponding addresses noted below, and all are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC 20001 and at the Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(b) The following materials are available for purchase from the American Association of Textile Chemists and Colorists (AATCC). Information and copies may be obtained by writing to: AATCC, 1 Davis Dr., P.O. Box 12215, Research Triangle Park, NC 27709.

(1) AATCC Geometric Gray Scale, incorporation by reference (IBR) approved for S4.2 and S5.1 of § 571.209.

(2) AATCC Test Method 381, Fungicides Evaluation on Textiles; Mildew and Rot Resistance of Textiles: Test I, Soil Burial Test; Appendix A(1) and Appendix A(2), IBR approved for S4.2 and S5.1 of § 571.209.

(c) The following materials are available for purchase from the American National Standards Institute (ANSI). Information and copies may be obtained by writing to: ANSI, 1700 North Moore St., Suite 1540, Arlington, VA 22209–1903.

(1) Determination of Coefficient of Friction of Test Surfaces, WC/Vol I–1998, Section B, IBR approved for S7.2.2 of § 571.403.

(2) Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways-Safety Standard, ANSI/SAE Z26.1–1996, Approved on August 11, 1997, IBR approved for S5.1, S5.2, S5.4, S5.5, S6.2, and S6.3 of § 571.205.

(d) The following materials are available for purchase from the American Society for Testing and Materials (ASTM). Information and copies may be obtained by writing to: ASTM, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959.

(1) ASTM 1003–92, Haze and Luminous Transmittance of Transparent Plastic, IBR approved for S5.1.2 of § 571.108.

(2) ASTM B 117–64, Standard Method of Salt Spray (Fog) Testing, IBR approved for S6.9 of § 571.106; and S7.8.5.1, S8.4, and S8.10.2 of § 571.108.

(3) ASTM B 117–73, Standard Method of Salt Spray (Fog) Testing, IBR approved for S7.8.5.1 and S8.4 of § 571.108; S6.1.1 of § 571.125; and S5.2 of § 571.209.

(4) ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus, IBR approved for S7.3.2 of § 571.403.

(5) ASTM B 456–79, Standard Specification for Electrodeposited Coatings of Copper Plus Nickel Plus Chromium and Nickel Plus Chromium, IBR approved for S4.3 of § 571.209.

(6) ASTM B 456–95, Standard Specification for Electrodeposited Coatings of Copper Plus Nickel Plus Chromium and Nickel Plus Chromium, IBR approved for S5.3 of § 571.403.

(7) ASTM C 150–77, Standard Specification for Portland Cement, IBR approved for S8.5 of § 571.108.

(8) ASTM D 362–84, Standard Specification for Industrial Grade Toluene, IBR approved for S8.3 of § 571.108; and S5.1.1.1 of § 571.205.

(9) ASTM D 445–65 Standard Method of Test for Viscosity of Transparent and Opaque Liquids (Kinematic and Dynamic Viscosity), IBR approved for S6.3.3 of § 571.116.

(10) ASTM D 484–71, Standard Specifications for Hydrocarbon Dry Cleaning Solvents: Table 1, IBR approved for S7.1.1 of § 571.301.

(11) ASTM D 756–78, Standard Practice for Determination of Weight and Shape Changes of Plastics and Accelerated Service Conditions, IBR approved for S5.2 of § 571.209.

(12) ASTM D 1003–92, Haze and Luminous Transmittance of Transparent Plastic, IBR approved for S5.1.2 of § 571.108.

(14) ASTM D 1056–73, Standard Specification for Flexible Cellular Materials—Sponge or Expanded Rubber, IBR approved for S6.3.1 of § 571.213.

(15) ASTM D 1121–67, Standard Method of Test for Reserve Alkalinity of Engine Antifreezes and Antirusts, IBR approved for S6.4.2 of § 571.116.

(16) ASTM D 1123–59, Standard Method of Test for Water in Concentrated Engine Antifreezes by the Iodine Reagent Method, IBR approved for S7.2 of § 571.116.

(17) ASTM D 1193–70, Standard Specifications for Reagent Water, IBR approved for S7.1 of § 571.116.

(18) ASTM D 1415–68, Standard Method of Test for International Hardness of Vulcanized Natural and Synthetic Rubbers, IBR approved for S7.4.1 of § 571.116

(19) ASTM D 1564–71, Standard Method of Testing Flexible Cellular Materials—Slab Urethane Foam, IBR approved for S6.3.1 of § 571.213.

(20) ASTM D 1565–76, Standard Specification for Flexible Cellular Materials—Vinyl Chloride Polymer and Copolymer open-cell foams, IBR approved for S6.3.1 of § 571.213.

(21) ASTM D 2515–66, Standard Specifications for Kinematic Glass Viscosity, IBR approved for S6.3.2 and S6.3.6 of § 571.116.

(22) ASTM D 4956–90, Standard Specification for Retroreflective Sheeting for Traffic Control, for Type V Sheeting, IBR approved for S5.7.1.2 of § 571.108.

(23) ASTM E 1–68, Standard Specifications for ASTM Thermometers, IBR approved for S6.1.2 and S6.3.2 of § 571.116.

(24) ASTM E 4–64, Verification of Testing Machines, IBR approved for S6.4 and S8.9 of § 571.106.

(25) ASTM E 4–79, Standard Methods of Load Verification of Testing Machines, IBR approved for S5.1 of § 571.209.

(26) ASTM E 8–89, Standard Test Methods of Tension Testing of Metallic Materials (Volume 03.01 of the 1989 Annual Book of ASTM Standards), IBR approved for S6.2 and S6.3.1 of § 571.209.

(27) ASTM E 77–66, Standard Method for Inspection, Test and Standardization of Liquid-in-Glass Thermometers, IBR approved for S6.3.3 of § 571.116.

(28) ASTM E 274–65T, IBR approved for S8.2.5 and S8.3.2 of § 571.208; and S7.5.4 of § 571.301.

(29) ASTM E 274–70 (as revised July, 1974), IBR approved for S4 of § 571.105; and S4 of § 571.122.

(30) ASTM E 298–68, Standard Methods for Assay of Organic Peroxides, IBR approved for S6.11.3 of § 571.116.

(31) ASTM E 1136, Standard Specification for A Radial Standard Reference Test Tire, IBR approved for S6.9.2 of § 571.105; S5.3.6.1 and S6.1.7

of § 571.121; S6.2.1 of § 571.122; and S6.2.1 of § 571.500.

(32) ASTM E 1337–90, Standard Test Method for Determining Longitudinal Peak Braking Coefficient of Paved Surfaces Using a Standard Reference Test Tire, IBR approved for S6.9.2 of § 571.105; S5.3.6.1 and S6.1.7 of § 571.121; S6.2.1 of § 571.122; S6.2.1 of § 571.135; and S6.2.1 of § 571.500.

(33) ASTM G 23–81, Standard Practice for Generating Light-Exposure Apparatus (Carbon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials, IBR approved for S5.1 of § 571.209.

(34) 1985 Annual Book of ASTM Standards, Vol. 5.04, ''Motor Fuels,'' Section I, A2.3.2, A2.3.3 and A2.7 of Annex 2, IBR approved for S8.3 of § 571.108; and S5.1.1.1 of 571.205.

(35) 1989 Annual Book of ASTM Standards, IBR approved for S6.1.3, S6.2, and S6.2, of § 571.221.

(e) The following materials are available from the General Services Administration (GSA). Information and copies may be obtained by writing to: GSA, Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402: Federal Specification L–S–300 1965, Sheeting and Tape Reflective: None exposed Lens, Adhesive Backing, IBR approved for S5.1.1.4 of § 571.108.

(f) The following materials are available for purchase from the Illuminating Engineering Society (IES) of North America. Information and copies may be obtained by writing to: IES, 120 Wall St., 7th Floor, New York, NY 10005: LM–45 IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps (April 1980), IBR approved for S7.7 of § 571.108.

(g) The following materials are available from the Department of Defense. Information and copies may be obtained by writing to: Department of Defense, DODSSP Standardization Document Order Desk, 700 Robbins Ave., Philadelphia, PA 19111–5098

(1) MIL–S–13192, Shoes, Men's, Dress, 1976, IBR approved for S8.27.2 of § 571.201; and S6.13.2 of § 571.214.

(2) MIL–S–13192P, 1988, Military Specification, Shoes, Men's Dress, Oxford, Amendment 1, October 14, 1994, IBR approved for S8.1.8.2 of § 571.208.

(3) MIL–S–21711E, 1982, Military Specification, Shoes, Women's, Amendment 2, October 14, 1994, IBR approved for S16.2.5 of § 571.208.

(h) The following materials are available from the National Health Survey Data. Information and copies may be obtained by writing to: National Health Survey Data, Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402: 5th percentile adult female and 95th percentile adult male: Public health service Pub. No. 1000, Series 11, No. 8, ''Weight, Height, and Selected Body Dimensions of Adults,'' 1965, IBR approved for § 571.3.

(i) The following materials are available from the National Highway Traffic Safety Administration. Information and copies may be obtained by writing to: NHTSA, Office of Vehicle Safety Standards, DOT–NHTSA, 400 7th St., SW., Washington, DC 20590.

(1) Drawing Package, SAS–100–1000, Addendum A, Seat Base Weldment, dated October 23, 1998, IBR approved for S5.9 and S6.1.1 of § 571.213.

(2) NHTSA Standard Seat Assembly; FMVSS No. 213, No. NHTSA–213–2003, dated June 3, 2003, IBR approved for S5.9 and S6.1.1of § 571.213.

(j) The following materials are available for purchase from the Society of Automotive Engineers, Inc. (SAE). Information and copies may be obtained by writing to: SAE, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

(1) SAE J100, revised June 1995, Class 'A' Vehicle Glazing Shade Bands, IBR approved for S5.3 of § 571.205.

(2) SAE J186a, Supplemental High Mounted Stop and Rear Turn Signal Lamps, September 1977, IBR approved for S5.1.1.27 and S6.1 of § 571.108.

(3) SAE J211–1980 Instrumentation for Impact Tests, IBR approved for S5.9 and S6.1.1 of § 571.213; and S7.1.9 of § 571.218.

(4) SAE J211–1995 Instrumentation for Impact Tests ''Part 1 and 2, March 1995, IBR approved for S8.27.5 of § 571.201.

(5) SAE J211/1, Revised March 1995, Instrumentation for Impact Tests—Part 1, Electronic Instrumentation, IBR approved for S5.2.5(b), S5.3.8, S5.3.9, and 5.3.10 of § 571.202a; S4.13, S6.6, S13.1, S15.36, S19.4.4, S21.5.5, S23.5.5, and S25.4 of § 571.208; and S5.2 and S6.2.3 of § 571.403.

(6) SAE J211a–1971, Instrumentation for Impact Tests, IBR approved for S6.6.2 and S6.7.2 of § 571.222.

(7) SAE J222–1970, Parking Lamps (Position Lamps), IBR approved for S5.1.6 and Table III of § 571.108.

(8) SAE J227a FEB 1976, Electric Vehicle Test Procedure, IBR approved for S6.3.11.1 of § 571.135.

(9) SAE J387–NOV 1987, Terminology-Motor Vehicle Lighting, IBR approved for S5.1.1.11, S5.4, and S6.1 of § 571/108.

(10) SAE J527–1967, Brazed Double Wall Low Carbon Steel Tubing, IBR approved for S6.13.3 of § 571.116.

(11) SAE J564a–1964, Headlamp Beam Switching, IBR approved for S5.5.1 and S5.5.2 of § 571.108.

(12) SAE J565b–1969, Semi-Automatic Beam Switching Devices, IBR approved for S5.5.1 of § 571.108.

(13) SAE J566–1960, Headlamp Mountings, IBR approved for Table III of § 571.108.

(14) SAE J567b–1970, Bulb Sockets, IBR approved for Table III and Table IV of § 571.108.

(15) SAE J573d–1968, Lamp Bulbs and Sealed Units, IBR approved for S5.1.1.16, S5.1.1.17, Note 2 and 3 of Table IV of § 571.108.

(16) SAE J575 DEC88, Tests for Motor Vehicle Lighting Devices and Components, IBR approved for S6.1, S7.8.5.3, S11, Note 2 and Note 3 of Table IV of § 571.108.

(17) SAE J575, July 1983, Tests for Motor Vehicle Lighting Devices and Components, IBR approved for S6.2.3 of § 571.131.

(18) SAE J575d–1967, Test for Motor Vehicle Lighting Devices and Components, IBR approved for S5.8.3, S5.8.4, S11, and Table III of § 571.108.

(19) SAE J575e–1970, Test for Motor Vehicle Lighting Devices and Components, IBR approved for S6.1 and S8.8 of § 571.108.

(20) SAE J576 JUL91, Plastic Materials for Use in Optical Parts, such as Lenses and Reflectors, of Motor Vehicle Lighting Devices, IBR approved for S5.1.2 of § 571.108.

(21) SAE J578, May 1988, Color Specification, IBR approved for S5.5.11 of § 571.108; and S6.2.1 of § 571.131.

(22) SAE J578, revised June 1995, Color Specification, IBR approved for S5.1 and S6.14 of § 571.403.

(23) SAE J578c–1977, Color Specification for Electric Signal Lighting Devices, IBR approved for S5.1.2 and S5.1.5 of § 571.108.

(24) SAE J580–1986, Sealed Beam Headlamp Assembly, IBR approved for S7.3.2, S7.3.7, S7.3.8, S7.4, and S8.4 of § 571.108.

(25) SAE J584–1964, Motorcycle and Motor Driven Cycle Headlamps, IBR approved for S7.9.1 and S7.9.2 of § 571.108.

(26) SAE J584 OCT93, Motorcycle Headlamps, IBR approved for S7.9.3 of § 571.108.

(27) SAE J585d–1970, Tail Lamps (Rear Position Lights), IBR approved for S5.8.8 and S6.1 of § 571.108.

(28) SAE J585e–1977, Tail Lamps (Rear Position Lights), IBR approved for S5.1.1.6, S6.1, Table I and Table III of § 571.108.

(29) SAE J586b–1966, Stop Lights, IBR approved for S5.8.3 of § 571.108.

(30) SAE J586c–1970, Stop Lights, IBR approved for S5.8.3, S5.8.6, and S6.1 of § 571.108.

(31) SAE J586 NOV84, Stop Lamps Used on Motor Vehicles Less than 2032 mm in Overall Width, IBR approved for S6.1 and Table III of § 571.108.

(32) SAE J587–1981, License Plate Lamps (Rear Registration Plate Lamps), IBR approved for Table I and Table III of § 571.108.

(33) SAE 588d–1966, Turn Signal Lamps, IBR approved for S5.8.4 and S5.8.9 of § 571.108.

(34) SAE 588e–1970, Turn Signal Lamps, IBR approved for S5.1.1.1, S5.5.6, S5.8.4, S5.8.5, S5.8.6, S5.8.7, and S6.1 of § 571.108.

(35) SAE 588 NOV84, Turn Signal Lamps for Use on Motor Vehicles Less than 2032 mm in Overall Width, IBR approved for S5.1.1.7, S6.1, and Table III of § 571.108.

(36) SAE J589–1964, Turn Signal Switch, IBR approved for Table I and Table III of § 571.108.

(37) SAE J590b–1965, Automotive Turn Signal Flasher, IBR approved for S5.1.1.19, Table I and Table III of § 571.108.

(38) SAE J592–1992, Clearance, Sidemarker, and Identification Lamps, IBR approved for S5.2.3.3 of § 571.121.

(39) SAE J592e–1972, Clearance, Sidemarker, and Identification Lamps, IBR approved for S5.1.1.8 and Table I of § 571.108; and S5.2.3.3 of § 571.121.

(40) SAE J593c–1968, Backup Lamps, IBR approved for S5.1.1.18, S5.3.1.5, Table I, and Table III of § 571.108.

(41) SAE J594f–1977, Reflex Reflectors, IBR approved for S5.1.1.4, S5.7.2.1, Table I, and Table III of § 571.108.

(42) SAE J602–1980, Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units, IBR approved for S6.1 and S7.8.5.1 of § 571.108.

(43) SAE J726–1979, Recommended Practice, Air Cleaner Test Code, IBR approved for S5.2 of § 571.209.

(44) SAE J759–1995, Recommended Practice, Lighting Identification Code, IBR approved for S5.2.3.3 of § 571.121.

(45) SAE J787g 1966, Motor Vehicle Seat Belt Anchorage, IBR approved for § 571.3.

(46) SAE J800c–1973, Recommended Practice, Motor Vehicle Seat Belt Installations, IBR approved for S4.1 of § 571.209.

(47) SAE J826–1980, Devices for Use in Defining Vehicle Seating Accommodations, IBR approved for S5.1 and S5.2 of § 571.202; S10.4.2.1 of § 571.208; and S7.2.1 of § 571.214.

(48) SAE J826 May 87, Devices for Use in Defining and Measuring Vehicle Seating Accommodations, IBR approved for S4.3.2 of § 571.210.

(49) SAE J826–1992, Devices for Use in Defining and Measuring Vehicle Seating Accommodations, IBR approved for S6.2.1.1, S6.2.2, and S6.2.2.1 of § 571.225.

(50) SAE J826 rev. July 1995, Devices for Use in Defining and Measuring Vehicle Seating Accommodations, IBR approved for § 571.10 and S3, S5, S5.1, S5.1.1, S5.2, S5.2.1, S5.2.2, and S5.2.7 of § 571.202a.

(51) SAE J839b–1965, Passenger Car Side Door Latch System, IBR approved for S5.3.1 of § 571.201

(52) SAE J839–1991, Passenger Car Side Door Latch System, IBR approved for S5.1.1.1, S5.1.1.2 and S5.2.1 of § 571.206

(53) SAE J887–1964, School Bus Red Signal Lamps, IBR approved for S5.2.1, S5.1.4, and S5.1.5 of § 571.108.

(54) SAE J902–1964, Recommended Practice, Passenger Car Windshield Defrosting Systems, IBR approved for S4.2 and S4.3 of § 571.103.

(55) SAE J902a–1967, Passenger Cart Windshield Defrosting Systems, IBR approved for S4.3 of § 571.103.

(56) SAE J903a–1966, Passenger Car Windshield Wiper Systems, IBR approved for S3, S4.1.1.4, S4.1.2, S4.1.2.1, S4.2.1, and S4.2.2 of § 571.104.

(57) SAE J910–1966, Vehicle Hazard Warning Signal Flasher, IBR approved for Table I and Table III of § 571.108.

(58) SAE J921–1965, Recommended Practice, Instrument Panel Laboratory Impact Test Procedure, IBR approved for S5.1.2 and S5.2.2 of § 571.201.

(59) SAE J934–1982, Recommended Practice, Vehicle Passenger Door Hinge Systems, IBR approved for S5.1.2 and S5.2.2 of § 571.206.

(60) SAE J941–1965, Passenger Car Driver's Eye Range, IBR approved for S3 of § 571.104.

(61) SAE J942–1965, Passenger Car Windshield Washer System, IBR approved for S4.2.1 and S4.2.2 of § 571.104.

(62) SAE J944–JUN80, Steering Control System-Passenger Car-Laboratory Test Procedure, IBR approved for S5.1 of § 571.203.

(63) SAE J944 1965, Steering Wheel Assembly Laboratory Test Procedure, IBR approved for S5.1 of § 571.203.

(64) SAE J945b–1966, Vehicular Hazard Warning Signal Flashers, IBR approved for Table I and Table III of § 571.108.

(65) SAE J964 OCT84, Test Procedure for Determining Reflectivity of Rear View Mirrors, IBR approved for S11 of § 571.111.

(66) SAE J972–1966, Moving Barrier Collision Test, IBR approved for S19 of § 571.105.

(67) SAE J977–1966, Instrumentation for Laboratory Impact Tests, IBR approved for S5.1.2 and S5.2.2 of § 571.201.

(68) SAE J1100 JUN84, Motor Vehicle Dimensions, IBR approved for S4.3.2 of § 571.210.

(69) SAE J1100–1993, Recommended Practice, Motor Vehicle Dimensions, IBR approved for S6.2.1.1, 6.2.2, and S6.2.2.1 of § 571.225.

(70) SAE J1100 rev. February 2001, Motor Vehicle Dimensions, IBR approved for § 571.3.

(71) SAE J1133, April 1984, School Bus Stop Arm, IBR approved for S6.2.3 of § 571.131.

(72) SAE J1383–1985, Performance Requirements for Motor Vehicle Headlamps, IBR approved for S7.3, S7.3.1, S7.3.2, S7.3.7, S7.3.8, S7.4, S7.5, S7.7, S7.8.1, S7.8.5.1, S7.8.5.2, S8.1, and S10 of § 571.108.

(73) SAE J1395 APR85, Turn Signal Lamps for Use on Motor Vehicles 2032 mm or More in Overall Width, IBR approved for S6.1 and Table I of § 571.108.

(74) SAE J1398 MAY85, Stop Lamps for Use on Motor Vehicles 2032 mm or More in Overall Width, IBR approved for S6.1 and Table I of § 571.108.

(75) SAE J1703 JAN 1995, Motor Vehicle Brake Fluid, Appendix B, SAE RM–66–04 Compatibility Fluid, IBR approved for S5.3.9 of § 571.106; and S6.5.4.1 and S6.10.2 of § 571.116.

(76) SAE J1703 NOV 1983, Motor Vehicle Brake Fluid, Appendix A, SAE RM–66–03 Compatibility Fluid, IBR approved for S5.3.9 and S6.7.1 of § 571.106; and S6.2.1, S6.5.4.1, S6.10.2, and S6.13.2 of § 571.116.

(77) SAE J1703b, IBR approved for S6.6.3, S6.11.3, S6.1.3.2, and S7.6 of § 571.116.

(78) SAE J2009 FEB93, Forward Discharge Lighting Systems, IBR approved for S7.7 of § 571.108.

(79) SAE Aerospace-Automotive Drawing Standards, SEP 1963, IBR approved for S3 of § 571.104; and S5.1 of § 571.202.

(k) The following materials are available for purchase from the United Nations. Information and copies may be obtained by writing to: United Nations, Conference Services Division, Distribution and Sales Section, Office C.115–1, Palais des Nations, CH–1211, Geneva 10, Switzerland. Copies of Regulations also are available on the ECE Internet Web site: *http://www.unece.org/trans/main/wp29/wp29regs.html.*

(1) ''Uniform Provisions Concerning the Approval of Vehicles with Regard to Installation of Lighting and Light-Signalling Devices,'' Economic Commission for Europe Regulation 48:E/ECE/324–E/ECE/TRANS/50, Rev.1/Add.47/Rev.1/Corr.2, p.17 (February 26, 1996), IBR approved for S12.6 of § 571.108.

(2) ''Uniform Provisions Concerning the Approval of Vehicles with Regard to the Seats, their Anchorages and any Head Restraints'' Economic Commission for Europe Regulation 17: ECE 17 Rev. 1/Add. 16/Rev. 4 (31 July 2002), IBR approved for S4.4(a) of § 571.202.

4. 49 CFR 571.10 would be added to read as follows:

§ 571.10 Designation of seating positions.

(a) The formula for calculating the number of designated seating positions (N) for any seat with greater than 330 mm (13 inches) of hip room in a passenger car, truck, multipurpose passenger vehicle and bus, except for a school bus, is as follows:

(1) For seats with less than 1400 mm (55.2 inches) of hip room:

N = [Hip room (in millimeters)/400] rounded to the nearest whole number;

(2) For seats with equal to or greater than 1400 mm (55.2 inches) of hip room:

N = [Hip room (in millimeters)/450] rounded to the nearest whole number.

(b) Hip room is measured as follows: Calculate the maximum dimension measured laterally between the interior trim on the ''X'' plane through the H-Point within 25 mm (1 inch) below and 76 mm (3 inches) above the H-Point and 76 mm (3 inches) fore and aft of the H-Point. Exclude any portion of this 101 mm by 152 mm area around the H-Point in side view below and behind the seat cushion and seat back trim. If the area is totally excluded by the seat cushion and seat back trim, measure width to trimmed door or quarter trim surface closest, in side view, to the H-Point. If the seat is adjustable, the position that produces the maximum measurement is used. The H-Point location is measured using the SAE three-dimensional H-Point machine per SAE Recommended Practice J826, rev. July 1995, with the legs and leg weights uninstalled.

(1) The hip room measurement terminates at the vertical projection of each point on the side profile of the seat cushion, subject to the conditions of paragraph (b)(2) of this section.

(2) Hip room is considered to be continuous across the width of the vehicle interior, unless there is a separation between adjacent seat cushions, or a seat cushion and the interior trim, greater than 150 mm (5.9) inches, and the separation contains one of the following:

(i) A fixed, unpadded impediment that is at least 5 mm (0.2 inches) higher than each point on the top profile of the seat cushion, and that extends for greater than two-thirds of the horizontal depth of the seat cushion.

(ii) A void adjacent to the seat cushion that can accommodate a rectangular box 150 mm (5.9 inches) wide, 150 mm (5.9 inches) high, and two-thirds of the horizontal depth of the seat cushion in length, as follows:

(A) The top surface of the box is at least 2 mm (0.08 inches) below each point on the top profile of the seat cushion, and

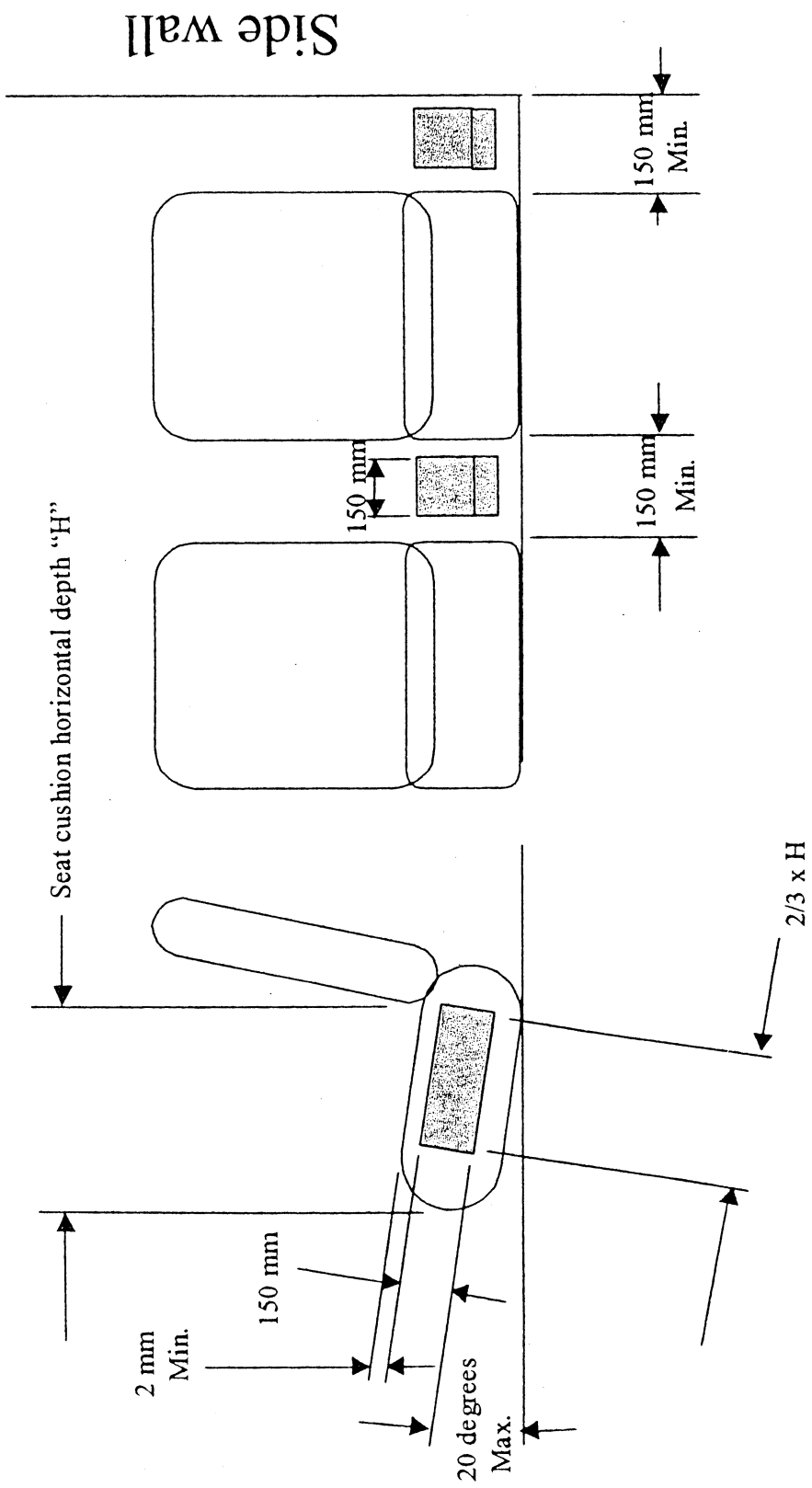
(B) The angular orientation of the box does not exceed 20 degrees from the horizontal. (See Figure 1.)

(iii) A parking brake or gearshift handle that is at least 25 mm (1 inch) higher than the highest point of the seat cushion while the vehicle is in motion.

BILLING CODE 4910–59–P

FIGURE 1

Seating Void Measurement Diagram



BILLING CODE 4910–59–C

5. 49 CFR 571.210 would be amended by revising S5.1 and S5.2 to read as follows:

§ 571.210 Standard No. 210; seat belt assembly anchorages.

* * * * *

S5.1 *Seats with Type 1 or Type 2 seat belt anchorages.* With the seat in its rearmost position, apply a force of 22,241 N in the direction in which the seat faces to a pelvic body block as described in Figure 2A, in a plane parallel to the longitudinal centerline of the vehicle for forward and rear facing seats, and in a plane perpendicular to the longitudinal centerline of the vehicle for side facing seats, with an initial force application angle of not less than 5 degrees or more than 15 degrees above the horizontal. Apply the force at the onset rate of not more than 222,411 N per second. Attain the 22,241 N force in not more than 30 seconds and maintain it for 10 seconds. At the manufacturer's option, the pelvic body block described in Figure 2B may be substituted for the pelvic body block described in Figure 2A to apply the specified force to the center set(s) of anchorages for any group of three or more sets of anchorages that are simultaneously loaded in accordance with S4.2.4 of this standard.

S5.2 *Seats with Type 2 or automatic seat belt anchorages.* With the seat in its rearmost position, apply forces of 13,345 N in the direction in which the seat faces simultaneously to a pelvic body block, as described in Figure 2A, and an upper torso body block, as described in Figure 3, in a plane parallel to the longitudinal centerline of the vehicle for forward and rear facing seats, and in a plane parallel to the transverse centerline of the vehicle for side facing seats, with an initial force application angle of not less than 5 degrees nor more than 15 degrees above the horizontal. Apply the forces at the onset rate of not more than 133,447 N per second. Attain the 13,345 N force in not more than 30 seconds and maintain it for 10 seconds. At the manufacturer's option, the pelvic body block described in Figure 2B may be substituted for the pelvic body block described in Figure 2A to apply the specified force to the center set(s) of anchorages for any group of three or more sets of anchorages that are simultaneously loaded in accordance with S4.2.4 of this standard.

* * * * *

Issued: June 16, 2005.

Stephen Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–12240 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 70, No. 119

Wednesday, June 22, 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

Submission for OMB Review; Comment Request

June 16, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: NSLP/SBP Access, Participation, Eligibility, and Certification Study.

OMB Control Number: 0584–NEW.

Summary of Collection: The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) provide federal financial assistance and commodities to schools serving lunches and breakfasts that meet required nutritional standards. The Improper Payments Information Act of 2002 (Pub. L. 107–300) requires USDA to identify and reduce erroneous payments in various programs, including the NSLP and SBP. In School Year 2005–2006 on-site data collection activities will be conducted in a nationally representative sample of schools selected from school districts across the 48 contiguous States and the District of Columbia.

Need and Use of the Information: To comply with the Improper Payments Information Act, USDA needs a reliable measure to estimate NSLP and SBP erroneous payments on an annual basis. The APEC Study will collect a broad range of data from nationally representative samples of School Food Authorities, schools, and households (on-site for a sample of students) to answer questions of interest to the U.S. Congress, USDA and other program stakeholders. Data collected in this study will produce national estimates of erroneous payments due to certification errors and meal counting and claiming. In addition, the on-site data collected, including household characteristic data, will also be used for informing program access issues including barriers and deterrence to participation.

Description of Respondents: Not-for-profit institutions, individuals or households, State, local, or tribal government.

Number of Respondents: 5,811.

Frequency of Responses: Reporting: one-time only.

Total Burden Hours: 5,525.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–12236 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 16, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Rural Economic Development Loan and Grant Program.

OMB Control Number: 0570–0035.

Summary of Collection: The information collected is necessary to implement Section 313 of the Rural

Electrification Act of 1936 (7 U.S.C. 940(c)) that established a loan and grant program. Rural Business Service (RBS) mission is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. Under this program, zero interest loans and grants are provided to electric and telecommunications utilities that have borrowed funds from RUS. The purpose of the program is to encourage these electric and telecommunications utilities to promote rural economic development and job creation projects such as business start-up costs, business expansion, community development, and business incubator projects.

Need and Use of the Information: RBS needs this collected information to select the projects it believes will provide the most long-term economic benefit to rural areas. The selection process is competitive and RBS has generally received more applications than it could fund. RBS also needs to make sure the funds are used for the intended purpose, and in the case of the loan, the funds will be repaid. RBS must determine that loans made from revolving loan funds established with grants are used for eligible purposes.

Description of Respondents: Not-for-profit institutions; business or other for-profit.

Number of Respondents: 120.

Frequency of Responses: Reporting: on occasion, annually.

Total Burden Hours: 4,143.

Rural Business Cooperative Service

Title: 7 CFR Part 1980–E, Business and Industry Loan Program.

OMB Control Number: 0570–0014.

Summary of Collection: The Business and Industry (B&I) program was legislated in 1972 under Section 310B of the Consolidated Farm and Rural Development Act. The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities, including pollution abatement and control. This purpose is achieved through bolstering the existing private credit structure by making direct loans, thereby providing lasting community benefits. The B&I program is administered by the Agency through Rural Development State and sub-State Offices serving the State.

All the reporting and recordkeeping burden estimates for making and servicing B&I Guaranteed Loans have been moved to the B&I Guaranteed Loan Program regulations (7 CFR 4279–A and B and 4287–B). 7 CFR 1980–E, in conjunction with 7 CFR 1942–A and other regulations, is currently used only for making B&I Direct Loans. 7 CFR 1951–E is used for servicing B&I Direct and Community Facility loans. Consequently, only a fraction of the total reporting and recordkeeping burden for making and servicing B&I Direct Loans is reflected in this document.

Need and Use of the Information: RD will collect the minimum information needed from applicant to determine program eligibility, or the current financial condition of a business or a credit proposal is requested. The majority of the information is collected only once and the agency monitors the progress of the business through the analysis of annual borrower financial statements and visits to the borrower.

Description of Respondents: Individuals or households; State, local or tribal government.

Number of Respondents: 152.

Frequency of Responses: Reporting: on occasion.

Total Burden Hours: 835.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–12237 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 16, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: County Committee Election.

OMB Control Number: 0560–0229.

Summary of Collection: The Farm Security and Rural Investment Act of 2002 requires that the Secretary prepare a report of election that includes, among other things, ''the race, ethnicity and gender of each nominee, as provided through the voluntary self-identification of each nominee''. The information will be collected using form FSA–669–A, ''Nomination Form for County FSA Committee Election''. Completion of the form is voluntary.

Need and Use of the Information: FSA will collect information on race, ethnicity and gender of each nominee as provided through the voluntary self-identification of each nominee agreeing to run for a position. The information will be sent to Kansas City for preparation of the upcoming election. The Secretary will review the information annually. If the information is not collected in any given year, the Secretary would not be able to prepare the report that the Department has been charged with preparing.

Description of Respondents: Individuals or households; farms.

Number of Respondents: 10,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 6,700.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–12259 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. FV–05–377]

Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this notice is to notify all interested parties that the Agricultural Marketing Service (AMS) will hold a Fruit and Vegetable Industry Advisory Committee (Committee) meeting that is open to the public. The U.S. Department of Agriculture (USDA) established the Committee to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary of Agriculture on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. This notice sets forth the schedule and location for the meeting.

DATES: Tuesday, July 12, 2005, from 8 a.m. to 5 p.m., and Wednesday, July 13, 2005, from 8 a.m. to 2 p.m.

ADDRESSES: The Committee meeting will be held at the Holiday Inn Hotel and Suites, 625 First Street, Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Andrew Hatch, Designated Federal Official, USDA, AMS, Fruit and Vegetable Programs. Telephone: (202) 690–0182. Facsimile: (202) 720–0016. E-mail: *andrew.hatch@usda.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. II), the Secretary of Agriculture established the Committee in August 2001 to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. The Committee was re-chartered in July 2003 and new members were appointed from industry nominations.

AMS Deputy Administrator for Fruit and Vegetable Programs, Robert C. Keeney, serves as the Committee's Executive Secretary. Representatives from USDA mission areas and other government agencies affecting the fruit and vegetable industry will be called upon to participate in the Committee's meetings as determined by the Committee Chairperson. AMS is giving notice of the Committee meeting to the public so that they may attend and present their recommendations. Reference the date and address section of this announcement for the time and place of the meeting.

Topics to be discussed at the advisory committee meeting will include: domestic food security initiatives, Perishable Agricultural Commodities Act organizational restructuring update and electronic invoicing, a Fruit and Vegetable Dispute Resolution Corporation update, Federal-State Inspection Service grading fees and grade standard review update, and marketing order and generic promotion programs.

Those parties that would like to speak at the meeting should register on or before July 5, 2005. To register as a speaker, please e-mail your name, affiliation, business address, e-mail address, and phone number to Mr. Andrew C. Hatch at: *andrew.hatch@usda.gov* or facsimile to (202) 720–0016. Speakers who have registered in advance will be given priority. Groups and individuals may submit comments for the Committee's consideration to the same e-mail address. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. Equal opportunity practices were considered in all appointments to the Committee in accordance with USDA policies.

If you require special accommodations, such as a sign language interpreter, please use name listed in the **FOR FURTHER INFORMATION CONTACT** section listed above.

Dated: June 16, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12257 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV–04–309]

United States Standards for Grades of Persian (Tahiti) Limes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and extension of the comment period.

SUMMARY: Notice is hereby given that the comment period on possible revisions to the United States Standards for Grades of Persian (Tahiti) Limes is reopened and extended.

DATES: Comments must be received by August 22, 2005.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1661 South Building, Stop 0240, Washington, DC 20250–0240; fax (202) 720–8871; E-mail *FPB.DocketClerk@usda.gov*. Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. The United States Standards for Grades of Persian (Tahiti) Limes is available at either the above address or by accessing the Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm*.

FOR FURTHER INFORMATION CONTACT: David L. Priester, at the above address or call (202) 720–2185; E-mail *David.Priester@usda.gov*.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register**, March 11, 2005 (70 FR 12174), requesting comments on the possible revisions of the United States Standards for Grades of Persian (Tahiti) Limes. The proposed revisions would simplify the color and juice requirements of the standards which are complex and difficult to apply. Additionally, the Agricultural Marketing Service (AMS) is seeking comments regarding any other revisions that may be necessary to better serve the industry. The comment period ended May 10, 2005.

Three comments were received from industry associations representing Persian (Tahiti) lime handlers, expressing the need for additional time to comment on the possible revisions. The associations requested the comment period be extended to allow the associations an opportunity to meet further with their members to discuss the possible revisions.

After reviewing the request, AMS is reopening and extending the comment period in order to allow sufficient time for interested persons, including the association, to file comments.

Authority: 7 U.S.C. 1621–1627.

Dated: June 16, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12255 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV–05–302]

United States Standards for Grades of Snap Beans

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; withdrawal.

SUMMARY: The Agricultural Marketing Service (AMS) is withdrawing the notice soliciting comments on its proposal to amend the voluntary United States Standards for Grades of Snap Beans. After reviewing and considering the comments received, the Agency has decided not to proceed with this action.

DATES: Effective Date: June 22, 2005.

FOR FURTHER INFORMATION CONTACT: David Priester, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1661 South Building, STOP 0240, Washington, DC 20250–0240, Fax (202) 720–8871 or call (202) 720–2185; E-mail *David.Priester@usda.gov*. The United States Standards for Grades of Snap Beans are available either through the address cited above or by accessing the Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm.*

Background

At a 2003 meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to review all the fresh fruit and vegetable grade standards for their usefulness in serving the industry. AMS had identified the United States Standards for Grades of Snap Beans for a possible revision. The United States Standards for Grades of Snap Beans were last amended July 5, 1990.

On March 11, 2005, a notice requesting comments on the possible revision of the standards by allowing percentages to be determined by count and not weight as well as other changes was published in the **Federal Register** (70 FR 12175) with the comment period ending May 10, 2005.

Three comments were received during the official period for comment. One comment from an industry member supported the proposed revision. Two comments from industry groups did not support revising the standard. Both of the comments not supporting the revision noted concerns over the accuracy or representative nature of a count-based inspection. The industry groups also noted that size variation of the individual bean as well as foreign material or debris in the sample could affect the inspection in a different manner if inspected on a count and not a weight basis. In view of the concerns from the industry, the proposed changes are not warranted at this time, thus the notice is being withdrawn. This withdrawal will provide industry representatives with an opportunity for further discussions in the areas of concern.

After reviewing and considering the comments received, the Agency has decided not to proceed with the action. Therefore, the notice published March 11, 2005, (70 FR 12172) is withdrawn.

Authority: 7 U.S.C. 1621–1627.

Dated: June 16, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12256 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Methow Valley Ranger District, Okanogan & Wenatchee National Forests, WA, Pack Stock Outfitter Guide Special Use Permits Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the USDA, Forest Service will prepare an Environmental Impact Statement that will evaluate alternatives to provide pack stock outfitter and guide services on the Methow Valley, Chelan and Tonasket Ranger Districts of the Okanogan and Wenatchee National Forests. The proposed action is to issue ten-year, pack stock outfitter and guide special use permits to nine companies to operate on these three Districts. A maximum of 4,900 client days will be shared between these companies. Outfitting and guiding would take place both in the Lake Chelan-Sawtooth and Pasayten Wildernesses, and outside of wilderness.

DATES: Comments concerning the scope of the analysis must be received by July 15, 2005. The draft environmental impact statement is expected December 2005 and the final environmental impact statement is expected May 2006.

ADDRESSES: Send written comments to Jennifer Zbyszewski, Recreation & Wilderness Program Manager, Methow Valley Ranger District, 24 W. Chewuch Rd., Winthrop WA 98862, or by e-mail to *jzbyszewski@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Direct questions to Jennifer Zbyszewski, Recreation & Wilderness Program, Manager, Methow Valley Ranger District, 24 W. Chewuch Rd., Winthrop WA 98862, (509) 996–4021, or by e-mail to *jzbyszewski@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Purposed and Need for Action

Nine companies have applied to the Forest Service for ten year permits to outfit and guide on the Methow Valley, Chelan and/or Tonasket Ranger District of the Okanogan and Wenatchee National Forests. North Cascade Safari, Cascade Wilderness Outfitters, North Cascade Outfitters, Rocking Horse Ranch, and Backcountry Burros have operated under five-year term special use permits in the past, but these permits expired in 2000. The companies have been operating under short-term permits since then. Each of these companies have operated for at least 20 years on the Okanogan and Wenatchee National Forests. Deli-Llamas and Pasayten Llamas have operated under short-term permits since 1993. Sawtooth Outfitters has operated under short-term permits since 1993. Early Winters Outfitting's term permit expired in 2004.

In order for an outfitter-guide business to be successful, and justify financial commitments, such as purchasing and caring for stock animals, and hiring experienced guides, these businesses need multi-year permits. Multi-year permits are needed to respond to the applications, and continue the professional relationship that has been established with these companies to provide service to the public.

The Forest Service has identified a need for outfitting and guiding services on these Districts to access to the Wilderness and backcountry. The ''Assessment for Need For Outfitting/Guiding Assistance, Okanogan National Forest, Chelan Ranger District Portion of Wenatchee National Forest North of Lake Chelan'' (the Needs Assessment) was completed by the Okanogan and Wenatchee National Forests in 1996. That document provides overall guidance relating to issuing permits.

The Needs Assessment states that the relative public need for outfitting/guiding assistance ranges from high to low based on the type of activity. The justification for authorizing outfitting and guiding operations is proportional to the public's need for outfitting-guiding assistance. Appendix H in the assessment (page H–1) shows that pack animal trips and drop camps carry a high rating for skills and equipment, knowledge, safety risk, unique services provided, and wilderness dependency.

In addition Okanogan National Forest Land and Resource Management Plan, 1989, standard and guideline MA 15B-21Q, requires retention of the current number and type of outfitter guide authorizations and the current amount of priority use allocated to outfitter guides. The Wenatchee National Forest Land and Resource Management Plan, 1990, as amended (which covers the portion of the permit areas on the Chelan Ranger District) states that outfitter guide permits will be issued when appropriate to the goals of wilderness management and where compatible with Wilderness management objectives, and existing visitor use.

Proposed Action

The Forest Supervisor for the Okanogan and Wenatchee National Forests proposes to issue ten-year, special use permits to each of the following companies: North Cascade Safari, Cascade Wilderness Outfitters, North Cascade Outfitters, Early Winters Outfitting, Rocking Horse Ranch, Sawtooth Outfitters, Backcountry Burros, Deli-Llamas, and Pasayten Llamas in 2006. These outfitters take people into the Wilderness and other remote areas using pack and riding animals (horses, mules, llamas, and burros). Most of the trips are several-night camping expeditions, although some of the use involves day-rides. The outfitters offer client a variety of trip-types to meet needs, expectations, and budgets. Trips range from guided horseback riding trips with meals, cook, and most or all camping gear provided to day trips, and also include simply dropping gear off for hikers.

The maximum number of client days that would be divided between these outfitters, or replacements for these outfitters who have met the requirements for term permits, would be 4,900, which is the total of the highest annual number of client days each has used over the past ten years.

The analysis area (which includes all the permit areas) is located on the Okanogan and Wentachee National Forests. Most of it is on the Methow Valley Ranger District, with some continuing onto the Tonasket and Chelan Districts. It includes all of the Pasayten and Lake Chelan/Sawthooth Wildernesses, the North Cascades Highway Corridor, the Sawtooth Backcountry, the North Summit, and some National Forest System land adjacent to these areas. There would be no changes in permit areas from the areas recently permitted in the past.

Reserved camps would be assigned to the horse and mule packers to allow closer monitoring and modification. Proposed camp locations would include Bald Mountain, Sheep Mountain, Beaver Creek, Crow Lake, and Whistler. The reserved camps would be primarily used for guided horseback riding trips with meals, cook, and most or all camping gear provided. Camp locations for all other trips would not be assigned.

Responsible Official

The Responsible Official is James L. Boynton, Forest Supervisor, Okanogan and Wenatchee National Forests, 215 Melody Lane, Wenatchee, WA 98801.

Nature of Decision To Be Made

The Responsible Official will decide whether or not to issue term permits to the outfitters described in the proposed action. He will also decide what, if any, mitigation measures and monitoring are needed. The criteria that will be used to select between the alternatives are: (1) To what extent the alternative is consistent with Okanogan Forest Plan standard and guideline 15B 21–Q, and the standard and guideline from the Wenatchee Forest Plan, (2) to what extent the alternative provides enough stability to the businesses to allow them to make the financial commitments necessary to continue to provide service to the public, (3) to what extent the action meets the needs identified in the 1996 Outfitter Guide Needs Assessment, and (4) the effects of the alternative on the environment.

Scoping Process

In November 2000, as scoping letter was sent to people and organizations that had expressed interest, in addition to those of the Methow Valley Ranger District mailing list. An updated letter is being sent concurrently with this notice of intent to everyone who received the first letter, in addition to everyone on the Tonasket, Methow Valley, and Chelan Ranger Districts mailing lists. All comments received will be used to identify issues, and develop alternatives.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. The Forest Service is seeking public and agency comment on the proposed action to identify major issues to be analyzed in depth and assistance in identifying possible alternatives to be evaluated. Comments received to this notice, including the names and addresses of those who comment, will be considered part of the public record on this proposed action, and will be available for public inspection. Comments submitted anonymously will be accepted and considered, whoever those commenters will not have standing for appeal under 36 CFR 215.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if

comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. The Forest Supervisor for the Okanogan and Wenatchee National Forests will be the Federal responsible official for this EIS and its Record of Decision, and his decision will be subject to appeal pursuant to 36 CFR 215.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

G. Elton Thomas,

Deputy forest Supervisor, Okanogan-Wenatchee National Forest.

[FR Doc. 05–12290 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Colville Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Colville Resource Advisory Committee will meet on Thursday, June 30, 2005, at the Spokane Community College, Colville Campus, Dominion Room 985 South Elm Street, Colville, Washington. The meeting will begin at 9 a.m. and conclude at 4 p.m. Agenda items include: (1) Welcome and introduction of new members serving on the Colville Resource Advisory Committee. (2) Review and approve meeting notes from July 29, 2004, meeting (3) Fiscal Year 2006 Title II projects review and recommendation to the forest designated Federal official on Stevens, Ferry and Pend Oreille Counties applications; and (4) Public Forum.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Rick Brazell, designated Federal official or to Diana Baxter, Public Affairs Officer, Colville National Forest, 765 S. Main, Colville, Washington 99114, (509) 684–7000.

Dated: June 13, 2005.

Rick Brazell,

Designated Federal Official.

[FR Doc. 05–12179 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Fishing Capacity Reduction Program Buyback Requests.

Form Number(s): None.

OMB Approval Number: 0648–0376.

Type of Request: Regular submission.

Burden Hours: 38,563.

Number of Respondents: 878.

Average Hours Per Response: 2 hours and 20 minutes.

Needs and Uses: The National Marine Fisheries Service (NMFS) has established a program to reduce excess fishing capacity by paying fishermen (1) to surrender their fishing permits or (2) both surrender their permits and either scrap their vessels or restrict vessel titles to prevent fishing. NMFS proposes to extend the currently approved collection.

Affected Public: Business or other for-profit organizations; individuals or households; State, Local or Tribal Government.

Frequency: Annually, monthly, and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 16, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–12264 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Atlantic Highly Migratory Species Vessel and Gear Marking.

Form Number(s): None.

OMB Approval Number: 0648–0373.

Type of Request: Regular submission.

Burden Hours: 7,134.

Number of Respondents: 8,973.

Average Hours Per Response: 34 minutes.

Needs and Uses: Under current regulations, fishing vessels permitted for Atlantic Highly Migratory Species must display their official vessel numbers on their vessels to assist law enforcement in monitoring fishing and other activities. Floatation devices attached to certain fishing gear must also be marked with the vessel's official numbers to identify catch that is buoyed. This is also necessary for law enforcement purposes.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 16, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–12265 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Permits for Incidental Taking of Endangered or Threatened Species.

Form Number(s): None.

OMB Approval Number: 0648–0230.

Type of Request: Regular submission.

Burden Hours: 1,048.

Number of Respondents: 13.

Average Hours Per Response: 44 hours.

Needs and Uses: The Endangered Species Act (ESA) prohibits the taking of endangered species. Section 10 of the ESA allows for certain exceptions to the prohibitions, such as taking that is incidental to an otherwise lawful activity. The corresponding regulations provide application and reporting requirements for such exceptions. The required information is used to evaluate the proposed activity (application) and ongoing activities (reports) and is necessary for National Marine Fisheries Service to ensure the conservation of the species under the ESA.

Affected Public: Individuals or households, business or other for-profit organizations; not-for-profit institutions; State, Local or Tribal Government.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 16, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–12266 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Census Coverage Measurement Person Interview and Person Interview Reinterview Operations

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 22, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov)*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Magdalena Ramos, U.S. Census Bureau, Building 2, Room 2126, Washington, DC 20233–9200, 301–763–4295.

SUPPLEMENTARY INFORMATION:

I. Abstract

In preparation for the 2010 Census, the U.S. Census Bureau will conduct a Census Coverage Measurement (CCM) test as part of the 2006 Census Test. The purpose of the 2006 CCM test is not to evaluate the coverage of the 2006 Census Test per se, but rather to test ways of improving previous coverage measurement methods. In particular, the focus of the 2006 CCM test is to test improved matching operations and data collection efforts designed to obtain more accurate information about where a person should have been enumerated according to our residence rules.

This focus is motivated by: (1) Problems encountered with coverage measurement in 2000 in determining a person's residence (relative to our residence rules), (2) the significant number of duplicate enumerations in Census 2000, and (3) expanded goals for coverage measurement in 2010. The latter refers to our objective of producing-for the first time—separate estimates of coverage error components-omissions (missed persons) and erroneous inclusions (including duplicates). The data collection and matching methodologies for previous coverage measurement programs were designed only to measure net coverage error, which reflects the difference between omissions and erroneous inclusions (see Definition of Terms). In order to produce separate estimates of these coverage error components, we need to develop and test changes to our data collection and matching methods. In particular, the CCM efforts will focus on ways to obtain better information about addresses where people should have, and could have, been enumerated during the census.

An additional objective for the 2006 Census Test is to determine if we can conduct coverage measurement interviews before all census data collection is complete, and do so without contaminating the census and adversely affecting coverage measurement. This has a minuscule effect on the census, but a more serious effect on coverage measurement. There are several operational and data quality advantages of conducting coverage measurement interviews as close to census day as possible, but we don't want to do this if it will seriously affect measurement of coverage error.

II. Method of Collection

The 2006 CCM operations will use a sample of approximately 5,000 housing units in selected census tracts in Travis County, Texas; and 500 housing units on the Cheyenne River Reservation in South Dakota. The first operation of the CCM will be the Person Interview (PI) operation. After data collected from the CCM PI is matched to data collected by the 2006 Census Test, certain cases will be sent for another CCM interview called the Person Followup Interview. A separate **Federal Register** Notice will be issued later for that operation.

The CCM PI operation will collect the information listed below only for persons in housing units. We are not studying coverage measurement for other types of living quarters (for example, group quarters) in the 2006 Census Test.

1. Census Day (April 1, 2006) residence (relative to our residence rules).

2. Interview Day residence (*i.e.*, as of the day of the CCM interview).

3. Census Day address information for people who moved to the sample address since Census Day, and other addresses where a person might have been counted on Census Day.

4. Other information to help us determine where a person should have been counted as of Census Day (relative to our residence rules). For example, enumerators will probe for persons who might have been left off the household roster; ask additional questions about persons who moved from another address on Census Day to the sample address; collect additional information for persons with multiple addresses; and collect information on the addresses of other potential residences for household members.

5. Demographic information for each person in the household on Interview Day or Census Day, including name, date of birth, sex, race, ethnicity, and relationship.

As part of the CCM, we also will conduct a quality control operation—PI Reinterview. For this operation a sample of the CCM PI cases will be selected for a reinterview. This sample consists of approximately 500 housing units in Travis County, Texas; and 50 housing units on the Cheyenne River Reservation in South Dakota. The purpose of the reinterview is to determine if the source of the CCM PI data (*e.g.*, a household member; a specific proxy respondent) can be confirmed. If not, then all cases completed by the original enumerator will be considered invalid, and reassigned for rework by a different enumerator.

The CCM PI and PI Reinterview operations will occur from July 3, 2006 to October 6, 2006. Data collected as a result of these interviews will be processed at our headquarters in Washington, DC.

Definition of Terms

Alternate Addresses—These are respondent provided addresses obtained during the CCM PI for other places where household members may have been counted on Census Day.

Components of Coverage Error—The two components of census coverage error are census omissions (missed persons) and erroneous inclusions. The latter includes duplicates, and persons who should not have been enumerated at a particular address (per our residence rules).

Net Coverage Error—Reflects the difference between omissions and erroneous inclusions. A positive net error indicates an undercount, while a negative net error indicates an overcount.

For more information about Census 2000 operations and coverage measurement efforts, please visit the following page of the Census Bureau's Web site: *http://www.census.gov/dmd/www/refroom.html.*

III. Data

OMB Number: 0607–xxxx.

Form Number: None.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 6,050.

Estimated Times Per Response: 20 Minutes.

Estimated Total Annual Burden Hours: 2,017.

Estimated Total Annual Cost to the Public: There is no cost to the respondents except their time to respond.

Respondent Obligation: Mandatory.

Legal Authority: Title 13 of the United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection; they also will become a matter of public record.

Dated: June 16, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–12260 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–07–P

U.S. DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

Order No. 1398

Approval for Subzone Expansion and Permanent Manufacturing Authority, (Polyethylene Tubing), Foreign Trade Subzone 119B, Wirsbo Company, Apple Valley, Minnesota

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Metropolitan Area Foreign Trade Zone Commission, grantee of FTZ 119 (Minneapolis, Minnesota), has requested authority on behalf of the Wirsbo Company (Wirsbo), operator of FTZ 119B, at the Wirsbo polyethylene (HDPE) tubing manufacturing plant in Apple Valley, Minnesota, to expand Subzone 119B to include a new site in Burnsville, Minnesota, and to extend authority to manufacture polyethylene tubing under FTZ procedures on a permanent basis (FTZ Doc. 63–2003, filed 12/12/2003);

Whereas, notice inviting public comment was given in the **Federal Register** (68 FR 71060, 12–22–2003);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby approves the request, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 9th day of June, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–12370 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–DS–S

U.S. DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Order No. 1396

Expansion of Foreign–Trade Zone 141, Monroe County, New York, Area

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board adopts the following Order:

Whereas, the County of Monroe, New York, grantee of Foreign–Trade Zone 141, submitted an application to the Board for authority to expand FTZ 141 to include a site (Site 11- 314 acres) at Rochester Technology Park, 789 Elmgrove Road, Rochester (Monroe County), New York, and to remove this area from Site 4 of FTZ 141A (Kodak), within the Rochester Customs port of entry (FTZ Docket 52–2004; filed 11/17/04);

Whereas, notice inviting public comment was given in the **Federal Register** (69 FR 68127, 11/23/04), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 141 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 9th day of June, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign–Trade Zones Board

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–12368 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Order No. 1397

Expansion of Foreign–Trade Zone 163, Ponce, Puerto Rico, Area

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

Whereas, Codezol, C.D., the grantee of Foreign–Trade Zone 163, submitted an application to the Board for authority to remove the time restriction on Site 4 (Guayama) and to add two new sites (342 acres) at Merecedita Industrial Park (Site 5), and Coto Laurel Industrial Park (Site 6), in the Ponce, Puerto Rico, area, adjacent to the Ponce Customs port of entry (FTZ Docket 39–2004; filed 8/25/04);

Whereas, notice inviting public comment was given in the **Federal Register** (69 FR 53886, 9/3/04), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 163 and to remove the time restriction on Site 4 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 9th day of June, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce, for Import Administration, Alternate Chairman, Foreign–Trade Zones Board

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–12369 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, D.C.

Docket Number: 05–018. Applicant: Oregon Health and Science University, Neurological Sciences Institute, 5050 N.W. 185th Avenue, Beaverton, OR 97006. Instrument: TriMScope Beam Multiplexor System. Manufacturer: La Vision BioTech GmbH, Germany. Intended Use: The instrument is intended to be used to study the anatomy and physiology of the animal brain at the subcellular level and the optical correlates of its electrical activity in order to resolve the fine structural alterations after global brain ischemia, prior to neuronal death, to identify early timepoints in which therapies can be delivered to prevent brain death. It will employ multiple infrared light beams prior to their passage through a microscope to illuminate the subsurface of the brain at a discrete focal plane. Application accepted by Commissioner of Customs: May 23, 2005.

Docket Number: 05–020. Applicant: University of California, San Diego, 9500 Gilman Drive, La Jolla, CA 92093–0332. Instrument: Electron Microscope, Model Technai G^2 Sphera Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used to image and study, among other things:

1. The structure and the mechanisms of action of various viruses.

2. Cell motility and adhesion of ventral membrane preparations of fibroblast cells.

3. The function of MsbA in membrane transport with drug-resistant bacteria.

4. Intercellular communication involving connexin protein and its function in x–linked diseases.

5. Trans–membrane signaling within human platelet protein integrin.

These studies will use low–dose cryoelectron microscopy techniques. Application accepted by Commissioner of Customs: June 8, 2005.

Docket Number: 05–021. Applicant: University of California, San Diego, 9500 Gilman Drive, La Jolla, CA 92093–0332. Instrument: Electron Microscope, Model Technai G^2 Polara. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used to image and study, among other things:

1. The structure and the mechanisms of action of various viruses.

2. Cell motility and adhesion of ventral membrane preparations of fibroblast cells.

3. The function of MsbA in membrane transport with drug-resistant bacteria.

4. Intercellular communication involving connexin protein and its function in x–linked diseases.

5. Trans–membrane signaling within human platelet protein integrin.

These studies will use low–dose cryoelectron microscopy techniques.

Application accepted by Commissioner of Customs: June 8, 2005.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E5–3256 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Application and Reports for Scientific Research and Enhancement Permits Under the Endangered Species Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 22, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Leslie Schaeffer, 503–230–5433 or *leslie.schaeffer@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) imposed prohibitions against the taking of endangered species. Section 10 of the ESA allows permits authorizing the taking of endangered species for research/enhancement purposes. The corresponding regulations established procedures for persons to apply for such permits. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain two sets of information collections: (1) Applications for research/enhancement permits, and (2) reporting requirements for permits issued.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions. To issue permits under ESA section 10(a)(1)(A), the National Marine Fisheries Service (NMFS) must determine that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of the ESA.

The currently approved application and reporting requirements are being revised to apply only to Pacific salmon and steelhead, as requirements regarding other species are being addressed in a separate information collection. Clarification of some of the narrative will also be provided, based on previous applicants' responses and submitted applications and reports.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include e-mail of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Number: 0648–0402.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Non-profit institutions; State, local, or tribal government; and businesses or other for-profit organizations.

Estimated Number of Respondents: 113.

Estimated Time Per Response: 30 hours for permit applications; 10 hours for permit modification requests; 10 hours for annual reports; and 20 hours for final reports.

Estimated Total Annual Burden Hours: 2,280.

Estimated Total Annual Cost to Public: $2,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 16, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–12261 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Report of Whaling Operations.

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 22, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Cheri McCarty, Office of Protected Resources, (301) 713–2322 or *Cheri.Mccarty@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Native Americans are allowed to conduct certain aboriginal subsistence whaling in accordance with the provisions of the International Whaling Commission (IWC). In order to respond to obligations under the International Convention for the Regulation of Whaling, and the IWC, captains participating in these operations must submit certain information to the

relevant Native American whaling organization about strikes on and catch of whales. Anyone retrieving a dead whale is also required to report. Captains must place a distinctive permanent identification mark on any harpoon, lance, or explosive dart used, and must also provide information on the mark and self-identification information. The relevant Native American whaling organization receives the reports, compiles them, and submits the information to NOAA.

The information is used to monitor the hunt and to ensure that quotas are not exceeded. The information is also provided to the International Whaling Commission, which uses it to monitor compliance with its requirements.

II. Method of Collection

Reports may be made by phone or fax. Information on equipment marks must be made in writing. No form is used.

III. Data

OMB Number: 0648–0311.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households; State, local, or tribal governments.
Estimated Number of Respondents: 52.
Estimated Time Per Response: 30 minutes for reports on whales struck or on recovery of dead whales; 5 minutes for providing the relevant Native American whaling organization with information on the mark and self-identification information; 5 minutes for marking gear; and 5 hours for the relevant Native American whaling organization to consolidate and submit reports.
Estimated Total Annual Burden Hours: 48.
Estimated Total Annual Cost to Public: $100.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 16, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–12262 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Haddock Bycatch Notification of Landing

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 22, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Brian R. Hooker, Fishery Policy Analyst, Sustainable Fisheries Division, One Blackburn Drive, Gloucester, MA 01930, 978–281–9220.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) Northeast Region manages Northeast (NE) multispecies and herring fisheries of the Exclusive Economic Zone (EEZ) of the Northeastern United States through the NE Multispecies and Herring Fishery Management Plans (FMPs). The New England Fishery Management Council prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act). The regulations implementing the FMPs are specified under 50 CFR 648.80 and 648.200

The recordkeeping and reporting requirements at § 648.80(d)(9) and (e)(8) form the basis for this collection of information. NMFS Northeast Region requests information from Category 1 herring vessel owners/operators in order to facilitate enforcement of haddock possession limits and monitor the bycatch of haddock in the herring fishery. The failure to collect information on Category 1 herring vessel activity or collecting it less frequently could undermine efforts to facilitate enforcement. This information is important in determining the impact of herring vessel operations on groundfish fishing mortality. The information is a prior notification of landing submitted through a vessel monitoring system (VMS). The cost of operation and installation of the VMS for Category 1 herring vessels is accounted for under OMB Control Number 0648–0404. This information, upon receipt, results in an increasingly more efficient and accurate database for management and monitoring of fisheries of the Northeastern U.S. EEZ.

II. Method of Collection

Information is collected electronically through the vessel's VMS.

III. Data

OMB Number: 0648–0525.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 105.
Estimated Time Per Response: 5 minutes.
Estimated Total Annual Burden Hours: 56.
Estimated Total Annual Cost to Public: $335.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval of this information collection; they also will become a matter of public record.

Dated: June 16, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–12263 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060805C]

Atlantic Pelagic Longline Take Reduction Team Meeting

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

ACTION: Notice of establishment of an Atlantic Longline Take Reduction Team and meeting.

SUMMARY: NMFS is establishing a Take Reduction Team (TRT) and convening a TRT meeting to address the incidental mortality and serious injury of long-finned pilot whales (*Globicephala melas*) and short-finned pilot whales (*Globicephala macrorhynchus*) in the Atlantic region of the Atlantic pelagic longline fishery. The TRT will develop a Take Reduction Plan (TRP) as required in the Marine Mammal Protection Act (MMPA). NMFS will seek input from the Atlantic Pelagic Longline TRT on all scientific data related to stock structure, abundance, and human-caused mortality and serious injury of pilot whales. The TRT will focus on developing a plan to reduce incidental catch of pilot whales in the Atlantic pelagic longline fishery to a level approaching a zero mortality and serious injury rate within 5 years of implementation of the plan.

DATES: The meeting will be held on June 29, 2005, from 1 p.m. to 5 p.m., and on June 30, 2005, from 8:30 p.m. to 5 p.m.

ADDRESSES: The PLTRT meeting will be held at the Hyatt Regency, 7400 Wisconsin Avenue, Bethesda, MD 20814. Phone: (301) 657–1234, Fax: (301) 657–6453.

FOR FURTHER INFORMATION CONTACT: Victoria Cornish: (727) 824–5312 or Kristy Long: (301) 713–2322.

SUPPLEMENTARY INFORMATION: The MMPA defines the Potential Biological Removal (PBR) level of a marine mammal stock as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The PBR level is the product of the following factors: the minimum population estimate of the stock; one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size; and a recovery factor of between 0.1 and 1.0.

The Western North Atlantic stocksof short-finned and long-finned pilot whales (*Globicephala* sp.) were designated as strategic in the 2003 marine mammal stock assessment report. However, NMFS has revised the abundance estimates for pilot whales based on recent surveys conducted throughout their range. The 2005 draft stock assessment report now indicates that the PBR for the combined stock of long-finned and short-finned pilot whales (*Globicephala* sp.) is 247, and that total fishery-related mortality and serious injury is 201. Therefore, the status of this combined stock in the 2005 draft stock assessment report will change from strategic to non-strategic because fishery-related serious injuries and mortalities are less than PBR.

For a non-strategic stock, a take reduction plan shall be completed within 11 months of the establishment of the team, and shall focus on reducing incidental mortalities and serious injuries of pilot whales to a level approaching a zero mortality and serious injury rate within 5 years of implementation of the plan.

Both species of pilot whales are known to interact with the pelagic longline fishery, which is classified on the MMPA List of Fisheries as a Category I fishery, or one that has frequent incidental mortalities or serious injuries of marine mammals. Most of the observed interactions of pilot whales with the pelagic longline fishery have occurred in the Mid-Atlantic Bight, where the ranges of the two species overlap. Other commercial fisheries known to occasionally cause incidental mortality and serious injury of short-finned and long-finned pilot whales include the southern New England and mid-Atlantic midwater and bottom trawl fisheries targeting squid, mackerel, butterfish, and herring. These fisheries are identified in the 2004 List of Fisheries (69 FR 48407, August 10, 2004).

As required under section 118 (f)(8) of the MMPA, the TRT shall develop a draft TRP by consensus, and shall submit this draft TRP to NMFS not later than 11 months after the date of the establishment of the TRT. The Secretary shall then consider the TRP, and no later than 60 days after the submission of the draft TRP, NMFS shall publish in the **Federal Register** the TRP and any implementing regulations proposed by the team for a public comment period not to exceed 90 days. Within 60 days of the close of the comment period, NMFS shall issue a final TRP and any implementing regulations.

List of invited participants: MMPA section 118 (f)(6)(C) requires that members of TRTs have expertise regarding the conservation or biology of the marine mammal species that the TRP will address, or the fishing practices that result in the incidental mortality or serious injury of such species. The MMPA further specifies that TRTs shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user and non-user interests.

NMFS has asked the following individuals to serve as members of the TRT, which will focus on reducing bycatch of long-finned and short-finned pilot whales in the Atlantic pelagic longline fishery:

Nelson Beidman, Blue Water Fishermen's Association; Jim Budi, Shoreside; Vicki Cornish, NMFS; Jean Cramer, Thunder Mountain Consulting; Brendan Cummings, Center for Biological Diversity; Damon Gannon, Mote Marine Laboratory; Charlotte Hudson Gray, Oceana; Gail Johnson, Fishing Vessel Seneca; David Kerstetter, Virginia Institute of Marine Science; Bill McLellan, University of North Carolina at Wilmington; Dan Mears, Fishing Vessel Monica; Tim Ragen, Marine Mammal Commission; Scott Rucky, Fishing Vessel Dakota; Rick Seagraves, Mid-Atlantic Fishery Management Council; and Sharon Young, Humane Society of the United States.

Other individuals from NMFS and state and Federal agencies may be present as observers or for their scientific expertise. Members of TRTs serve without compensation, but may be reimbursed by NMFS, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team. The TRT process will be facilitated by Scott McCreary and Eric Poncelet, CONCUR, Inc., Berkeley, California. The TRT will hold its first meeting from June 29–30, 2005 in Bethesda, Maryland (see **DATES** and **ADDRESSES**).

NMFS fully intends to conduct the TRT process in a way that provides for national consistency yet accommodates the unique regional characteristics of the fishery and marine mammal stocks involved. Take Reduction Teams are not subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings are open to the public.

Dated: June 16, 2005.

P. Michael Payne,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–12342 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060804F]

Endangered Fish and Wildlife; National Environmental Policy Act; Right Whale Ship Strike Reduction Strategy Notice of Intent to Prepare an Environmental Impact Statement and Conduct Public Scoping

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

ACTION: Notice of intent; request for written comments.

SUMMARY: NMFS intends to prepare an Environmental Impact Statement (EIS) to analyze the potential impacts of implementing the operational measures in NOAA's Right Whale Ship Strike Reduction Strategy (Strategy). This notice describes the proposed action and possible alternatives intended to reduce the likelihood and threat of right whale deaths as a result of collisions with vessels.

DATES: Written or electronic comments must be received no later than 5 p.m., eastern standard time, on July 22, 2005. At this time there are no scheduled scoping meetings.

ADDRESSES: Written comments, or requests to be added to the mailing list for this project, should be submitted to: P. Michael Payne, Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: Right Whale Ship Strike EIS, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be submitted via fax to (301) 427–2522, Attn: Right Whale Ship Strike EIS, or by e-mail to: *Shipstrike.comments@noaa.gov*. Include in the subject line the following identifier: I.D. 060804F.

Additional information including the Environmental Assessment (EA) and the economic analysis report used in the preparation of the EA are available on the NMFS website at *http://www.nmfs.noaa.gov/pr/shipstrike/*.

FOR FURTHER INFORMATION CONTACT: Greg Silber, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; telephone (301) 713–2322, e-mail *greg.silber@noaa.gov*; or Barb Zoodsma, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; telephone (904) 321–2806, e-mail *barb.zoodsma@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The abundance of North Atlantic right whales is believed to be fewer than 300 individuals despite protection for half a century. The North Atlantic right whale is also considered one of the most endangered large whale populations in the world. Recent modeling exercises suggest that the loss of even an individual animal has measurable effects that may contribute to the extinction of the species (Caswell et al., 1999). The models also suggests that preventing the mortality of one adult female a year significantly alters the projected outcome.

The two most significant human-caused threats and sources of mortality to right whales are entanglements in fishing gear and collisions with ships (Knowlton and Kraus, 2001; Jensen and Silber, 2003). Collisions with ships (referred to as ship strikes) account for more confirmed right whale mortalities than any other human-related activity. Ship strikes are responsible for over 50 percent of known human-related right whale mortalities and are considered one of the principal causes for the lack of recovery in this population. Right whales are located in, or adjacent to, several major shipping corridors on the eastern U.S. and southeastern Canadian coasts.

NMFS has implemented conservation measures to reduce the likelihood of mortalities as a result of ship strikes. These activities include the use of aerial surveys to notify mariners of right whale sighting locations, interagency collaboration with the U.S. Coast Guard (USCG) which issues periodic notices to mariners regarding ship strikes, joint operation with the USCG of Mandatory Ship Reporting (MSR) systems to provide information to mariners entering right whale habitat, support of regional Right Whale Recovery Plan Implementation Teams, support of shipping industry liaisons, and consultations with other Federal agencies regarding the effects of their activities on right whales (under section 7 of the Endangered Species Act). However, right whales continue to sustain mortalities as a result of collisions with vessels despite the efforts of these programs.

NMFS recognizes that this complex problem requires the implementation of additional proactive measures to reduce or eliminate the threat of ship strikes to right whales. The goal of the Strategy is to reduce, to the extent practicable, the distributional overlap between ships and right whales. The Strategy allows for regional implementation and accommodates differences in oceanography, commercial ship traffic patterns, navigational concerns, and right whale use. Implementation of the Strategy will require proposed and final rulemaking to be taken.

Purpose of this Action

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. NMFS is considering a variety of measures, including regulatory and non-regulatory initiatives. NMFS may implement the operational measures of the Strategy through its rulemaking authority pursuant to the Marine Mammal Protection Act (MMPA). Under MMPA section 112(a) (16 U.S.C. 1382(a)), NMFS has authority, in consultation with other Federal agencies to the extent other agencies may be affected, to ''prescribe such regulations as are necessary and appropriate to carry out the purposes of [the MMPA].'' In addition, NMFS has authority under the Endangered Species Act to promote conservation, implement recovery measures, and enhance enforcement to protect right whales. NMFS is seeking public input on the scope of the required National Environmental Policy Act (NEPA) analysis, including the range of reasonable alternatives, associated impacts of any alternatives, and suitable mitigation measures.

On June 1, 2004, NMFS published an Advanced Notice of Proposed Rulemaking (ANPR) (69 FR 30857) and announced its intent to prepare a draft EA to address the potential impacts of implementing the Strategy. The EA considered the context and intensity of the factors identified in NOAA's NEPA guidelines and regulations, along with short- and long-term, and cumulative effects of a No Action Alternative and the proposed action (see **ADDRESSES**). The analysis concluded that the effects of the proposed action on the human environment are likely to be highly controversial. This finding was based on the controversial nature of the Strategy on the human environment and the possible cumulative effects of the proposed action on certain sectors within the maritime industry. The major controversy concerns the potential

economic impacts on the commercial shipping industry. Further, the EA concluded that individual impacts of the proposed action may be insignificant but the cumulative impacts on the shipping industry may be significant. As a result, the cumulative effects on the environment as a result of implementing this action, including the alternatives proposed by this action, are considered significant. Therefore, an EIS is the appropriate level of environmental analysis for the proposed action under NEPA, not an EA. This is consistent with NEPA regulations at section 1501.4(c). This notice announces NMFS's intent to prepare an EIS expanded from the EA to analyze the potential impacts of implementing the operational measures in NOAA's Right Whale Ship Strike Reduction Strategy. This notice describes the proposed action and several possible alternatives intended to reduce the likelihood and threat of mortalities caused by ship strikes.

Scope of the Action

The Draft EIS is expected to identify and evaluate all relevant impacts and issues associated with implementing the Strategy, in accordance with Council on Environmental Quality's Regulations at 40 CFR parts 1500, 1508, and NOAA's procedures for implementing NEPA found in NOAA Administrative Order (NAO) 216–6, Environmental Policy Act, dated May 20, 1999.

NMFS is proposing to implement the operational measures in the Strategy within each of three broad regions: (a) the southeastern Atlantic coast of the U.S., (b) the Mid-Atlantic coastal region, and (c) the northeastern Atlantic coast of the U.S.

The implementation of operational measures, and the specific times and areas (with boundaries) in which the measures would be in effect, are expected to vary within and between each region. However, each region would contain specific elements to reduce the threat of ship strikes to right whales. The operational measures proposed in the alternatives apply to non-sovereign vessels 65 ft (19.8 m) and greater in length. The operational measures do not apply to vessels operated by Federal agencies or the military. Any potential effects of Federal vessel activities, and mitigation, will be evaluated through the Endangered Species Act section 7 consultation process for all alternatives. A more detailed description of the operational measures proposed for each region are in the ANPR (June 1, 2004; 69 FR 30857).

That notice describes the proposed action and possible alternatives intended to reduce the likelihood and threat of mortalities caused by ship strikes pursuant to requirements under NEPA. In particular, the Draft EIS is intended to identify potential impacts to human activities that occur as a result of the proposed action and its alternatives.

The areas of interest for evaluation of environmental and socioeconomic effects will include the territorial sea and the Exclusive Economic Zone off the east coast of the U.S. and international waters in the North Atlantic Ocean.

Public Involvement and the Scoping Process

Public participation in the Strategy has been encouraged through several methods including soliciting public comments on the ANPR and holding public meetings, industry stakeholder meetings, and other focus group meetings. NMFS has been working with state and other Federal agencies, concerned citizens and citizens groups, environmental organizations, and the shipping industry to address the ongoing threat of ship strikes to right whales. NMFS' intent is to encourage the public and interest groups to participate in the NEPA process, including interested citizens and environmental organizations, affected low-income or minority populations or affected local, state and Federal agencies, and any other agencies with jurisdiction or special expertise.

NMFS published the ANPR for Right Whale Ship Strike Reduction in the **Federal Register** on June 1, 2004 (69 FR 30857) and provided a comment period to determine the issues of concern with respect to the practical considerations involved in implementing the Strategy and to determine whether NMFS was considering the appropriate range of alternatives. Comments were received from over 5,250 governmental entities, individuals, and organizations, and can be accessed at the NMFS website (see **ADDRESSES**). These comments were in the form of e-mail, letters, website submissions, correspondence from action campaigns (e-mail and U.S. postal mail), faxes, and a phone call.

NMFS extended the comment period to November 15, 2004 (September 13, 2004; 69 FR 55135) to provide for an extended series of public meetings on the ANPR and this topic in general. Five public meetings on the ANPR were held in the following locations: Boston, MA, at the Tip O'Neill Federal Building (July 20, 2004); New York/New Jersey at the Newport Courtyard Marriot (July 21, 2004); Wilmington, NC, at the Hilton Riverside Wilmington (July 26, 2004); Jacksonville, FL, at the Radisson Riverwalk Hotel (July 27, 2004); and Silver Spring, MD, at NOAA Headquarters Science Center (August 3, 2004). Public comments were requested at these meetings and transcribed for the public record. Also, nine industry stakeholder meetings were held to explain the ANPR at the following locations: Boston, MA (September 30, 2004); Portland, ME (October 1, 2004); Norfolk, VA (October 4, 2004); Morehead City, NC (October 6, 2004); Jacksonville, FL (October 13, 2004); Savannah, GA (October 14, 2004); New London, CT (October 20, 2004); Newark, NJ (October 25, 2004); and Baltimore, MD/Washington, DC (October 27, 2004). A summary report of these meetings and a list of the attendees are posted on the internet at *http://www.nero.noaa.gov/shipstrike*.

NMFS also held two focus group discussion meetings with participants from non-governmental organizations, academia, and Federal and state government agencies. The first meeting was held in Silver Spring, MD on September 26, 2004, and the second meeting was in New Bedford, MA on November 5, 2004.

The comments on the ANPR focused primarily on several broad topics including: speed restrictions, vessel size and operations, speed and routing issues specific to regions, routing restrictions (Port Access Routes Study [PARS] and Areas To Be Avoided [ATBA]), safety of navigation, suggestions for alternative or expanded dates for operational measures, military and sovereign vessel exemptions, enforcement, and compliance.

Alternatives

NMFS will evaluate a range of alternatives in the Draft EIS for developing a final Strategy to reduce mortality to right whales due to ship strikes based on a suite of possible mitigative measures contained in each of the elements of the overall Strategy. The following alternatives are being considered based on comments received on the ANPR and during the public meetings: Alternative 1, a no-action alternative; Alternative 2, Use of Dynamic Management Areas (DMAs); Alternative 3, Speed Restrictions in Designated Areas; Alternative 4, Use of Designated or Mandatory Routes; Alternative 5, Combination of Alternatives 1, 2, 3 and 4; and Alternative 6, NOAA Ship Strike Strategy.

For all speed restrictions being considered under an alternative, NMFS

expects to consider 10, 12, and 14 knots in the analyses. Other variations or additional alternatives may be developed based on significant issues raised during this public scoping period. The probable environmental, biological, cultural, social and economic consequences of the alternatives and those activities that may cumulatively impact the environment are expected to be considered in the Draft EIS.

Alternative 1 - No Action (Status Quo): Under this alternative NMFS would continue to implement existing measures and programs, largely non-regulatory, to reduce the likelihood of mortality from ship strikes. Research would continue and existing technologies would be used to determine whale locations and pass this information on to mariners. Ongoing activities under this alternative would include the use of aerial surveys to notify mariners of right whale sighting locations; the operation of Mandatory Ship Reporting Systems; support of Recovery Plan Implementation Teams; education and outreach programs for mariners; and ongoing research on technological solutions. The development, enhancement, and implementation of the draft Education and Outreach Strategy would continue in coordination with the Recovery Plan Implementation Teams. The alternative would also rely on Endangered Species Act section 7 consultations to address, and mitigate the potential effects of, the activities of vessels operated by government agencies. Additionally, efforts will continue to identify technologies that will mitigate or prevent ship strikes to right whales but that would impose minimal or no environmental impacts.

Alternative 2 - Use of DMAs: A second alternative under consideration would incorporate the elements of Alternative 1 with additional measures to implement DMAs. The DMA component of this alternative would be implemented ONLY when right whale sightings occur.

Under this alternative there would need to be a commitment to continuing aircraft surveillance coverage. If confirmed right whale sightings occur, a DMA would be specified and mariners would have the option of either routing around the DMA or to proceed within the DMA at restricted speeds. NMFS is considering various models for whale density required to trigger a DMA action; the current default is the same criteria used for the Atlantic Large Whale Take Reduction Plan (ALWTRP) Dynamic Area Management fishing restrictions. Consecutive DMAs would be imposed if trigger thresholds persist. If subsequent flights confirm the whales are no longer aggregated in this location, the DMA would be lifted.

Alternative 3 - Speed Restrictions in Designated Areas: This alternative includes all elements of Alternative 1 and implements large-scale speed restrictions throughout the range of northern right whales. Restrictions would apply as follows:

1. Speed restrictions year round off the northeast U.S. coast. This area would include either (1) all waters bounded on the east by the U.S. coastline, the west by 68° W longitude, the north by the U.S./Canadian border and the south by 41°30′ N latitude, or (2) all waters in the area used by Seasonal Area Management (SAM) zones as designated in the ALWTRP;
2. Speed restrictions from October 1 through April 30 off the U.S. mid-Atlantic coast. This area would include all waters extended from U.S. coastline out 25 nm from Providence/New London (Block Island Sound) south to Savannah, Georgia.
3. Speed restrictions from December 1 through March 31 off the Southeast U.S. This area would include all waters within the MSR WHALESSOUTH reporting area and the presently designated right whale critical habitat.

Alternative 4 - Use of Designated or Mandatory Routes: This alternative includes all the elements of Alternative 1 and relies on altering current vessel patterns to move vessels away from areas where whales are known to aggregate in order to reduce the likelihood of a mortality due to a ship strike.

This alternative also creates an ATBA in the Great South Channel as described in NOAA's ANPR, and considers recommendations of a PARS by the USCG. At present the PARS analysis is assessing possible lane changes in Cape Cod Bay and waters off the Southeast U.S. The alternative also will analyze the possibility of moving the Traffic Separation Scheme into/out of Boston to avoid high density aggregations of whales at the northern end of Cape Cod Bay and Stellwagen Bank.

Alternative 5 - Combination of Alternatives: This alternative includes all elements of Alternatives 1 - 4. The cumulative effects of Alternative 5 would be the additive effects of each of the previous alternatives.

Alternative 6 - NOAA Ship Strike Strategy: This alternative includes all the operational measures identified in the NOAA Ship Strike Strategy. The principal difference between Alternative 5 and 6 is that Alternative 6 does not include large-scale speed restrictions (as identified in Alternative 3) but instead relies on speed restrictions in much smaller Seasonally Managed Areas as identified in the NOAA Ship Strike Strategy.

Comments Requested

NMFS provides this notice to: advise the public and other agencies of the NOAA's intentions, and obtain suggestions and information on the scope of issues to include in the EIS. Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action and all significant issues are identified. NMFS requests that comments be as specific as possible. In particular, the agency requests information regarding: the potential direct, indirect, and cumulative impacts resulting from the proposed action on the human environment. The human environment could include air quality, water quality, underwater noise levels, socioeconomic resources, and environmental justice.

Comments concerning this environmental review process should be directed to NMFS (see **ADDRESSES**). See **FOR FURTHER INFORMATION CONTACT** for questions. All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.

Authority

The environmental review of the Ship Strike Strategy will be conducted under the authority and in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations.

Literature Cited

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Knowlton, A.R., and S.D. Kraus. 2001. Mortality and serious injury of northern right whales (*Eubalaena glacialis*) in the western North Atlantic Ocean. Jour. Cetacean Res. and Manag. (Special Issue) 2:193 208. Russell, B.A. 2001.

Dated: June 16, 2005.

P. Michael Payne

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–12352 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061405C]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permit Related to Horseshoe Crabs

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

ACTION: Notice; request for comments.

SUMMARY: NMFS announces that the Director, Office of Sustainable Fisheries, is considering issuing an Exempted Fishing Permit to Limuli Laboratories of Cape May Court House, NJ, to conduct the fifth year of an exempted fishing operation otherwise restricted by regulations prohibiting the harvest of horseshoe crabs in the Carl N. Schuster Jr. Horseshoe Crab Reserve (Reserve) located 3 nautical miles (nm) seaward from the mouth of the Delaware Bay. If granted, the EFP would allow the harvest of 10,000 horseshoe crabs for biomedical purposes and require, as a condition of the EFP, the collection of data related to the status of horseshoe crabs within the Reserve. This notice also invites comments on the issuance of the EFP to Limuli Laboratories.

DATES: Written comments on this action must be received on or before July 7, 2005.

ADDRESSES: Written comments should be sent to John H. Dunnigan, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910. Mark the outside of the envelope ''Comments on Horseshoe Crab EFP Proposal.'' Comments may also be sent via fax to (301) 713–0596. Comments on this notice may also be submitted by e-mail to: *Horseshoe-Crab.EFP@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: Horseshoe Crab EFP Proposal.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, Fishery Management Biologist, (301) 713–2334.

SUPPLEMENTARY INFORMATION:

Background

The regulations that govern exempted fishing, at 50 CFR 600.745(b) and 697.22, allow a Regional Administrator or the Director of the Office of Sustainable Fisheries to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up and/or hazardous removal purposes, the targeting or incidental harvest of managed species that would otherwise be prohibited. Accordingly, an EFP to authorize such activity may be issued, provided: there is adequate opportunity for the public to comment on the EFP application, the conservation goals and objectives of the fishery management plan are not compromised, and issuance of the EFP is beneficial to the management of the species.

The Reserve was established on March 7, 2001 to protect the Atlantic coast stock of horseshoe crabs and to support the effectiveness of the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for horseshoe crabs. The final rule (February 5, 2001; 66 FR 8906) prohibited fishing for and possession of horseshoe crabs in the Reserve on a vessel with a trawl or dredge gear aboard while in the Reserve. While the rule did not allow for any biomedical harvest or the collection of fishery dependent data, NMFS stated in the comments and responses section that it would consider issuing EFPs for the biomedical harvest of horseshoe crabs in the Reserve.

The biomedical industry collects horseshoe crabs, removes approximately 30 percent of their blood, and returns them alive to the water. Approximately 10 percent do not survive the bleeding process. The blood contains a reagent called *Limulus* Amebocyte Lysate (LAL) that is used to test injectable drugs and medical devices for bacteria and bacterial by-products. Presently, there is no alternative to the LAL derived from horseshoe crabs.

NMFS manages horseshoe crabs in the exclusive economic zone in close cooperation with the Commission and the U.S. Fish and Wildlife Service. The Commission's Horseshoe Crab Management Board met on April 21, 2000, and again on December 16, 2003, and recommended to NMFS that biomedical companies with a history of collecting horseshoe crabs in the Reserve are given an exemption to continue their historic levels of collection not to exceed a combined harvest total of 10,000 crabs annually. In 2000, the Commission's Horseshoe Crab Plan Review Team reported that biomedical harvest of up to 10,000 horseshoe crabs should be allowed to continue in the Reserve given that the resulting mortality should be only about 1,000 horseshoe crabs (10 percent mortality during bleeding process). Also in 2000, the Commission's Horseshoe Crab Stock Assessment Committee Chairman recommended that, in order to protect the Delaware Bay horseshoe crab population from over-harvest or excessive collection mortality, no more than a maximum of 20,000 horseshoe crabs should be collected for biomedical purposes from the Reserve. In addition to the direct mortality of horseshoe crabs that are bled, it can be expected that more than 20,000 horseshoe crabs will be trawled up and examined for LAL processing. This is because horseshoe crab trawl catches usually include varied sizes and sexes of horseshoe crabs and large female horseshoe crabs are the ones usually selected for LAL processing. The remaining horseshoe crabs are released at sea with some unknown amount of mortality. Although unknown, this mortality is expected to be negligible.

Collection of horseshoe crabs for biomedical purposes from the Reserve is necessary because of the low numbers of horseshoe crabs found in other areas along the New Jersey Coast from July through early November and because of the critical role horseshoe crab blood plays in health care. In conjunction with the biomedical harvest, NMFS is considering requiring that scientific data be collected from the horseshoe crabs taken in the Reserve as a condition of receiving an EFP. Since the Reserve was first established, the only fishery data from the Reserve were under EFPs issued to Limuli Laboratories for the past four years, and under Scientific Research Activity Letter of Acknowledgment issued Virginia Polytechnic Institute and State University's Department of Fisheries and Wildlife Science on September 4, 2001 (for collections from September 1–October 31, 200l), on September 24, 2002 (for collections from September 24–November 15, 2002), on August 14, 2003 (for collections from September 1–October 31, 2003), and on September 15, 2004 (for collections from September 15–October 31, 2004). Further data are needed to improve the understanding of the horseshoe crab population in the Delaware Bay area and to better manage the horseshoe crab resource under the cooperative state/Federal management program. The data collected through the EFP will be provided to NMFS, the

Commission, and to the State of New Jersey.

Results from 2004 EFP

Limuli Laboratories applied for an EFP to collect horseshoe crabs for biomedical and data collection purposes from the Reserve in 2004. The EFP application specified that: (1) the same methods would be used in 2004 that were used in years 2001–2003, (2) 15 percent of the bled horseshoe crabs would be tagged - an increase from 10 percent, and (3) there had not been any sighting or capture of marine mammals or endangered species in the trawling nets of fishing vessels engaged in the collection of horseshoe crabs since 1993.

An EFP was issued to Limuli Laboratories on July 12, 2004, which allowed them to collect horseshoe crabs in the Reserve until November 14, 2004. A total of 1,724 horseshoe crabs were collected within the Reserve. Of these, 1,500 animals were used for the manufacture of LAL. Horseshoe crab activity levels were noted as active (59 percent) and very active (33 percent). Only 8 percent of the animals exhibited little if no movement when placed on the scale. The remaining 224 animals were rejected for biomedical use due to lethargy or injury. Horseshoe crabs were collected on 23 days (6 days in July, 4 days in August, 5 days in September and 8 days in October), and were transported to the laboratory for the bleeding operation and inspected for sex, size, injuries and responsiveness. Three to four tows were conducted during each fishing trip with the tows lasting no more than 30 minutes to avoid impacting loggerhead turtles. Horseshoe crabs were unloaded at Two Mile Dock, Wildwood Crest, New Jersey and at County Dock, Ocean City, Maryland and transported to the laboratory by truck. Horseshoe crabs injured during transport and handling numbered 137 crabs or 7.95 percent (829 crabs or 14.1 percent in 2003) of the total while 87 horseshoe crabs or 5.05 percent (108 crabs or 1.8 percent in 2003) were noted as unresponsive (presumed dead). Since large horseshoe crabs, which are generally females, are used for LAL processing, most of the crabs transported to the laboratory were females. Of those 1,500 processed for LAL, 248 female crabs were measured (interocular distances and prosoma widths), weighed, aged, and tagged to establish baseline morphometrics and ages, prior to being released. An additional 64 female bled animals were tagged for a total of 313 animals. The average measurements for the female horseshoe crabs were 166.32 mm (165.36 mm in 2003) for the inter-ocular distance, 264.90 mm (267.42 mm in 2003) for the prosoma width and 2.39 kg (2.5 kg in 2003) for the weight. Encrusting organisms (bryozoans, barnacles and sand tub worms) were found on 66.9 percent of the horseshoe crabs examined. Broken tails were observed in 11.3 percent of the individuals.

Horseshoe crabs were aged in 2004 using Dr. Carl N. Schuster Jr.'s criteria of aging by appearance: virgin (5.31 percent), young (30.61 percent), young/medium (42.05 percent), and old (18.78 percent). This finding supports the basis for the Reserve, which was established to protect young horseshoe crabs.

In 2004, a total of 313 horseshoe crabs from the Reserve were tagged and released at the water's edge on Highs Beach, New Jersey. The beach was checked frequently, following release, to ensure the crabs had returned to the water. Twelve live recoveries of crabs previously bled, tagged, and released during 2001–2003, were found spawning along the Delaware Bay shore in both New Jersey (Cape Shore Lab, Thompsons, Reeds Beach, Jones Beach, Kimbles Beach, Del Haven, and East Point), and Delaware (Bowers). One live recovery, released in 2003, was found spawning on Jones Beach, New York. Three dead recoveries of crabs previously bled, tagged, and released in 2001 and 2003, were found in New Jersey (Villas and Pierces Point).

Data collected under the EFP were supplied to NMFS, the Commission, and the State of New Jersey.

Proposed 2005 EFP

Limuli Laboratories proposes to conduct an exempted fishery operation using the same means, methods, and seasons utilized during the EFPs in 2001–2004, as described below under terms and conditions. Limuli proposes to continue to tag 15 percent of the bled horseshoe crabs as they did in 2004, up from 10 percent during years 2001–2003.

The proposed EFP would exempt two commercial vessels from regulations at 50 CFR 697.7(e), which prohibit fishing for horseshoe crabs in the Reserve under § 697.23(f)(1) and prohibit possession of horseshoe crabs on a vessel with a trawl or dredge gear aboard in the same Reserve.

Limuli Laboratories, in cooperation with the State of New Jersey's Division of Fish and Wildlife, submitted an application for an EFP dated June 2, 2005, which was received on June 6, 2005. NMFS has made a preliminary determination that the subject EFP contains all the required information and warrants further consideration. NMFS has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Federal horseshoe crab regulations and the Commission's Horseshoe Crab ISFMP.

Regulations at 50 CFR 600.745(b)(3)(v) authorize NMFS to attach terms and conditions to the EFP consistent with: the purpose of the exempted fishery, the objectives of horseshoe crab regulations and fisheries management plan, and other applicable law. NMFS is considering adding the following terms and conditions to the EFP:

1. Limiting the number of horseshoe crabs collected in the Reserve to no more than 500 crabs per day and to a total of no more than 10,000 crabs per year;

2. Requiring collections to take place over a total of approximately 20 days during the months of July, August, September, October, and November. Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve from July through November;

3. Requiring that a 5½ inch (14.0 cm) flounder net be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;

4. Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;

5. Restricting the hours of fishing to daylight hours only, approximately from 7:30 a.m. to 5 p.m. to aid law enforcement. NMFS also is considering a requirement that the State of New Jersey Law Enforcement be notified daily as to when and where the collection will take place;

6. Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into the Lower Delaware Bay; and

7. Requiring that any turtle take be reported to NMFS, NERO Assistant Regional Administrator of Protected Resources Division (phone, (978) 281–9328) within 24 hours of returning from the trip in which the incidental take occurred.

Also as part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS is considering a requirement that the EFP

holder provide data on sex ratio and daily numbers, and tag 15 percent of the horseshoe crabs harvested. Also, the EFP holder may be required to examine at least 200 horseshoe crabs for: morphometric data, by sex (e.g., interocular distance and weight), and level of activity, as measured by a response or by distance traveled after release on a beach.

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

Dated: June 16, 2005.

John H. Dunnigan

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

[FR Doc. 05–12353 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Wireless Security Public Forum

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce

ACTION: Notice of Public Meeting

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, will host a half-day public meeting on wireless security entitled, ''Pharmers and Spimmers, Hackers and Bluejackers: Combating Wireless Security Threats.'' The forum is an opportunity for interested parties to discuss existing and potential vulnerabilities that threaten the security of consumers and businesses using new and/or forthcoming wireless communications for voice or data, and private sector and governmental responses to those vulnerabilities. The forum will serve to inform policymakers and industry on issues that may affect the use of spectrum and the growth of wireless industries, while raising public awareness of vulnerabilities. The first panel will address possible threats and security issues concerning new mobile technologies (e.g. Wi-Fi, smart cell phones, WiMax, mesh networks). Panelists will include wireless industry experts, academics, government users, market analysts and researchers. The second panel will discuss the variety of security solutions that might address the problems identified in Panel 1, and the need (if any) for further development of tools and public awareness and education. Panelists will include representative security vendors, wireless companies with hardware solutions, companies and/or government entities involved with education campaigns, and representatives of self-regulatory groups seeking solutions.

DATES: The Wireless Security Public Meeting will be held from 9:00 a.m. to 1:00 p.m. on Wednesday, July 20, 2005.

ADDRESSES: The public meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Auditorium, Washington, D.C. (Entrance to the Department of Commerce is on 14th Street between Constitution and Pennsylvania Avenues, N.W.)

FOR FURTHER INFORMATION CONTACT: Sallianne Schagrin, Office of Policy Analysis and Development, at (202) 482–1880, or via electronic mail: sschagrin@ntia.doc.gov. Please direct media inquiries to the Office of Public Affairs, NTIA, at (202) 482–7002.

SUPPLEMENTARY INFORMATION: Americans are increasingly utilizing cutting-edge wireless technologies in their everyday lives. Many wireless data applications are already available, such as the increasing usage of smart cell phones and the growing availability of technologies such as Wi-Fi. Businesses are also increasing their use of wireless devices for remote access to office networks and for consumer transactions, such as wireless cash registers or PDAs, which transmit personal information of consumers. Other wireless technologies, such as WiMax and wireless mesh networks, are likely to become more widely used in the next few years.

The transmission of information over radio waves is inherently less secure than transmission by wire. Moreover, the intelligence built into leading edge technology is often vulnerable to the same threats as other computer or Internet Protocol devices. Understanding the nature of these threats, and the possible solutions, is important to government and industry alike as these new wireless technologies become more widely available.

NTIA has an interest in these issues as part of its mandate to develop telecommunications and information policies for the Executive Branch that will advance the nation's technological and economic advancement. This event would also further the goals of the President's Spectrum Initiative, which include maintenance of U.S. global leadership in communications technology development and services.

PUBLIC PARTICIPATION: The public meeting will be open to the public and press on a first-come, first-served basis. Space is limited. Due to security requirements and to facilitate entry to the Department of Commerce building, attendees must present photo identification and/or a U.S. Government building pass, if applicable, and should arrive at least one-half hour ahead of the panel sessions. The public meeting is physically accessible to people with disabilities. Any member of the public wishing to attend and requiring special services, such as sign language interpretation or other ancillary aids, should contact Sallianne Schagrin at (202) 482–1880 or sschagrin@ntia.doc.gov at least three (3) days prior to the meeting.

Dated: June 17, 2005.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 05–12317 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–60–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Patent Processing (Updating).

Form Number(s): PTO/SB/08a, PTO/SB/08b, PTO/SB/17i, PTO/SB/17P, PTO/SB/21–27, PTO/SB/30–37, PTO/SB/42–43, PTO/SB/61–64, PTO/SB/64a, PTO/SB/67–68, PTO/SB/91–92, PTO/SB/96–97, PTO–2053–A/B, PTO–2054–A/B, PTO–2055–A/B, PTOL/413A.

Agency Approval Number: 0651–0031.

Type of Request: Revision of a currently approved collection.

Burden: 2,732,441 hours.

Number of Respondents: 2,284,439 responses.

Avg. Hours Per Response: 1 minute 48 seconds to 8 hours. The USPTO estimates that it will take 12 minutes (0.20) to complete the petition for express abandonment to obtain a refund. This includes time to gather the necessary information, create the documents, and submit the completed request.

Needs and Uses: This proposed new petition for express abandonment to obtain a refund will benefit the applicant by allowing the applicant to receive a refund of the search fee if the applicant files a written express

abandonment as prescribed by the Director before an examination has been made of the application. The USPTO is submitting this collection in support of a notice of proposed rulemaking, ''Changes to Implement the Patent Search Fee Refund Provisions of the Consolidated Appropriations Act, 2005'' (RIN 0651–AB79). There is one form associated with this final rulemaking, PTO/SB 24b, Petition for Express Abandonment to Obtain a Refund.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms, the Federal government, and State, local or tribal governments.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

- E-mail: *Susan.Brown@uspto.gov.* Include ''0651–0031 copy request'' in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan Brown.
- Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before July 22, 2005, to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: June 15, 2005.

Susan K. Brown,

Records Officer, USPTO, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 05–12294 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Initial Patent Applications.

Form Number(s): PTO/SB/01–01A, PTO/SB/02A–02B, PTO/SB/02LR, PTO/SB/03–03A, PTO/SB/04–07, PTO/SB/13PCT, PTO/SB/16–19, PTO/SB/29–29A, PTO/SB/101–110, Electronic New Utility and Provisional Application Forms.

Agency Approval Number: 0651–0032.

Type of Request: Revision of a currently approved collection.

Burden: 4,171,568 hours annually.

Number of Respondents: 454,287 responses per year.

Avg. Hours Per Response: The USPTO estimates that it takes between 22 minutes to 10 hours and 45 minutes to gather the information, prepare, and submit the various paper and electronic applications and petitions in this collection, depending on the situation and the amount of information that needs to be submitted. The USPTO estimates that it takes 22 minutes to copy an oversized new original utility or provisional application that cannot be submitted electronically through EFS onto a CD–ROM, print the application transmittal, and prepare the cover letter submitting the submission.

Needs and Uses: The USPTO is submitting a proposed addition to this information collection in support of a notice of proposed rulemaking, entitled ''Changes to Implement the Patent Search Fee Refund Provisions of the Consolidated Appropriations Act, 2005'' (RIN 0651–AB79). The Consolidated Appropriations Act splits the patent application filing fee into a separate filing fee, search fee, and examination fee and provides for the refund of all or part of the search fee in certain situations. The USPTO is proposing changes to the rules of practice to implement the provisions for refunding the search fee for applicants who file a written declaration of express abandonment before the application has been examined. Neither the Consolidated Appropriations Act nor the proposed rule change the needs and uses currently reported for this collection.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions, farms, the Federal Government, and State, local, or tribal governments.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

- E-mail: *Susan.Brown@uspto.gov.* Include ''0651–0032 Initial Patent Applications copy request'' in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan Brown.
- Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before July 22, 2005 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street NW., Washington, DC 20503.

Dated: June 15, 2005.

Susan K. Brown,

Records Officer, USPTO, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 05–12295 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF CONSUMER PRODUCT SAFETY COMMISSION

Meetings: Commission Agenda and Priorities; Public Hearing

Federal Register Citation of Previous Announcement: Vol. 70, No. 105, Thursday, June 2, 2005, pages 32304–32305.

Previously Announced Time and Date of Meeting:, 10 a.m., Tuesday, June 21, 2005.

Changes in Meeting: The public hearing on Commission Agenda and Priorities for fiscal year 2007 is canceled.

For a recorded message containing the latest agenda information, call (301) 504–7948

For Further Information Contact: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway., Bethesda, MD 20207 (301) 504–7923.

Dated: June 16, 2005.

Todd A. Stevenson,

Secretary.

[FR Doc. 05–12231 Filed 6–21–05; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Announce Public Meeting of the Defense Advisory Committee on Military Compensation

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: *Name of Committee:* The Defense Advisory Committee on Military Compensation (DACMC).

Committee Membership: Chairman: ADM (Ret) Donald L. Pilling. Members: Dr. John P. White; Gen (Ret) Lester L. Lyles; Mr. Frederic W. Cook; Dr. Walter Oi; Dr. Martin Anderson; and Mr. Joseph E. Jannotta.

General Function of the Committee: The Committee will provide the Secretary of Defense, through the Under Secretary of Defense (Personnel and Readiness), with assistance and advice on matters pertaining to military compensation. The Committee will examine what types of military compensation and benefits are the most effective for meeting the needs of the Nation.

Date and Time: Wednesday, July 20, 2005, from 10 a.m. to 12 p.m. (morning session) and 1 p.m. to 3 p.m. (afternoon session).

Location: Crystal City Hilton, 2399 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Mr. Terry Mintz, Designated Federal Official, Defense Advisory Committee on Military Compensation, 2521 S. Clark Street, Arlington, VA 22202. Telephone (703) 699–2700.

Agenda: On July 20, 2005, from 10 a.m. to 12 p.m. and 1 p.m. to 3 p.m., the Committee will discuss various aspects of the military pay and benefits system, specifically concerning issues identified during fact-finding briefings conducted at the June meeting.

Procedure: Public participation in Committee discussions at this meeting will not be permitted. Written submissions of data, information, and views may be sent to the Committee's contact person at the address shown. Submissions be received by close of business July 15, 2005. Persons attending are advised that the Committee is not responsible for providing access to electrical outlets.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Mintz at (703) 699–2700.

Dated: June 16, 2005.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–12244 Filed 6–21–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Reserve Officers' Training Corps (ROTC) Program Subcommittee

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., App. 2), announcement is made of the following Committee meeting:

Name of Committee: Reserve Officers' Training Corps (ROTC) Program Subcommittee.

Dates of Meeting: July 6–7, 2005.

Location: Sheraton Tacoma Hotel, 1320 Broadway Plaza, Tacoma, Wa 98402.

Time: 0800–1700 hours, July 6, 2005; 0800–1700 hours July 7, 2005.

Proposed Agenda: Review and discuss academic accreditation agencies and procedures; development of Military Science and Leadership as a minor; incentive based scholarship initiatives; and observe ROTC cadet training at the Leadership Development and Assessment Course (LDAC), Fort Lewis, WA.

FOR FURTHER INFORMATION CONTACT: Mr. Pierre Blackwell, U.S. Army Cadet Command (ATCC–TR), Fort Monroe, VA 23651 at (757) 788–4326.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee.

Radames Cornier, Jr.,

Colonel, GS Chief of Staff.

[FR Doc. 05–12305 Filed 6–21–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Provisional Patent Application Concerning Development of a Biosensor for Anthrax Therapeutics and Diagnostics

AGENCY: Department of the Army, DoD.

ACTION: Notice

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 60/653,230 entitled ''Development of a Biosensor for Anthrax Therapeutics and Diagnostics, filed February 14, 2005. The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–ZA–J, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This biosensor can be used for several different purposes namely: (1) Study toxin protein-protein interactions; (2) Screen anthrax therapeutic molecules such as antibodies and small molecules; (3) As a diagnostic tool to detect anthrax toxins in blood or urine samples.

Brenda S. Bowen

Army Federal Register Liaison Officer.

[FR Doc. 05–12308 Filed 6–21–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Method and Apparatus for Making Body Heating and Cooling Garments

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR Part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,901,608 B2 entitled ''Method and Apparatus for Making Body Heating and Cooling Garments'' issued June 7, 2005. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosendrans at U.S. Army Soldier Systems Center, Kansas Street, Natick, MA 01760, Phone: (508) 233–4938 or E-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR Part 404.

Brenda S. Bowen

Army Federal Register Liaison Officer.

[FR Doc. 05–12309 Filed 6–21–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Availability of Draft General Reevaluation Report and Supplemental Environmental Impact Statement for the Poplar Island Environmental Restoration Project, Talbot County, MD

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: In accordance with the requirements of the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE), Baltimore District has prepared a Draft General Reevaluation Report (GRR) and Supplemental Environmental Impact Statement (SEIS) for the Poplar Island Environmental Restoration Project (PIERP) to evaluate the vertical and/or lateral expansion of the PIERP, design modifications to the existing project, the addition of recreational/educational opportunities to the existing project, and the potential to accept dredged material from additional channels not specified in the 1996 EIS for the existing project.

The preferred alternative includes a northern lateral expansion consisting of approximately 575 acres, of which 60% will be wetland habitat and 40% upland habitat; construction of a 5-ft vertical raising of the existing upland Cells 2 and 6 at the PIERP; amending the existing project authorization and Project Cooperation Agreement (PCA) to include the placement of dredged material from the southern approach channels to the Chesapeake and Delaware (C&D) Canal and other small Federal navigation projects; incorporation of design modifications required for the completion of the existing project, and development of recreational and educational enhancements for the PIERP. The Corps is making the Draft integrated GRR/SEIS available to the public for a 45-day review and comment period.

DATES: Comments need to be received on or before August 8, 2005, to ensure consideration in final plan development. Two public meetings will be held for the PIERP integrated Draft BRR/SEIS. See **SUPPLEMENTARY INFORMATION** section for meeting dates and addresses.

ADDRESSES: Send written comments concerning this proposed project to U.S. Army Corps of Engineers, Baltimore District, Attn: Mr. Mark Mendelsohn, CCENAB–PL–P, P.O. Box 1715, Baltimore, MD 21203–1715. Submit electronic comments to *mark.mendelsohn@usace.army.mil*. See **SUPPLEMENTARY INFORMATION** section for electronic comment guidance.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Mendelsohn, (410) 962–9499 or (800) 295–1610.

SUPPLEMENTARY INFORMATION: PIERP is located in the Chesapeake Bay; approximately 39 miles south-southeast of the Port of Baltimore, and two miles northwest of Tilghman Island in Talbot County, MD. Approximately 10,000 acres of remote island habitat has been lost throughout the Chesapeake Bay in the last 150 years. Dredged material from the Upper Chesapeake bay Approach Channels to the Port of Baltimore is being beneficially used to restore 1,140 acres of wetland and upland habitat (approximately 570 acres of wetland habitat and 570 acres of upland habitat), and it is estimated that by 2014 the PIERP will provide up to 40 million cubic yards (mcy) of dredged material placement capacity. To date, approximately 12 mcy of dredged material have been placed at the site. Construction and site operation at the PIERP is a collaborative effort that is cost shared between the Federal sponsor, the U.S. Army Corps of Engineers—Baltimore District (USACE-Baltimore) and the non-Federal sponsor, Maryland Port Administration (MPA).

To address the predicted dredged material placement capacity shortfall, USACE-Baltimore and MPA initiated the Poplar Island Expansion Study (PIES) under the existing PIERP Congressional Authorization, Section 537 of the Water Resources Development Act (WRDA) of 1996. authorization for ecosystem restoration projects using dredged material is included in Section 204 of the WRDA of 1992, as amended by Section 207 of the WRDA of 1996. A Notice of Intent (NOI) to initiate the integrated General Reevaluation Report (GRR)/ Supplemental Environmental Impact Statement (SEIS) was published in the **Federal Register** in June 2003 (68 FR 33685). The USACE-Baltimore District, and a non-Federal sponsor, MPA, under the auspices of the Maryland Department of Transportation (MDOT), are the sponsors for the PIERP GRR/ SEIS.

This Draft integrated GRR/SEIS documents the National Environmental Policy Act (NEPA) compliance for the proposed expansion of the PIERP, provides information specific to the actions of the GRR, and supplements the Poplar Island Restoration Study, Maryland: Integrated Feasibility Report and Environmental Impact Statement (ERP No. D–COE–D350557–MD) (USACE/MPA, 1996).

The first public meeting will be held at the Talbot County Public Library, Easton Branch, 100 West Dover Street, Easton, Maryland 21601, in the conference room on Tuesday, July 19, 2005 beginning at 6 p.m. The second public meeting will be held at Tilghman Elementary School, 21374 Foster Avenue, Tilghman, Maryland 21617, in the cafeteria on Wednesday, Jul6 20, 2005 beginning at 7 p.m. Staff will be available one hour prior to the meeting start time. Both meetings will provide an opportunity for the public to present oral and/or written comments. If you submit your comments electronically, please provide them in body of your message; do not send attached files. Please include your name an address in your message.

All persons and organizations that have an interest in the PIERP integrated GRR/SEIS are urged to participate in one or both meetings.

You may view the Draft integrated GRR/SEIS and related information on our Web page at *http://www.nab.usace.army.mil/projects/Maryland/PoplarIsland/expansion.html*

After the public comment period ends on August 8, 2005, USACE will consider all comments received. The Draft integrated GRR/SEIS will be revised as appropriate and a Final integrated GRR/ SEIS will be issued.

The Draft integrated GRR/SEIS has been prepared in accordance with (1) The National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 et seq.), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), and (3) USACE regulations implementing NEPA (ER–200–2–2).

Mark Mendelsohn,

Study Manager.

[FR Doc. 05–12307 Filed 6–21–05; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection

requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by June 24, 2005. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before August 22, 2005.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) How might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: June 16, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: State Plan for Assistive Technology.

Abstract: States that wish to receive funds under the Assistive Technology Act of 1998, as amended, will be required to provide to the Rehabilitation Services Administration (RSA) a State Plan for Assistive Technology (AT). The State Plan for AT requires States to describe the activities of statewide comprehensive programs that increase access to AT for individuals with disabilities, and the goals to be achieved by undertaking those activities during the three-year period covered by the plan.

Additional Information: Each State will be required to submit a State Plan every three years in order to be eligible for an AT State Grant. In addition to providing a set of assurances, the State Plan for AT requires a State to describe the activities it will undertake in operating its Statewide AT Program, and the goals to be achieved by undertaking those activities during the three-year period covered by the plan. The information being requested is required by section 4(d) of the statute or is directly related to other provisions in the AT Act. RSA needs all of this information in order to determine a State's full compliance with the AT Act and to improve the performance of the program.

Frequency: Every three years.

Affected Public: State, local, or tribal gov't, SEAs or LEAs; not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 5,040.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2792. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to (202) 245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements, contact Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–12253 Filed 6–21–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, July 13, 2005, 7 p.m.–9 p.m.

ADDRESSES: Amargosa Valley Community Center, 821 East Amargosa Farm Road, Amargosa Valley, Nevada.

FOR FURTHER INFORMATION CONTACT: Kay Planamento, Navarro Research and Engineering, Inc., 2721 Losee Road, North Las Vegas, Nevada 89130, phone: 702–657–9088, fax: 702–295–5300, e-mail: *NTSCAB@aol.com.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Members of the Citizens' Advisory Board's (CAB) Underground Test Area Committee will provide a briefing to update stakeholders on their work related to groundwater issues at the Nevada Test Site. CAB members will also discuss technical committee activities and their work plan developed for FY 2006 activities.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either

before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kelly Kozeliski, at the telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Kay Planamento at the address listed above.

Issued at Washington, DC, on June 17, 2005.

R. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–12287 Filed 6–21–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 70) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, July 11, 2005; 9 a.m. to 6 p.m. and Tuesday, July 12, 2005; 9 a.m. to 1 p.m.

ADDRESSES: The Madison, 15th & M Streets, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Bruce Strauss, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; SC–25/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290; Telephone: 301–903–3705.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Monday, July 11, 2005, and Tuesday, July 12, 2005

- Discussion of Department of Energy High Energy Physics Programs
- Discussion of National Science Foundation Elementary Particle Physics Program
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Bruce Strauss, 301–903–3705 or *Bruce.Strauss@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 90 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 16, 2005.

R. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–12288 Filed 6–21–05; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–201–006]

ANR Pipeline Company; Notice of Compliance Filing

June 16, 2005.

Take notice that, on June 13, 2005, ANR Pipeline Company (ANR) tendered for filing a compliance filing pursuant to the Commission's May 31, 2005 order on rehearing and compliance filing in Docket Nos. RP04–201–004 and RP04–201–005.

ANR states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3243 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–373–000]

Dominion Transmission, Inc.; Notice Of Termination Of Service By Abandonment Of Sale

June 15, 2005.

Take notice that on June 6, 2005, Dominion Transmission, Inc., (DTI), tendered for filing, pursuant to section 4 of the Natural Gas Act, a notice of abandonment and sale of a gathering portion of Line No. H–21777 located in Buchanan County, Virginia. DTI will sell approximately 8,000 feet of the gathering portion of Line No. H–21777

to Appalachian Energy effective June 15, 2005.

DTI states that no transportation services will be terminated and that there are no customers, other than Appalachian Energy, who utilize this portion of H–21777 to transport gas. DTI is not proposing any changes in the operation of the remaining portion of Line No. H–21777.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3252 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–289–001]

El Paso Natural Gas Company; Notice of Compliance Filing

June 15, 2005.

Take notice that on June 10, 2005, El Paso Natural Gas Company (EPNG) as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, filed with the Commission the following tariff sheets, with an effective date of May 27, 2005:

Substitute Third Revised Sheet No. 259
Substitute Third Revised Sheet No. 274

EPNG states that the filing is being made in compliance with the Commission's order issued May 26, 2005 in Docket No. RP05–289–000.

EPNG states that it is filing revised tariff sheets to comply with the order issued in this proceeding regarding its electronic execution of contracts filing.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3251 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP04–12–007 and RP00–387–007]

Florida Gas Transmission Company; Notice of Refund Report

June 16, 2005.

Take notice that on May 12, 2005, Florida Gas Transmission Company (FGT) tendered for filing a refund report reflecting amounts refunded to Okaloosa Gas District on April 13, 2005 pursuant to Article III, sections 3 and 4, of the stipulation and agreement of settlement in the above-referenced dockets filed on August 13, 2004 and approved by Commission order dated December 21 2004.

FGT states that copies of its filing is being served to all parties on the service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. Eastern Time on June 23, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3242 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–361–000]

Freeport LNG Development, L.P.; Notice of Application

June 15, 2005.

Take notice that on May 26, 2005, Freeport LNG Development, L.P. (Freeport LNG), 1200 Smith Street, Suite 600, Houston, Texas 77002, filed an application in Docket No. CP05–361–000 pursuant to section 3 of the Natural Gas Act and Part 153 of the Commission's Regulations requesting authorization of the Freeport LNG Phase II Project. Specifically, Freeport LNG requests authorization to site, construct and operate the following facilities associated with the liquefied natural gas (LNG) import terminal that Freeport LNG is currently constructing on Quintana Island, Freeport, Texas: (1) An additional marine berthing dock and associated unloading facilities for LNG ships; (2) new and expanded vaporization systems; and (3) an additional LNG storage tank.

This application is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any initial questions regarding this petition should be directed to counsel for Freeport LNG, Lisa M. Tonery, King and Spalding LLP, at (212) 556–2307 (phone), (212) 556–2222 (fax), or *ltonery@kslaw.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (w*ww.ferc.gov*) under the ''e-Filing'' link.

Comment Date: 5 p.m. Eastern Time on July 6, 2005.

Magalie Salas,

Secretary.

[FR Doc. E5–3253 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for a New License

June 16, 2005.

Take notice that the following notice of intent has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File an Application for New License.

b. *Project No:* 503.

c. *Date filed:* July 23, 2003.

d. *Submitted By:* Idaho Power Company.

e. *Name of Project:* Swan Falls Hydroelectric Project.

f. *Location:* Swan Falls Project is located on the Snake River in Ada and Owyhee Counties of Southwestern Idaho.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to section 16.19 of the Commission's regulations, the licensee is required to make available the information described in section 16.7 of the regulations. Such information is available from the Idaho Power Company, 1221 West Idaho Street, Corporate Library, 2nd Fl, P.O. Box 70, Boise, Idaho 83707, 208–388–2491.

i. *FERC Contact:* John Blair, 202–502–6092. *John Blair@Ferc.Gov*

j. *Expiration Date of Current License:* June 30, 2010.

k. *Project Description:* Swan Falls is a 1,218 foot long concrete gravity and rock-fill dam composed of the left abutment embankment, the spillway section, a center island, the old powerhouse section, the intermediate dam, and the new powerhouse. The install plant capacity based upon each turbine's nameplate rating is 25,000 kilowatts.

l. The licensee states its unequivocal intent to submit an application for a new license for Project No. 503. pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by June 30, 2008.

A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document.

For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3240 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–372–000]

Midwestern Gas Transmission Company; Notice of Application

June 15, 2005.

Take notice that on June 6, 2005, Midwestern Gas Transmission Company (Midwestern), P.O. Box 542500, Omaha, Nebraska 68154–8500 filed an application seeking a certificate of public convenience and necessity, pursuant to section 7(c) of the NGA and Part 157 of the Commission(s Regulations, to construct and operate approximately 30 miles of 16-inch diameter pipeline and related facilities, known as the Eastern Extension Project, in Sumner and Trousdale Counties, Tennessee. The facilities will transport up to 120,000 dekatherms per day of natural gas. Midwestern's application is on file with the Commission and open to public inspection. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

In Docket No. PF04–2–000, Midwestern participated in a pre-filing National Environmental Policy Act review of its proposed project to identify and resolve potential landowner and environmental problems before the application was filed.

Any questions regarding this application should be directed to Raymond Neppl, Vice President, Regulatory Affairs & Marketing Services, Midwestern Gas Transmission Company, P.O. Box 542500, Omaha, Nebraska 68154–8500 at (402) 492–7428 or by fax at (402) 492–7492.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: July 6, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3247 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–375–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 16, 2005.

Take notice that on June 14, 2005, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 2005:

Third Revised Sheet No. 135A
Third Revised Sheet No. 135B
Third Revised Sheet No. 135C
Third Revised Sheet No. 138
Fifth Revised Sheet No. 141
Third Revised Sheet No. 442
First Revised Sheet No. 442A

Northern is filing the above-referenced tariff sheets to provide rate schedule FDD shippers more flexibility to utilize their storage accounts and to revise the requirement that firm throughput shippers have a storage point as a primary receipt point on their firm throughput service agreements.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or

before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3239 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–374–000]

Puget Sound Energy, Inc.; Notice of Proposed Changes in FERC Gas Tariff

June 15, 2005.

Take notice that on June 10, 2005, Puget Sound Energy, Inc. (Puget) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective July 11, 2005:

Fourth Revised Sheet No. 1
Original Sheet Nos. 117 through 121

Puget states that the purpose of this filing is to incorporate in its tariff Amendment No. 6 to the Jackson Prairie Gas Storage Project Agreement to reflect the interim storage capacity and storage service rights resulting from the completion of the third phase of the authorized storage capacity expansion of the Jackson Prairie Gas Storage Project approved in Docket No. CP02–384–000.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3246 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–276–004]

Southern Star Central Gas Pipeline, Inc.; Notice of Compliance Filing

June 16, 2005.

Take notice that on April 20, 2005, Southern Star Central Gas Pipeline, Inc., (Southern Star) tendered for filing as part of its FERC gas tariff, the following tariff sheets, to become effective as designated in accordance with Article V of the stipulation and agreement filed on January 21, 2005:

Original Volume No. 1

Effective November 1, 2004

2nd Substitute Third Revised Sheet No. 10
2nd Substitute Third Revised Sheet No. 11

Effective December 1, 2004

Substitute Fourth Revised Sheet No. 10
Substitute Fourth Revised Sheet No. 11

Original Volume No. 2

Effective November 1, 2004

2nd Substitute First Revised Sheet No. 327

Southern Star states that the filing is being made in compliance with Article V of the stipulation and agreement filed with the Commission on January 21, 2005, in Docket No. RP04–276–000, as approved by the Commission's order dated April 18, 2005 (111 FERC ¶ 61,069) (2005). Article V of the settlement and paragraph 5 of the order provide that Southern Star shall file actual tariff sheets to become effective consistent with Article VII, which details the effectiveness and term of the settlement and further states that the Commission order approving the settlement shall constitute approval of the revised rates that were submitted with the settlement on pro forma sheets.

Southern Star states that copies of the filing are being served upon all parties on the official service list, to Southern Star's jurisdictional customers and to interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission , 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. Eastern Time on June 23, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3244 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–362–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application for Abandonment

June 16, 2005.

Take notice that on May 27, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing an application under Section 7 of the Natural Gas Act to abandon the firm transportation service provided to Eastern Shore Natural Gas Company (Eastern Shore) under Transco's Rate Schedule FT.

Transco states that it currently renders for Eastern Shore, under a service agreement dated February 1, 1992, firm transportation service under Transco' s Rate Schedule FT. Transco explains that service agreement sets forth the terms and conditions under which Transco provides firm transportation of 2,815 Dt of gas per day for Eastern Shore. Although the firm transportation service is being rendered by Transco pursuant to Transco's blanket certificate authorization under Part 284(G) of the Commission's regulations, Transco states that it requires specific Section 7(b) abandonment authorization (instead of simply abandoning the service automatically under Section 284.221(d) of the regulations) because: (1) The subject FT service for Eastern Shore was previously converted from firm sales service to firm transportation service under Transco's Rate Schedule FT pursuant to Transco's revised Stipulation and Agreement in Docket Nos. RP88–68, et al.; and (2) the settlement provides that pre-granted abandonment shall not apply to such conversions (as further described in Article IV of the Service Agreement). As is more fully explained in the application, Transco proposes to abandon the 2,815 Dt/day of firm transportation service to Eastern Shore to allow Eastern Shore to effectuate a prearranged permanent release of that capacity.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3245 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–373–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application for Abandonment

June 15, 2005.

Take notice that on June 8, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing an application under section 7 of the Natural Gas Act to abandon the firm transportation service provided to the customers listed on Exhibit Z1 of the application (Cities) under Transco's Rate Schedule FT pursuant to Service Agreements dated February 1, 1992. Transco states that the service agreements, included in Exhibit U of the application, set forth the terms and conditions under which Transco provides firm transportation up to maximum quantities for each customer. Transco further states that although the firm transportation service is being tendered by Transco pursuant to Transco's blanket certificate authorizations under Part 284(G) of the Commission's regulations, Transco requires specific section 7(b) abandonment authorization (instead of simply abandoning the service automatically under Section 284.221(d) of the regulations) because the subject FT service for the Cities was previously converted from firm sales service to firm transportation service under Transco's Rate Schedule FT pursuant to Transco's revised Stipulation and Agreement in Docket Nos. RP88–68, *et al.* Transco notes that the settlement provides that pre-granted abandonment shall not apply to such conversions.

Transco states that it proposes to abandon the aforementioned firm transportation service to the Cities in order that the Cities may implement a permanent release of that capacity in accordance with the terms of Transco's tariff to the prearranged replacement buyer, the Municipal Gas Authority of Georgia.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or

protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment: 5 pm Eastern Time July 6, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3248 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–378–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application for Abandonment

June 15, 2005.

Take notice that on June 8, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing an application under section 7 of the Natural Gas Act to abandon the firm transportation service provided to the City of Monroe, Georgia (Monroe) under Transco's Rate Schedule FT pursuant to the Service Agreement dated August 1, 1991.

Transco states that although the firm transportation service is being rendered by it pursuant to Transco's blanket certificate authorization under Part 284 (G) of the Commission's regulations, Transco requires specific section 7(b) abandonment authorization (instead of simply abandoning the service automatically under section 284.221(d) of the regulations) because the subject FT service for Monroe was previously converted from firm sales service under Transco's then existing Rate Schedule PS to firm transportation service under Transo's Rate Schedule FT pursuant to Transco's Stipulation and Agreement in Docket Nos. RP87–7, et al. Transco notes that the settlement provides that pre-granted abandonment shall not apply to such conversions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 pm Eastern Time July 6, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3249 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

June 16, 2005.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER02–388–004.
Applicants: HC Power Marketing LLC.
Description: HC Power Marketing LLC submits First Revised Sheet 3 to its Rate Schedule FERC 1, which incorporates the reporting requirement for changes in status for public utilities with market-based rates set forth in Commission Order No. 652 .
Filed Date: June 14, 2005.
Accession Number: 20050616–0113.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER04–691–030.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Potomac Economics, Ltd., as the Independent Market Monitor for the Midwest Independent Transmission System Operator, Inc., provides a list of generators subject to Narrow Constrained Area thresholds.
Filed Date: June 13, 2005.
Accession Number: 20050615–0001.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER04–691–046; *EL04–104–044*
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to its Open Access Transmission and Energy Markets Tariff in compliance with FERC's Order issued on 4/15/05, 111 FERC ¶ 61,043 (2005)
Filed Date: June 14, 2005.
Accession Number: 20050616–0005.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER04–691–047; EL04–104–045
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator Inc submits proposed revisions to its Open Access Transmission and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume 1, in compliance with FERC's Order issued 4/15/05, 111 ¶ FERC 61,043 (2005).
Filed Date: June 14, 2005.
Accession Number: 20050616–0111.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–1023–001.
Applicants: TransAlta Centralia Generation L.L.C.
Description: TransAlta Centralia Generation LLC submits its Rate Schedule FERC No. 2 for reactive supply and voltage control from generation sources services for compensation for the reactive service that it provides to Bonneville Power Administration from its Big Hannaford generating plant to correct errors in its original filing of 5/26/2005
Filed Date: June 14, 2005.
Accession Number: 20050616–0112.
Comment Date: 5:00 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–1061–001.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Third Revised Sheet 339 to its FERC Electric Tariff, Sixth Revised Volume 1, amending its 6/1/2005in ER05–1061–000.
Filed Date: June 13, 2005.
Accession Number: 20050614–0195.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–1108–000.
Applicants: San Diego Gas & Electric Company.
Description: San Diego Gas & Electric Company submits a notice of cancellation of the Interconnection Agreement with Ramco Generating One (Service Agreement No. 22 under its FERC Electric Tariff, Second Revised Volume 11).
Filed Date: June 13, 2005.
Accession Number: 20050615–0011.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–1109–000.
Applicants: Power Development Company, LLC.
Description: Power Development Company LLC submits a notice of cancellation of its market based rate electric tariff, Rate Schedule FERC No. 1.
Filed Date: June 13, 2005.
Accession Number: 20050615–0010.
Comment Date: 5 pm Eastern Time on Tuesday, July 05, 2005.

Docket Numbers: ER05–1110–000.
Applicants: Astoria Energy LLC.
Description: Astoria Energy, LLC submits a limited modification to one provision of their market-based rate schedule.
Filed Date: June 13, 2005.
Accession Number: 20050615–0008.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–1111–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits an Interconnection and Operating Agreement as Service Agreement No. 1577 under its FERC Electric Tariff, Third Revised Vol. No. 1, among DAJAW Transmission, LLC, Midwest Independent Transmission System Operator, Inc. and Northern States Power Company d/b/a Xcel Energy.
Filed Date: June 13, 2005.
Accession Number: 20050615–0007.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–1112–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits an Interconnection and Operating Agreement as Service Agreement No. 1576 under its FERC Electric Tariff, Third Revised Vol. No. 1 among DAJAW Transmission, LLC; Midwest Independent Transmission System Operator, Inc.; and Northern States Power Company d/b/a Xcel Energy.
Filed Date: June 13, 2005.
Accession Number: 20050615–0006.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–1113–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits a revised rate sheet to the Amended and Restated Mandalay Generating Station Radial Lines Agreement with Reliant Energy Mandalay, Inc.
Filed Date: June 14, 2005.
Accession Number: 20050616–0110.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–744–001.
Applicants: Major Lending, LLC.
Description: Major Lending, LLC submits a revised market-based rate tariff to include additional reporting provision in compliance with the FERC's 5/11/05 Order.
Filed Date: June 13, 2005.
Accession Number: 20050614–0196.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER05–996–001.
Applicants: NJR Energy Services Company.
Description: NJR Energy Services Company submits an amendment to its notice of cancellation filed on 5/20/05 under ER05–996.
Filed Date: June 14, 2005.
Accession Number: 20050616–0004.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 23, 2005.

Docket Numbers: ER95–581–021.
Applicants: Tennessee Power Company.
Description: Tennessee Power Company's response to Order Announcing Policy on Non-compliance with Conditions of KMarket-based Rate Authority, Instituting Section 206 Proceeding and Establishing Refund Effective Date issued 5/31/2005 in Docket No. ER98–3809–000, *et al.*, 111 FERC ¶ 61,295
Filed Date: June 13, 2005.
Accession Number: 20050616–0101.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Docket Numbers: ER98–855–008.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits Report of Change in Status.
Filed Date: June 13, 2005.
Accession Number: 20050613–5014.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–3221 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF05–13–000]

Florida Gas Transmission Company; Notice Of Intent To Prepare An Environmental Assessment For The Proposed SR 91 Widening Project And Request For Comments On Environmental Issues

June 16, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) discussing the environmental impacts of Florida Gas Transmission Company's (FGT) proposed SR 91 Widening Project located in Broward County, Florida.

This notice formally announces the opening of the scoping process we[1] will use to gather input from the public and interested regulatory agencies on potential environmental issues concerning the proposed project. This information will be used to help us determine which issues need to be evaluated in the EA. Please note that the scoping period will close on July 18, 2005.

This notice is being sent to affected landowners; Federal, State and local government representatives and agencies; environmental and public interest groups; other interested parties in this proceeding; and local libraries and newspapers. We encourage government representatives to notify their constituents of this notice and to encourage their comments concerning this proposed project.

[1] ''We'', ''us'' and ''our'' refer to the staff of the Office of Energy Projects.

Summary of the Proposed Project

FGT proposes to abandon and replace approximately 13 miles of 18-inch-diameter and 24-inch-diameter natural gas pipeline. FGT is proposing this action to avoid conflicts resulting from the Florida Turnpike Enterprise's widening of State Road 91. FGT is seeking the authority to:

- Abandon approximately 13 miles of 18-inch-diameter and 24-inch-diameter pipeline; and
- Replace this pipeline east of its existing location (within the highway right-of-way).

A map depicting FGT's proposed activities is provided in Appendix 1.[2]

The EA Process

FERC staff will prepare an EA to analyze the potential impacts that could occur if FGT is issued a Certificate of Public Convenience and Necessity. An analysis of the environmental issues, a discussion of possible alternatives to the proposed project or portions of the project, and recommendations on how to lessen or avoid environmental impacts will be included in the EA.

As noted above, this notice formally announces the beginning of our preparation of an EA and the beginning of the scoping process. With this notice, we are soliciting your input to help us focus the analyses in the EA. In addition, we are requesting that any Federal, State and/or local agencies with jurisdiction and/or special expertise with respect to environmental issues formally cooperate with us in the preparation of the EA.

Upon completion, the EA may be mailed to Federal, State and local government agencies; elected officials; environmental and public interest groups; affected landowners; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 30-day comment period would be allotted for review of the EA. We would consider all comments submitted concerning the EA in any Commission Order that may be issued for the project.

Currently Identified Environmental Issues

At this time an application has not been filed with the FERC. We have initiated the Commission's Pre-Filing Process to involve interested parties early in project planning and to assist in the identification and resolution of issues before an application is filed.

We have identified several issues that we think deserve attention based on a preliminary review of the proposed facilities. This preliminary list of issues may be changed based on your comments and our analysis. These issues are:

- Safety concerns and traffic flow related to construction;
- Surface water crossings and water flow management; and
- Project proximity to residential housing.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposed project. The more specific your comments, the more useful they will be. Your comments should focus on the potential environmental effects, reasonable alternatives and measures to avoid or lessen environmental impact.

To ensure that your comments are properly recorded, please mail them to our office on or before July 18, 2005. When filing comments please:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of your comments to the attention of Gas Branch 2, DG2E; and Reference Docket No. PF05–13–000 on the original and both copies.

Please note that the Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a Comment on Filing.

When FGT submits its application for authorization to construct and operate the SR 91 Widening Project, the Commission will publish a Notice of Application in the **Federal Register** and will establish a deadline for interested persons to intervene in the proceeding. Because the Commission's Pre-filing Process occurs before an application to begin a proceeding is officially filed, petitions to intervene during this process are premature and will not be accepted by the Commission.

[2] The appendices referenced in this notice will not being printed in the **Federal Register**. Copies are available on the Commission's website (excluding maps) at *http://www.ferc.gov* or from the Commission's Public Reference Room—(202) 502–8371.

Environmental Mailing List

If you wish to remain on the environmental mailing list, please return the Mailing List Retention Form included in Appendix 2. If you do not return this form, you will be taken off our mailing list.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site at *http://www.ferc.gov.* Using the ''eLibrary'' link, select a General Search from the menu, enter the selected date range and Docket Number PF05–13–000, and follow the instructions. Searches may also be done using the phrase ''SR 91 Widening Project'' in the Text Search field. For assistance with access to eLibrary, the helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

You can also contact Ms. Beth Porter, FGT Right-of-Way Agent by phone at (800) 381–1477 or by e-mail at *beth.porter@crosscountryenergy.com* with your specific concerns or comments regarding this project.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3241 Filed 6–21–05; 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

June 15, 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.:* 12585–000.

c. *Date filed:* April 27, 2005.

d. *Applicant:* Gulf Stream Energy, Inc. and Golden Gate Energy Company.

e. *Name of Project:* San Francisco Bay Tidal Energy Project.

f. *Location:* On San Francisco Bay, in San Francisco and Marin Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N street, NW., Washington, DC 20037–1128, (202) 663–8000.

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 consist of: (1) Two proposed counter-rotating fiberglass blades approximately thirty to fifty feet in diameter, (2) proposed integrated generator, producing 500 kilowatts to two megawatts of electricity, (3) proposed ballast tanks approximately 175 feet in length supporting the EPU at varying depth underwater, (4) a proposed mooring umbilical line to an anchor on the seabed, (5) a proposed interconnection transmission line to shore, and (6) appurtenant facilities. The project would have an annual generation of 8.7 gigawatt-hours, which 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. E5–3250 Filed 6–21–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7925–5]

Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the Office of Enforcement and Compliance Assurance (OECA) Web site at: *http://www.epa.gov/compliance/assistance/applicability.* The document may be located by date, author, subpart, or subject search. For questions about the ADI or this notice, contact Maria Malave at EPA by phone at: (202) 564–7027, or by email at: *malave.maria@epa.gov.* For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions to the NSPS in 40 CFR part 60 and the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are broadly termed applicability determinations. See 40 CFR 60.5 and 61.06. Although the part 63 NESHAP and section 111(d) of the Clean Air Act regulations contain no specific regulatory provision that sources may request applicability determinations, EPA does respond to written inquiries regarding applicability for the part 63 and section 111(d) programs. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping which is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are broadly termed alternative monitoring decisions. Furthermore, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. For example, these inquiries may pertain to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation. EPA's written responses to these inquiries are broadly termed regulatory interpretations.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the Applicability Determination Index (ADI) on a quarterly basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations contained in 40 CFR part 82. The ADI is an electronic index on the Internet with more than one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by date, office of issuance, subpart, citation, control number or by string word searches.

Today's notice comprises a summary of 42 such documents added to the ADI on May 20, 2005. The subject, author, recipient, date and header of each letter and memorandum are listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI through the OECA Web site at: *http://www.epa.gov/compliance/assistance/applicability.*

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI database system on May 20, 2005; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter. We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents.

ADI Determinations Uploaded on April X, 2005

Control	Category	Subparts	Title
M050001	MACT	OOOO, JJJJ	Laminators.
M050002	MACT	F, G	Gas Streams and Process Vents.
M050003	MACT	EEE	Alternative Span for CO Monitors in High Oxygen Applications.
M050004	MACT	GGG	Carbon Adsorber Minimum Regeneration Frequency.
M050005	MACT	EEE	Alternative Monitoring for Hazardous Waste Incinerator.
M050006	MACT	LLL	Alternative Opacity Monitoring Procedures.
M050007	MACT	JJJJ	Papermill Machinery.
M050008	MACT	EEEE, S	Methanol Storage Tanks for Pulp Bleaching.
M050009	MACT	OOOO	Carbon Fiber Manufacturing.
M050010	MACT	GGGGG	Site Remediation—Threshold Quantity of HAPs.
M050011	MACT	MM	Scrubber Pressure Drop Monitoring Parameters.
M050012	MACT	MM	Early Particulate Performance Test for Recovery Furnace.
M050013	MACT	MM	Alternative Compliant Operating Parameter Range.
M050014	MACT	MM	Compliant Scrubber Liquor Flow Rate and Supply Pressure.
M050015	MACT	MM	Testing to Establish Parameter Operating Range.
M050016	MACT	RRR	Aluminum Die Casting Facility as Area Source.
M050017	MACT	RRR	Alternative Reactive Flux Injection Monitoring.
M050018	MACT	RRR	Group 2 Furnaces at Area Source.
M050019	MACT	MM	Pressure Drop Monitoring.
Z050001	NESHAP	FF	Junction Box Tight Seal Requirements.
Z050002	NESHAP	M	Removal or Relocation of Facility.
Z050003	NESHAP	M	Polarized Light Microscopy (PLM) and Point Count Methods for Vermiculite Insulation.
0400037	NSPS	VVV	Polymeric Coating and Sailcloth.
0400038	NSPS	NNN	Fuel Ethanol Exemption
0500001	NSPS	GG	Custom Fuel Monitoring.
0500002	NSPS	III	Gas Streams and Process Vents.
00500003	NSPS	Dc	Custom Fuel Usage Monitoring.
0500004	NSPS	GG	New Test Port Locations.
0500005	NSPS	GG	Oxygen Stratification Testing.
0500006	NSPS	GG	Extension of Time to Test.
0500007	NSPS	GG	Custom Fuel Monitoring/Performance Testing.
0500008	NSPS	GG	Custom Fuel Monitoring/Performance Testing.
0500009	NSPS	GG	Custom Fuel Monitoring/Performance Testing.
0500010	NSPS	GG	Custom Fuel Monitoring.]
0500011	NSPS	J	Fluid Catalytic Cracking Units (FCCU) Compliance Options.
0500012	NSPS	GG	Custom Fuel Monitoring/Performance Testing.
0500013	NSPS	Dc	Alternative Monitoring, Recordkeeping, and Reporting.
0500014	NSPS	K, Ka, Kb	Installation of Floating Roofs.
0500015	NSPS	GG	Custom Fuel Monitoring/Performance Testing.
0500016	NSPS	KKK, HH	Injection of Processed Natural Gas into Wells.
0500017	NSPS	Da, Db, Dc, D	Autoflame Control System Technology for Boiler Derate.
0500018	NSPS	GG	Custom Fuel Monitoring/Performance Testing.

Abstracts

Abstract for [0400037]

Q1: Are various coating/lamination lines at the Dimension Polyant Sailcloth manufacturing company in Putnam, Connecticut subject to 40 CFR part 60, subpart VVV?

A1: EPA has reviewed the processes and has clarified which processes at this facility are covered by NSPS subpart VVV and which are not.

Q2: If the affected facility uses less than 95 Mg of Volatile Organic Compound (VOC) emissions VOC per 12-month period, is it subject only to the requirements of NSPS subpart VVV in 40 CFR 60.744(b), 60.747(b) and 60.747(c)?

A2: EPA has determined that as long as the amount of VOC used on each coating line is less than 95 Mg per 12-month period from the NSPS subpart VVV-covered activities on that coating line, the facility is subject only to the requirements of 40 CFR 60.744(b), 60.747(b), and 60.747(c).

Abstract for [0400038]

Q: Will EPA waive the requirements under 40 CFR part 60, subpart NNN, for the Penn Mar Ethanol facility in York,

Pennsylvania, as this is a fuel ethanol production facility?

A: Yes. Consistent with previous EPA Region V determinations, EPA Region III waives the NSPS subpart NNN requirements for fuel ethanol facilities that do not in any way produce beverage alcohol.

Abstract for [0500001]

Q: Will EPA allow the use of fuel supplier certifications under 40 CFR part 60, subpart GG, for numerous shipments of distillate oil to the Easton Utilities turbines in Easton, Maryland?

A: Yes. EPA will allow the use of fuel supplier certifications under NSPS subpart GG on the sulfur and nitrogen content of distillate oil for stationary gas turbine fuel.

Abstract for [M050001]

Q: Is the Shawmut facility in West Bridgewater, Massachusetts, subject to either Maximum Achievable Control Technology (MACT) subpart OOOO, the fabric coating MACT, or MACT subpart JJJJ, the paper and other web coating MACT? It laminates fabrics and other textiles to plastic films, fabrics to foams, as well as foams to fabrics, using a rotogravure roll in its adhesive lamination process to apply adhesive and laminators at ambient temperature and without drying ovens.

A: EPA has determined that because the existing and proposed laminators will operate at ambient temperature and without drying ovens, the adhesive lamination process is not subject to MACT subpart OOOO. EPA also has determined that the adhesive lamination process meets the definition of web coating line in MACT subpart JJJJ and therefore, it is subject to the standard.

Abstract for [M050002]

Q: Are gas streams from vents off of tanks collecting condensed steam, volatile organic compounds and hazardous air pollutants from carbon adsorption regeneration systems at the Sunoco Chemicals phenol plant in Philadelphia, Pennsylvania subject to the process vent provisions of 40 CFR part 63, subparts F and G?

A: Yes. These gas streams meet all of the criteria for process vents outlined in 40 CFR 63.107. The total resource effectiveness (TRE) factor needs to be calculated after the last recovery device. For these systems, this point is after the gas streams from the tanks collecting condensed steam combine with the vent stream off of the carbon adsorption systems, but prior to the flash back preventers which are directly upstream of the catalytic incinerator.

Abstract for [0500002]

Q: Are gas streams from vents off of tanks collecting condensed steam, volatile organic compounds and hazardous air pollutants from carbon adsorption regeneration systems at the Sunoco Chemicals phenol plant in Philadelphia, Pennsylvania subject to the process vent provisions of 40 CFR part 60, subpart III?

A: Yes. These gas streams meet the definition for vent stream in 40 CFR 60.611. The total resource effectiveness (TRE) factor needs to be calculated after the last recovery device. For these systems, this point is after the gas streams from the tanks collecting condensed steam combine with the vent stream off of the carbon adsorption systems, but prior to the flash back preventers which are directly upstream of the catalytic incinerator.

Abstract for [0500003]

Q: Will EPA approve the use of monthly fuel usage monitoring under 40 CFR part 60, subpart Dc, for the new package boiler at ISG's Steelton, Pennsylvania facility?

A: Yes. EPA will approve the use of monthly fuel usage monitoring and recording rather than daily monitoring as provided by NSPS subpart Dc because the new package boiler is only permitted to combust very clean pipeline-quality natural gas as fuel.

Abstract for [0500004]

Q: Will EPA approve new test port locations for conducting the oxygen traverse and gas sampling under 40 CFR part 60, subpart GG, for the Old Dominion Electric Cooperative Marsh Run facility in Louisa, Virginia?

A: Yes. EPA will approve the new test port location and reduced amount of oxygen traverse data in the exhaust stack from the turbine under NSPS subpart GG provided that the oxygen range for the 8 traverse points does not exceed 0.5 percent oxygen and the average oxygen content is greater than 15 percent.

Abstract for [0500005]

Q: Will EPA approve fewer sampling points for measuring oxygen stratification from stationary gas turbines under 40 CFR part 60, subpart GG, if an identical turbine station at Old Dominion Electric Cooperative's Louisa, Virginia facility has already been tested?

A: Yes. EPA will approve the request for a reduced number of oxygen stratification testing points under NSPS subpart GG because the facility has already tested identical turbines with identical exhaust gas stack configuration.

Abstract for [0500006]

Q: Will EPA allow different start-up dates under 40 CFR part 60, subpart GG, for Old Dominion Electric Cooperative's new Marsh Run facility in Fauquier County, Virginia; one start-up date for its stationary gas turbine on natural gas fuel and one separate start-up date for its stationary gas turbine on distillate oil combustion?

A: Yes. EPA will allow separate start-up dates to test the emissions of its stationary gas turbines under NSPS subpart GG.

Abstract for [M050003]

Q: Will EPA waive the provisions of 40 CFR part 63, subpart EEE, appendix section 6.3.4, regarding adjustments to carbon monoxide (CO) monitor spans when monitoring in high oxygen environments, for the Solite Corporation lightweight aggregate kilns in Arvonia and Cascade, Virginia?

A: No. EPA will not waive the provisions of Maximum Achievable Control Technology (MACT) subpart EEE. Failure to account for a high oxygen correction factor would adversely affect the facilities' ability to demonstrate compliance with the CO emission standard. Several alternative approaches are discussed.

Abstract for [M050004]

Q: May the Abbott Laboratories facility in North Chicago, Illinois, subject to 40 CFR part 63, subpart GGG, establish an alternative monitoring parameter for regenerating its carbon adsorber? (For the active mode with the processes running, the minimum regeneration frequency is 51 minutes. For the idle mode when only storage tanks operate, the facility proposes to decrease this frequency to 14 days.)A: Yes. EPA will allow the facility to establish an alternative monitoring parameter under Maximum Achievable Control Technology (MACT) subpart GGG. However, rather than 14 days, EPA approves a minimum regeneration frequency of 7 days, which the facility has shown to be adequate. The facility must maintain records of when the adsorber operates in the active and idle modes.

Abstract for [0500007]

Q1: Will EPA approve a custom fuel monitoring schedule under 40 CFR part 60, subpart GG for the fuel sulfur content of pipeline quality natural gas at Allegheny Energy Supply Company's St. Joseph Generating facility near New Carlisle, Indiana?

A1: Yes. EPA approves the custom fuel monitoring schedule based on its August 14, 1987 guidance, ''Authority

for Approval of Custom Fuel Monitoring Schedules Under NSPS Subpart GG.''

Q2: Will EPA waive the fuel bound nitrogen requirement for pipeline quality natural gas under 40 CFR part 60, subpart GG?

A2: Yes. EPA waives the fuel bound nitrogen requirement based on its August 1987 guidance for NSPS subpart GG.

Q3: Will EPA approve nitrogen oxides (NO_X)emission monitoring under 40 CFR part 60, subpart GG using NO_X continuous emissions monitoring systems (CEMS) rather than monitoring water-to-fuel injection rates?

A3: Yes. EPA approves NO_X emission monitoring using CEMS under NSPS subpart GG.

Q4: Will EPA waive the requirement under 40 CFR part 60, subpart GG to make the International Standards Organization (ISO) correction for NO_X CEMS data that is used to determine compliance?

A4: No. EPA determines that under NSPS subpart GG, facilities using NO_X CEMS data to determine compliance must also maintain records of the data necessary to correct the CEMS data to ISO conditions (*i.e.*, ambient temperature, ambient humidity and combustor inlet pressure).

Q5: Will EPA approve under 40 CFR part 60, subpart GG the initial NO_X compliance testing at full load rather than multiple load points?

A5: Yes. Facilities that are using NO_X CEMS to demonstrate compliance may conduct the initial compliance demonstration at ''peak load'' only, as that term is defined at 40 CFR 60.331(i), rather than at multiple loads.

Q6: Will EPA approve the use of NO_X CEMS the relative accuracy test audit (RATA) data as an alternative performance test for NO_X under 40 CFR part 60, subpart GG?

A6: Yes. EPA approves the use of NO_X CEMS RATA data under NSPS subpart GG.

Abstract for [0500008]

Q1: Is it acceptable to use certified nitrogen oxides (NO_X) continuous emission monitoring system (CEMS) for the initial compliance demonstration under 40 CFR part 60, subpart GG, rather than EPA Reference Method 20 for Ameren Energy Generating Company's Elgin Energy Center in Elgin, Illinois?

A1: Yes. For facilities that burn pipeline quality natural gas, this is acceptable under NSPS subpart GG.

Q2: Will EPA approve the use of certified NO_X CEMS as an alternative to the monitoring requirements under 40 CFR part 60, subpart GG?

A2: Yes. EPA approves the use of certified CEMS as alternative monitoring under NSPS subpart GG.

Q3: Will EPA approve the use of the procedures in 40 CFR part 75, appendix D, section 2.3.1 as an alternative to the daily fuel sampling required by 40 CFR part 60, subpart GG?

A3: Yes. EPA approves the alternative under NSPS subpart GG, provided that the natural gas meets the definition of pipeline natural gas as that term is defined in the Acid Rain regulations at 40 CFR part 72 section 72.2.

Q4: Will EPA waive the 40 CFR part 60, subpart GG requirement for the fuel bound nitrogen determination for pipeline quality natural gas?

A4: Yes. EPA waives the fuel bound nitrogen determination under NSPS subpart GG.

Abstract for [0500009]

Q1: Will EPA approve the use of the relative accuracy test audit (RATA) data from nitrogen oxides (NO_X) Continuous Emission Monitoring Systems(CEMS) at Aquila's Goose Creek Energy Center in Deland, Illinois, as an alternative to EPA Reference Method 20 required by 40 CFR part 60, subpart GG, for natural gas-fired turbines?

A1: Yes. EPA approves the use of certified NO_X CEMS RATA data for the initial compliance demonstration under NSPS subpart GG for natural gas-fired turbines.

Q2: If using NO_X CEMS for its initial performance test, can a natural gas-fired turbine conduct its initial performance test at one load rather than 4 loads, as required by 40 CFR 60.335(c)(2)?

A2: Yes. If a source is using data from a certified NO_X CEMS as its initial performance test, data only needs to be collected at ''peak load,'' as defined at 40 CFR 60.331(i).

Abstract for [0500010]

Q: Will EPA approve the use of Gas Processors Associations Standard (GPA) 2377–86 as an alternative to the American Society for Testing and Materials (ASTM) method cited in 40 CFR 60.335 for measuring the sulfur content of natural gas at Calpine's Zion Energy Center in Zion, Illinois?

A: Yes. EPA approves the alternative measurement because: (1) It has numerical repeatability, reproducibility and bias statements, and has sufficient quality control requirements; (2) it is anticipated that the sulfur level will be substantially below the 0.8 weight percent allowed; (3) this method will not be used for performance tests; (4) the recordkeeping and reporting requirements of NSPS subparts A and GG apply; and (5) if GPA Standard 2377–86 is revised in the future, this portion of this approval is no longer valid and the owner/operator must submit a new alternative monitoring request for sulfur dioxide (SO2) with a copy of the revised GPA Standard.

Abstract for [0500011]

Q1: Will EPA allow Flint Hill Resources's fluid catalytic cracking units (FCCU), operating without a scrubber, to comply with the 50 ppm emission limit compliance option under the 40 CFR part 60, subpart J, sulfur dioxide (SO_2) standards for FCCU catalyst regenerators?

A1: Yes. Because the 50 ppm emission limit compliance option is the most stringent of all options available under 40 CFR 60.104(b), FCCU feed hydrotreating and low-SO_X catalyst additives may be used to meet the 50 ppmv SO_2 emission limit. However, as determination of the inlet SO_2 concentration is not possible using low-SO_X catalyst additives, the 90 percent reduction portion of 40 CFR 60.104(b)(1) may not be chosen.

Q2: Can the compliance option chosen to comply with 40 CFR part 60, subpart J be changed in the case of a scheduled startup or shutdown of the hydrotreater?

A2: Yes. The option chosen to comply with 40 CFR 60.104(b) may be changed in the case of a scheduled startup or shutdown of the hydrotreater as long as daily compliance tests demonstrating compliance with that standard are started 7 days before the shutdown.

Abstract for [Z050001]

Q: Are covers on junction boxes at Marathon Ashland Petroleum's facilities required to be equipped with a gasket in order to satisfy the ''tight seal'' requirements for junction box covers under 40 CFR part 61, subpart FF?

A: No. 40 CFR 61.346(b)(2)(1) requires that junction boxes prevent leaks to the atmosphere in order to satisfy the ''tight seal'' requirements. However, consistent with a prior determination for similar provisions under 40 CFR part 60, a gasket is not necessarily required to achieve the tight seal.

Abstract for [0500012]

Q1: Is it acceptable under 40 CFR part 60, subpart GG to conduct the nitrogen oxides (NO_X) initial compliance determination at full load rather than at multiple load points at the Mirant Sugar Creek, LLC Power Plant in West Terre Haute, Indiana?

A1: Yes. Facilities using certified NO_X continuous emission monitoring systems (CEMS) for the initial compliance determination can make

this determination at peak load rather than multiple load points under NSPS subpart GG.

Q2: Will EPA approve the use of NO_X CEMS as an alternative to the NO_X monitoring required in 40 CFR part 60, subpart GG?

A2: Yes. Provided that these conditions are met: (1) Each gas turbine must meet the emission limitation determined according to 40 CFR 60.332; (2) each NO_X CEMS must meet the applicable requirements of 40 CFR part 60, appendix B, Performance Specification 2, and appendix F for certifying, maintaining and assuring quality of the system; (3) the NO_X CEMS must be used to demonstrate compliance with the emission limitation determined at 40 CFR 60.332 on a continuous basis; (4) recordkeeping requirements shall follow the requirements specified at 40 CFR 60.7; (5) each NO_X CEMS must be operated in accordance with 40 CFR 60.13(e); and (6) data substitution methods or data exclusion methods provided for at 40 CFR part 75 may not be used to demonstrate compliance with 40 CFR part 60, subpart GG.

Abstract for [M050005]

Q1: Does EPA approve 3M's requests to use the minimum atomization header pressure for the rotary kiln's burners and lances as an operating parameter limit to ensure good operation of each waste firing system and to use the manufacturer's specifications to set the value of the operating parameter limit under 40 CFR part 63, subpart EEE?

A1: Yes. EPA grants the request under Maximum Achievable Control Technology (MACT) subpart EEE to use the minimum atomization header pressure as an operating parameter.

Q2: Does EPA approve 3M's request under 40 CFR part 63, subpart EEE for a combined minimum blow down rate operating parameter limit as an alternative to the requirement to establish separate minimum blow down rate operating parameter limits for two low energy wet scrubbers that use a common scrubber liquor tank?

A2: Yes. EPA grants the request under MACT subpart EEE for a combined minimum blow down rate operating parameter limit.

Q3: Does EPA approve 3M's request under 40 CFR part 63, subpart EEE for a combined minimum scrubber liquor pH operating parameter limit for the two low energy wet scrubbers in series that use a common scrubber liquor tank?

A3: Yes. EPA approves the request under MACT subpart EEE for a combined minimum scrubber liquor pH operating parameter limit.

Q4: Does EPA approve 3M's request under 40 CFR part 63, subpart EEE, for the first of two low energy scrubbers in series, that EPA waive the requirements to establish the following operating parameter limits: a minimum pressure drop, a minimum liquid feed pressure, and either a minimum liquid-to-gas ratio or a minimum scrubber liquor flow rate and a maximum flue gas flow rate? Does EPA approve 3M's request to approve the maximum outlet flue gas temperature from this wet scrubber as an alternative monitoring requirement?

A4: Yes. EPA approves both requests under MACT subpart EEE.

Q5: Does EPA approve 3M's request under 40 CFR part 63, subpart EEE, for the second of two low energy scrubbers, to waive the requirement to establish a minimum pressure drop operating parameter limit based on the manufacturer's specifications?

A5: Yes. EPA waives the requirement under MACT subpart EEE to establish a minimum pressure drop operating parameter limit.

Q6: Does EPA approve 3M's request under 40 CFR part 63, subpart EEE to waive the monitoring requirement to establish a minimum scrubber tank liquid level for a high energy wet scrubber?

A6: Yes. EPA waives the requirement under MACT subpart EEE to establish a minimum scrubber tank liquid level.

Q7: Does EPA approve 3M's request under 40 CFR part 63, subpart EEE, for a minimum secondary power operating parameter limit for a wet electrostatic precipitator as a representative and reliable indicator that the control device is operating within the same range of conditions as during the comprehensive performance test?

A7: Yes. EPA approves the request under MACT subpart EEE for a minimum secondary power operating parameter limit.

Abstract for [0500013]

Q: Will EPA allow the U.S. Smokeless Tobacco manufacturing plant in Franklin Park, Illinois, which has natural gas-fired boilers, to record and maintain monthly records of fuel usage instead of the daily records required under 40 CFR part 60, subpart Dc?

A: Yes. Based on past determinations, records of fuel usage for natural gas-fired boilers may be kept on a monthly basis in satisfaction of NSPS subpart Dc.

Abstract for [0500014]

Q: Magellan Pipeline Company installed floating roofs to existing petroleum storage tanks in conjunction with changes in fuels stored at five facilities in Minnesota. Are these considered modifications under 40 CFR part 60, subparts K, Ka, and Kb?

A: Yes. Changing fuels alone would be exempt under 40 CFR 60.14(e)(4), and installing floating roofs alone would be exempt under 40 CFR 60.14((e)(5). However, when both actions take place in conjunction, floating roofs must be part of the original construction specifications for the storage tanks in order for the modifications to be exempt. The company states that the original construction of the roofs did not encompass a floating roof design. Therefore, the storage tanks meet the criteria for modification under NSPS subparts K, Ka, and Kb.

Abstract for [0500015]

Q1: Will EPA accept under 40 CFR part 60, subpart GG, the replacement of the multiple load-testing requirements with a single load test while operating the combustion turbine at maximum load conditions at the Rocky Mountain Energy Center electric power generation facility in Weld County, Colorado?

A1: Yes. EPA approves the waiver under NSPS subpart GG from multiple load testing because, for combustion turbines equipped with nitrogen oxides continuous emission monitoring systems (NO_X CEMS), the monitors will provide credible evidence regarding the unit's compliance status on a continuous basis following the initial test.

Q2: Will EPA accept the waiver of the NO_X monitoring requirement for owners and operators of combustion turbines subject to 40 CFR part 60, subpart GG without intermediate bulk storage for fuel?

A2: Yes. EPA approves the waiver under NSPS subpart GG because this fuel does not contain fuel-bound nitrogen, and any free nitrogen that it may contain does not contribute appreciably to the formation of nitrogen oxides emissions.

Q3: Will EPA accept the waiver of the requirement under 40 CFR part 60, subpart GG to report NO_X performance test results on an ISO-corrected basis?

A3: Yes. EPA approves the waiver under NSPS subpart GG because the level of compliance assurance provided in this case is sufficient.

Q4: Will EPA approve an alternative custom fuel (sulfur) monitoring plan under 40 CFR part 60, subpart GG for gas-fired combustion turbines?

A4: Yes. EPA approves the request for an alternative fuel monitoring plan under NSPS subpart GG because it is consistent with EPA's August 1987 fuel monitoring policy.

Abstract for [0500016]

Q: Do natural gas storage facilities that inject processed natural gas (*i.e.*, liquids have been extracted) into depleted gas/oil wells or other underground caverns and then extract natural gas liquids from the gas upon withdrawal, fall under the ''natural gas processing plant'' definition of 40 CFR part 60, subpart KKK?

A: No. This type of facility does not meet the NSPS subpart KKK definition of ''natural gas processing plant'' because it is not extracting natural gas liquids from field gas, nor is it conducting fractionation of mixed natural gas liquids to natural gas products. NSPS subpart KKK would not apply to natural gas storage facilities that inject processed natural gas into depleted gas/oil wells or other underground caverns and then extract natural gas liquids from the gas upon withdrawal.

Abstract for [Z050002]

Q: Is the removal of a facility from its foundation, followed by relocation of the facility onto a new foundation, a demolition or renovation for purposes of 40 CFR part 61, subpart M?

A: Yes. This action constitutes a demolition under the regulatory definition because load-supporting structural members of a facility were taken out from the foundation when the facility was moved. The letter explains how two prior determinations are consistent on this issue and provides further regulatory clarifications related to this NESHAP regulation.

Abstract for [M050006]

Q: Under 40 CFR part 63, subpart LLL, may the Mountain Cement Company facility in Laramie, Wyoming, which has a material handling process (bulk unloading system) housed entirely within a building/closed structure, perform Method 22 observations for visual emissions on the sides and roof of the building?

A: Yes. The facility can conduct Method 22 visible emissions observations on each side of and the roof of the building under Maximum Achievable Control Technology (MACT) subpart LLL. The results of the Method 22 observations of the building must show no visible emissions. If visible emissions are detected during the Method 22 monitoring of the building, a Method 9 reading will be required.

Abstract for [Z050003]

Q: Do current standard polarized light microscopy (PLM) and point count test methods satisfy current minimum EPA regulatory requirements under 40 CFR part 61, subpart M, for analysis of vermiculite loose fill insulation?

A: Yes. PLM and point count methods satisfy EPA's minimum requirements under NESHAP subpart M for analysis of vermiculite loose fill insulation. However, EPA plans to publish a new more accurate method for analyzing vermiculite in the future, and is informing the public to consider all vermiculite as asbestos-containing material.

Abstract for [M050007]

Q: Are size presses and on-machine coaters used by the paper industry subject to the Paper and Other Web Coating Maximum Achievable Control Technology (MACT) requirements of 40 CFR part 63, subpart JJJJ?

A: No. Both size presses and on-machine coaters that function as part of the in-line papermaking system are used to form the paper substrate and thus are not subject to the MACT subpart JJJJ requirements.

Abstract for [M050008]

Q: Are methanol storage tanks used for the sole purpose of chlorine dioxide generation for pulp bleaching at pulp and paper mills subject to the Pulp and Paper Industry NESHAP, 40 CFR part 63, subpart S, or are they subject to the Organic Liquids Distribution NESHAP, 40 CFR part 63, subpart EEEE?

A: Methanol storage tanks used for the sole purpose of chlorine dioxide generation for pulp bleaching at pulp and paper mills are part of the mills' chlorine dioxide generation equipment, and are, therefore, a component of the bleaching system subject to NESHAP subpart S. They are not, however, subject to NESHAP subpart EEEE.

Abstract for [M050009]

Q: Is the application of sizing to carbon fiber during its manufacture at the Cytec Carbon Fibers facility in Rock Hill, South Carolina subject to the requirements of 40 CFR part 63, subpart OOOO?

A: No. Carbon fiber manufacturing is a synthetic fiber manufacturing process which is exempt from Maximum Achievable Control Technology (MACT) subpart OOOO.

Abstract for [0500017]

Q: Will EPA approve the Autoflame Control System Technology to derate a boiler for purposes of determining applicability of the NSPS subparts for boilers (40 CFR part 60, subparts D, Da, Db, and Dc)?

A: No. EPA will not approve the Autoflame Control System Technology because derate methods that are based solely on fuel feedrate control, as the Autoflame Control System Technology is, are not acceptable derate methods for determining the rated capacity of a boiler under NSPS subparts D, Da, Db, and Dc.

Abstract for [0500018]

Q1: Will EPA allow Riverside Energy Center to conduct the initial NO_X performance testing at only 50 and 100 percent of maximum operating load, instead of at all four loads as required under 40 CFR part 60, subpart GG?

A1: Yes. EPA will waive the requirement under NSPS subpart GG to conduct performance testing for nitrogen oxides (NO_X) for each turbine at four load levels under the following conditions: The turbine burns natural gas; the NO_X continuous emission monitoring system (CEMS) data provides a continuous record of NO_X emissions; and the testing at 100 percent load is the same as testing peak load.

Q2: Will EPA allow the facility under 40 CFR part 60, subpart GG, to test one of two combined cycle generating units to demonstrate both units in compliance with NO_X, CO and VOC emission limits during startup and shut down, in lieu of testing all units?

A2: No. The plant is required under NSPS subpart GG to conduct a performance test of each of the two identical gas turbines for purposes of showing NSPS compliance.

Q3: Will EPA allow the facility under 40 CFR part 60, subpart GG to use NO_X CEMS data in lieu of monitoring the water fuel ratio?

A3: Yes. The plant may use NO_X CEMS monitoring instead of monitoring the water fuel ratio.

Abstract for [M050010]

Q: If the total quantity of hazardous air pollutants (HAPs) contained in the remediation material that Connecticut Resources Recovery Authority (CRRA) of Hartford, Connecticut will excavate, extract, pump, or otherwise remove is less than 1 megagram per year (Mg/yr), is it subject only to the recordkeeping requirements of 40 CFR part 63, subpart GGGGG?

A: Yes. EPA confirms that as long as CRRA's site remediation meets the conditions of 40 CFR 63.7881(c), including that the areas to be remediated, contain less than 1 Mg/yr of HAPs, the facility will be subject only to the recordkeeping requirements of Maximum Achievable Control Technology (MACT) subpart GGGGG.

Abstract for [M050011]

Q: Will EPA allow Boise Paper Solutions in International Falls,

Minnesota to monitor, under 40 CFR part 63, subpart MM, the scrubber liquid supply pressure in lieu of the pressure drop across the wet scrubber used to control emissions from the lime kiln?

A: Yes. EPA will allow this under Maximum Achievable Control Technology (MACT) subpart MM, because for this particular scrubber, liquid supply pressure is a better indicator of scrubber performance and shall be monitored along with liquor flow rate to demonstrate compliance.

Abstract for [M050012]

Q: Will EPA allow Boise Paper Solutions in International Falls, Minnesota to demonstrate, under 40 CFR part 63, subpart MM, compliance using particulate emission tests conducted after the pulp mill combustion Maximum Achievable Control Technology (MACT) promulgation date but before the compliance date?

A: Yes. EPA will allow this under MACT subpart MM on the condition that the production rates achieved during the November 2003 tests represent the highest production rates currently achievable.

Abstract for [M050013]

Q: Will EPA allow Boise Paper Solutions in International Falls, Minnesota to set, under 40 CFR part 63, subpart MM, a compliant wet scrubber operating parameter range that is 10 percent lower than the average value recorded during a performance test?

A: No. EPA will not allow this because Maximum Achievable Control Technology (MACT) subpart MM requires that the compliant operating parameter range be established using the arithmetic average of the values recorded during a performance test.

Abstract for [M050014]

Q1: Will EPA allow Boise Paper Solutions in International Falls, Minnesota to set, under 40 CFR part 63, subpart MM, a minimum compliant scrubber liquor flow rate at 425 gallons per minute (gpm) and a minimum compliant scrubber liquor supply pressure at 308 pounds per square inch (psi)?

A1: Yes. EPA will allow this because test data demonstrate compliance with the particulate matter limit of Maximum Achievable Control Technology (MACT) subpart MM if these parameters are met.

Abstract for [M050015]

Q2: Will EPA allow the MeadWestvaco paper mill in Chillicothe, Ohio to demonstrate continuous compliance with 40 CFR part 63, subpart MM, using operating parameters for the smelt dissolving tank scrubber pressure drop that were established during tests not conducted in accordance with all the requirements of MACT subpart MM?

A2: No. EPA cannot consider approving under MACT subpart MM this proposal for a compliant operating parameter range until the initial performance test is conducted.

Abstract for [M050016]

Q: Is the Chicago White Metals die casting facility in Bensenville, Illinois subject to 40 CFR part 63, subpart RRR if it is an area source that only melts clean charge and internal scrap?

A: No. Under these facts, the facility in question is not subject to subpart RRR. However, if the facility increases its emissions and becomes a major source, or if the materials charged into the remelt furnaces are anything other than clean charge, internal scrap, or customer returns, then the furnaces will be subject.

Abstract for [M050017]

Q: May the Scepter secondary aluminum facility in Bicknell, Indiana use an alternative reactive flux injection monitoring method under 40 CFR part 63, subpart RRR?

A: Yes. The facility may use an alternative reactive flux injection monitoring method under Maximum Achievable Control Technology (MACT) subpart RRR as long as the flux rate for the entire batch cycle for each furnace is below that established during the performance tests.

Abstract for [M050018]

Q: Is the Commonwealth Industries facility in Uhrichsville, Ohio subject to 40 CFR part 63, subpart RRR if it is an area source which reports having Group 2 furnaces?

A: The furnaces are not subject to the testing requirements of Maximum Achievable Control Technology (MACT) subpart RRR. However, they are subject to the operating, monitoring, recordkeeping and reporting requirements of MACT subpart RRR.

Abstract for [M050019]

Q: May the Wausau-Mosinee paper mill in Brokaw, Wisconsin monitor the on/off status of the scrubber pumps instead of the pressure drop across the venturi scrubbers under 40 CFR part 63, subpart MM?

A: No. Pressure drop and scrubber liquid flow rate are critical parameters for the performance of venturi scrubbers. EPA has already approved monitoring the on/off status of the scrubber pumps in lieu of monitoring the liquid flow rate.

Dated: May 26, 2005.

Michael M. Stahl,

Director, Office of Compliance.

[FR Doc. 05–12358 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0163; FRL–7719–1]

Aldicarb Risk Assessments (Phase 3 of 6-Phase Process); Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's environmental fate and effects risk assessment and related documents for the carbamate pesticide aldicarb, and opens a public comment period on this document. EPA is developing an Interim Reregistration Eligibility Decision (IRED) for aldicarb, through the full 6-Phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0163, must be received on or before August 22, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mika J. Hunter, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0041; fax number: (703) 308–8041; e-mail address: *hunter.mika@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale,

distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0163. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0163. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*. Attention: Docket ID Number OPP–2005–0163. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0163.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0163. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

EPA is making available the environmental fate and effects risk assessment for aldicarb. A human health risk assessment is expected to be issued for public comment in the near future. Aldicarb is an N-methyl carbamate insecticide used to control numerous insects, mites, and nematodes on food and non-food crops. The Agency developed this ecological risk assessment as part of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

Aldicarb is a cholinesterase inhibiting chemical and is used to control pests of food and non-food crops. Aldicarb is registered for use on citrus, cotton, dry beans, grain sorghum, peanuts, pecans, potatoes, soybeans, sugar beets, sugarcane, sweet potatoes, field grown ornamentals, seed alfalfa, and tobacco, as well as coffee and yams grown in Puerto Rico. All aldicarb products are granular formulations that are incorporated into the soil. Approximately, 4.8 million pounds of aldicarb are used per year on 4.9 million acres.

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's ecological risk assessment for aldicarb. Such comments and input could address, for example, the availability of additional data to further refine the risk assessment, such as data pertaining to use information and ecological risk, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific pesticide.

EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to aldicarb, compared to the general population.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. EPA plans to review aldicarb through the full, 6-Phase public participation process.

Comments should be limited to issues raised within the risk assessment and associated documents. Failure to comment on during Phase 3 will not limit a commenter's opportunity to participate in any later notice. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for aldicarb. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 15, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–12361 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0158; FRL–7717–6]

Pesticide Product; Registration Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application to register the pesticide products, Bedoukian (Z)-6-Heneicosen-11-one Technical Pheromone, ProAct, Smolder WP, and Smolder G containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader listed in the table in this unit:

File Symbol	Regulatory Action Leader	Mailing Address	Telephone Number and E-mail Address
34704–IEL 34704–IEU 34704–824 34704–825	Tessa Milofsky	Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001	(703) 308–0455 *milofsky.tessa@epa.gov*
52991–RT 52991–17	Andrew Bryceland	Do.	(703) 305–6928 *bryceland.andrew@epa.gov*
69834–L 69834–5	Susanne Cerrelli	Do.	(703) 308–8077 *cerrelli.susanne@epa.gov*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2005–0158. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. The request should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Did EPA Approve the Application?

The Agency approved the applications after considering all required data on risks associated with the proposed use of (Z)-6-Heneicosen-11-one, Harpinαβ Protein, and *Alternaria destruens* strain 059, and information on social, economic, and

environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemicals and their patterns of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of (Z)-6-Heneicosen-11-one, Harpinαβ Protein, and *Alternaria destruens* strain 059 when made in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

III. Approved Application

1. EPA issued a notice, published in the **Federal Register** of January 28, 2004 (69 FR 4133–4135) (FRL–7339–9), which announced that Bedoukian Research, Inc., 21 Finance Drive, Danbury CT 06810–4192, had submitted an application to register the pesticide product, Bedoukian (Z)-6-Heneicosen-11-one Technical Pheromone, Pheromone/attractant (EPA File Symbol 52991–RT), containing (Z)-6-Heneicosen-11-one. This product was not previously registered.

The application was approved on January 21, 2005, as Bedoukian (Z)-6-Heneicosen-11-one Technical Pheromone (EPA Registration Number 52991–17) for incorporation into end-use products, and not for direct treatment of pest.

2. EPA issued a notice, published in the **Federal Register** of August 11, 2004 (69 FR 48867–48870) (FRL–7365–9), which announced that Eden Bioscience Corporation, 3830 Monte Villa Parkway, Suite 100 Bothell, WA 98021–7266, had submitted an application to register the pesticide product, EBC–351, a biochemical pesticide that provides growth enhancement, disease suppression and enhances crop yield (EPA File Symbol 69834–L), containing Harpinαβ Protein. This product was not previously registered.

The application was approved on February 9, 2005, as ProAct (formerly EBC–351) (EPA Registration Number 69834–5) for use on all food commodities as well as on turf, trees, and ornamentals.

3. EPA issued a notice, published in the **Federal Register** of February 7, 2001 (66 FR 9318–9319) (FRL–6754–9–), which announced that Platte Chemical Company (Note: The present manufacturer is Loveland Products, Inc., 7251 West 4th Street, Greely, CO 80634) had submitted an application to register the pesticide products, Smolder WP, herbicide (EPA File Symbol 34704–IEL) and, Smolder G, herbicide (EPA File Symbol 34704–IEU), containing *Alternaria destruens* strain 059. This product was not previously registered.

The application was approved on May 5, 2005, as Smolder WP (EPA Registration Number 34704–825) and Smolder G (EPA Registration Number 34704–824) for control of dodder in agricultural fields, dry bogs, and ornamental nurseries.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: June 10, 2005.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 05–12201 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0402; FRL–7718–6]

Response to Requests to Cancel Certain Pentachlorophenol (PCP) Wood Preservative Products, and/or to Amend to Terminate Certain Uses of Other Pentachlorophenol Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Cancellations and Use Terminations.

SUMMARY: This notice announces that cancellation orders were signed on February 17, 2005, in response to the use terminations and cancellations voluntarily requested by the registrants of certain wood preservative products containing pentachlorophenol pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. EPA issued final cancellation order letters to two registrants of pentachlorophenol products accepting their voluntary use termination requests/product cancellation requests to either amend current label language to delete spray uses for the products or to cancel the affected products. Both the use terminations and the product cancellations were effective February 17, 2005.

This notice of cancellations and use terminations follows a January 6, 2005 **Federal Register** Notice of Receipt of Requests to Cancel Registrations of Certain Pentacholorophenol Wood Preservative Products, and/or Amend Registrations to Terminate Certain Uses of Pentachlorophenol Products.

DATES: The effective date of the voluntary product cancellations and/or use terminations for the affected pentachlorophenol products is February 17, 2005.

FOR FURTHER INFORMATION CONTACT: Heather A. Garvie, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–308–0034; fax number: (703) 308–8481; e-mail address: *garvie.heather@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0402. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's

electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. What Action is the Agency Taking?

This notice announces that the Agency issued cancellation orders cancelling certain pentachlorophenol (PCP) wood preservative products, and terminating certain uses of other pentachlorophenol products, as requested by the registrants. The Agency received letters from Vulcan Chemicals, dated September 13, 2004, requesting that two of its registrations be amended to terminate spray uses. The Agency also received a letter from Roger C. Jackson, dated December 14, 2004, on behalf of KMG Chemicals Inc., requesting voluntary cancellation of two of its wood preservative products, Pentacon 40 and Penwar. KMG Chemicals, Inc. asked for no provision for existing stocks. Vulcan Chemicals asked to be allowed to sell and distribute existing stocks for a period of 18 months after the issuance of the cancellation order terminating spray uses of its products. Vulcan noted in its request that its customers use the affected products only for pressure-treatment or thermal-treatment and not for spray use. Both registrants waived the 180–day comment period (i.e., any comment period in excess of 30 days). The following pentachlorophenol product registrations are affected by the cancellation orders:

TABLE 1.—CANCELLATION OF REGISTRATIONS FOR WOOD PRESERVATIVE PRODUCTS

EPA Registration No.	Product Name
61483–55	Penwar
61483–56	Pentacon 40

TABLE 2.—AMENDMENTS TO TERMINATE SPRAY USES

EPA Registration No.	Product Name
5382–16	Vulcan GLAZD Penta Pentachlorophenol
5382–36	Vulcan Premium Four Pound (PCP–2) Concentrate

TABLE 3.—REGISTRANTS OF CANCELLED AND/OR AMENDED PENTACHLOROPHENOL PRODUCTS

EPA Company No.	Company Name and Address
5382	Vulcan Chemicals PO Box 385015 Birmingham, Alabama 35259–5015
61483	KMG Chemicals, Inc. 10611 Harwin Drive, Suite 402 Houston, Texas 77036–1534

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the January 6, 2005 **Federal Register** notice announcing the Agency's receipt of the request(s) for voluntary cancellations and/or amendments to terminate certain uses of pentachlorophenol.

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation orders issued on February 17, 2005 include the following existing stocks provisions:

KMG Chemicals, Inc. requested that the voluntary cancellations become effective as soon as possible with no provisions for existing stocks for the registrant. Consequently, the Agency is not allowing for any existing stock provisions for those products in the hands of the registrant on the effective date of cancellation. Any sale, distribution, or use by the registrant of these affected products, i.e., Pentacon 40 and Penwar, on or after the effective date of this cancellation order is prohibited.

Vulcan Chemicals is permitted to sell and distribute existing stocks (those that bear the spray use on the label) for a period of 18 months after the issuance of the cancellation order terminating spray uses ofVulcan GLAZD, Penta, Pentachlorophenol, and Vulcan Premium Four Pound (PCP–2) Concentrate, to allow sufficient time to implement amended labeling. Any sale, distribution, or use by the registrant of existing stocks after this period is prohibited. According to Vulcan Chemicals, its customers are not using the products for any treatment other than pressure treatment or thermal treatment.

Existing stocks already in the hands of persons other than the registrant can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label of the affected product.

For purposes of this Order, the term ''existing stocks'' is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. Any distribution, sale or use of existing stocks in a manner inconsistent with the terms of the cancellation order or the existing stocks provisions contained in the order will be considered a violation of section 12(a)(2)(K) and/or section 12(a)(1)(A) of FIFRA.

List of Subjects

Environmental Protection, Pentachlorophenol, Pesticides and Pests.

Dated: June 13, 2005.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 05–12359 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0130; FRL–7714–6]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket identification (ID) number OPP–2005–0130, must be received on or before July 22, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader listed in the table in this unit:

File symbol	Regulatory Action Leader	Mailing Address	Telephone Number/E-mail Address
42697–AR 81636–R	Todd Peterson	Biopesticides and Pollution Prevention Division (7511C), Office of Pesticides, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–000	(703) 308–7224 *peterson.todd@epa.gov*
71975-R	Jim Downing	Do.	(703) 308–9071 *downing.jim@epa.gov*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under**FOR FURTHER INFORMATION CONTACT.**

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

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2005–0130. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket, but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0130. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0130. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency (7502C), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0130.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0130. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in Any Previously Registered Products

1.*File symbol:* 42697–AR. *Applicant:* Woodstream Corporation, 69 North Locust St., Lititz, PA 17543–0327. *Product name:* Slug & Snail Killer. *Type of product:* Molluskicide. *Active ingredient:* Ferric Sodium EDTA at 6.0%. *Proposed classification/Use:* Slug and snail pesticide.

2. *File symbol:* 71975–R. *Applicant:* Northwest Agricultural Products, 821 South Chestnut Ave., Pasco, WA 99301, c/o Product & Regulatory Associates, LLC, 4201 Church Road, Suite 334, Mount Laurel, NJ 08054. *Product name:* Bloomtime Biological FD Biopesticide.*Type of product:* Bacterial antagonist.*Active ingredient: Pantoea agglomerans* strain D325 at 7.0%. *Proposed classification/Use:* Unclassified/competitive inhibition of the fire blight bacteria.

3. *File symbol:* 81636–R. *Applicant:* Leg Up Enterprises, Inc., P.O. Box P, 113

Rocky Ridge Road, Lovell, ME 04051. *Product name:* Leg Up Coyote Urine. *Type of product:* Repellent. *Active ingredient:* Coyote Urine at 97.0%. *Proposed classification/Use:* Animal repellent.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: June 14, 2005.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 05–12200 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0105; FRL–7710–1]

Fenpropimorph; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice reannounces the filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0105, must be received on or before July 22, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mary L. Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9354; e-mail address: *waller.mary@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0105. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are

submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties, or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0105. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0105. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0105.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0105. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 27, 2005.

Betty Shackleford,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the

pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation

PP 7E4874

EPA has received a pesticide petition (PP 7E4874) from BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709–3528, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of fenpropimorph, (+)-cis-4-(3-((4-tert-butylphenyl))-2-methylpropyl)-2,6-dimethylmorpholine in or on the raw agricultural commodity banana at 1.5 parts per million (ppm) of which no more than 0.3 ppm is found in the pulp. This petition was previously published in the **Federal Register** on December 7, 1998 (63 FR 67476) (FRL–6047–2), identified by the docket control number PF-848. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The results of the banana metabolism study indicate that fenpropimorph constitutes the total toxic residue. All other significant portions of the total radioactive residue are due to natural products, predominately carbohydrates. Therefore, for regulatory purposes, the residue of concern determined by the analytical method consists only of fenpropimorph.

2. *Analytical method*. The method of analysis includes extraction, liquid/liquid partition, column clean-up, and quantitation by gas chromatography/nitrogen-phosphorus detector. The overall fortification recoveries from the unpeeled, whole banana, and the peeled (pulp) samples together averaged 87.1% ± 9.3% (N=76).

3. *Magnitude of residues*. Fifteen crop residue trials were conducted in the banana growing regions of Mexico, South and Central America including three sites in Colombia, four sites in Costa Rica, four sites in Ecuador, one site in Guatemala, two sites in Honduras, and one site in Mexico. Four sequential applications were made at the target rate of 545 gram/hectares (g/ha) to both bagged and unbagged bananas at each site. Fruit from both the bagged and unbagged treatments were harvested at 0 days following the last application.

Whole fruit (peel and pulp) samples and pulp only samples were analyzed for all treatments at all sites. Under typical practices, bagged banana residues in the whole fruit ranged from the limit of quantitation (LOQ) 0.050 milligrams/kilogram (mg/kg) to a maximum of 0.4 mg/kg. Banana pulp residues from bagged bananas ranged from the < LOQ (0.050 mg/kg to 0.20 mg/kg and averaged 0.0518 mg/kg). The average value was calculated by assuming all values below the LOQ were equal to one-half the < LOQ or 0.025 mg/kg. Under worst-case practices, unbagged bananas residues in the whole fruit ranged from < the LOQ (0.050 mg/kg to a maximum of 1.4 mg/kg). Banana pulp residues from unbagged bananas ranged from < the LOQ (0.050 mg/kg to 0.43 mg/kg and averaged 0.1149 mg/kg). The average value was calculated by assuming all values below the LOQ were equal to one-half the LOQ or 0.025 mg/kg.

B. Toxicological Profile

Based on review of the available data, BASF believes the reference dose (RfD) for fenpropimorph will be based on a 2–year feeding study in rats with a threshold no observed adverse effect level (NOAEL) of 0.3 milligrams/kilogram/day (mg/kg/day). Using an uncertainty factor of 100, the RfD is calculated to be 0.003 mg/kg/day. A summary of the available mammalian toxicology data is given in the following sections.

1. *Acute toxicity*. Based on available acute toxicity data, fenpropimorph does not pose any acute toxicity risks. These studies are not required for an import tolerance, but we have provided the following information to demonstrate that fenpropimorph is not an acute toxicant. The acute toxicity studies place technical fenpropimorph in acute toxicity category III for acute oral, dermal, inhalation, and skin irritation; and in acute toxicity category IV for eye irritation and the technical material is not a skin sensitizer.

2. *Genotoxicty*. The following genotoxicity tests were performed with fenpropimorph: A modified Ames Test (2 studies; point mutation) - Negative; *In Vitro* CHO/HPRT Mammalian Cell Mutation Assay (1 study; point mutation) - Negative; *In Vitro* Cytogenetic test in Chinese Hamster V79 cells (1 study; chromosome aberrations) - non-activated negative, activated equivocal; *In Vitro* Cytogenetics-Human lymphocytes (1 study; chromosome aberrations) - Negative; *In Vivo* Mouse Micronucleus Assay (2 studies; chromosome aberrations) - Negative; *In Vitro* UDS Test Using Rat Hepatocytes (1 study; DNA damage and repair): Negative; *In Vivo* dominant lethal test in mice (1 study; chromosome aberrations in germ cells) - Negative. Fenpropimorph has been tested in a total of nine genetic toxicology assays. These assays were performed both *in vitro* and *in vivo*. The weight of the evidence from these nine studies indicates that fenpropimorph is not genotoxic.

3.*Reproductive and developmental toxicity* — i. A developmental prenatal toxicity study was conducted via oral gavage in rats at doses of 0, 2.5, 10, 40, and 160 mg/kg/day from day 6 to 15 of gestation with a developmental toxicity NOAEL of 40 mg/kg/day and a maternal toxicity NOAEL of 10 mg/kg/day based on the following: (a) Signs of maternal toxicity, in the form of decreased body weights (bwt) and/or clinical signs observed at dose levels > 40 mg/kg/day; (b) maternal animals in the 160 mg/kg/day dose group showed an increased incidence of vaginal bleeding from day 10 to 19 of gestation and increased placental weight; (c) maternal animals in the 160 mg/kg/day dose group showed an increase in the number of resorptions as compared to controls; (d) decreases in fetal body weights and size and number of viable fetus were observed at 160 milligrams/kilogram body weight/day (mg/kg bwt/day); (e) a significant number of fetuses had a finding of cleft palate at 160 mg/kg bwt/day; and (f) litters from animals treated at the lower doses remained entirely unaffected.

ii. A perinatal developmental toxicity study was conducted via oral gavage in rats at doses of 0, 2.5, 10, 40, and 160 mg/kg/day from gestation day 15 to day 21 post partum with a developmental and maternal toxicity NOAEL of 40 mg/kg/day based on the following: (a) Four high dose maternal animals died on days 1 to 6 after delivery; (b) signs of maternal toxicity, in the form of decreased body weight and/or clinical signs observed at the top dose level; (c) at birth, body weight was significantly reduced in the pups of the top dose group; (d) the brood care at the top dose group animals was generally unsatisfactory and led to a high perinatal mortality of the fetuses with only 30 viable fetuses left on day 1 post partum, the dead fetuses showed no increased incidence of malformations; (e) the few surviving pups of the dams at the 160 mg/kg/day dose group showed decreases in fetal body weight and size was retarded, no disturbances were found in the functional and behavioral tests that were conducted on

the surviving pups; (f) at necropsy, all dams showed comparable number of implantations and the animals sacrificed as scheduled revealed no treatment-related changes and also the mean organ weights were similar in treated and untreated groups; and (g) litters from animals treated at the lower doses remained entirely unaffected and no pathological findings were also noted in these pups.

iii. A series of two developmental toxicity studies were conducted via gavage with rabbits. In the first study, rabbits were treated at dose levels of 0, 2.4, 12, 36, and 60 mg/kg/day and in the second study the dose levels were 0, 7.5, 15, and 30 mg/kg/day. Considering both studies, the maternal and developmental toxicity NOAEL's were 15 mg/kg/day based on the following: (a) Severe clinical signs and/or mortality were observed at dose levels > 30 mg/kg/day; (b) decreased body weight, food consumption, and absorption/premature delivery in the 36 and 60 mg/kg/day dose groups which survived to the end of the studies; (c) fetal effects consisted of a high number of dead fetuses and several gross malformations (pseudo ancylosis, syndactylia, micromelia, aplasia of the twelfth rib) at the highest dose tested; and (d) pseudo ancylosis was also seen in 1 fetus from the 12 mg/kg/day dose group and in 6 fetuses in the 36 mg/kg/day dose level, but this finding is known to occur spontaneously in rabbits of this strain used and the contractures usually normalize during early stages of life. Due to the severe maternal effect at the high dose level (HDL), these effects were not considered to represent a specific teratogenic effect of the treatment.

iv. A 2–generation reproduction study was conducted with rats fed dosages of 0, 0.625, 1.25, and 2.5 mg/kg/day average mg/kg/day dose levels for both male and female rats with a reproductive NOAEL of 2.5 mg/kg/day and with a parental NOAEL of 2.5 mg/kg/day based on: (a) Significant body weight changes in adults; (b) no effects were observed on parameters of fertility and gestation, or macro- or histopathological changes for the parental F_0 and F_1 animals at all dose levels tested; (c) in the F_1 litters, a slight increased incidence of stillborn pups, unfolding of the ear, and slight reduced body weight development during lactation were observed in the 2.5 mg/kg/day dose level group, but this was not reproduced in the F_2 litters; and (d) in the F_2 litters, no treatment-related effects were observed at all dose levels tested.

4. *Subchronic toxicity.* The short-term toxicity of fenpropimorph was investigated in an oral 28–day range-finding study in rats as well as in 3-month studies in rats and dogs. In addition, the short-term toxicity following dermal exposure was determined in a 21–day study in rabbits and the short-term inhalation toxicity was studied in a 28–day inhalation study in rats.

The signs of toxicity observed in rats and dogs tested orally were overall similar with the liver as the target organ. The effects observed typically included the increase in one or more serum liver enzymes, changes in cholesterol and increased liver weight. No pathological changes were observed in any organ. Plasma cholinesterase was decreased in the highest doses tested in rats. Brain and RBC cholinesterase were unaffected by treatment.

Severe dermal irritation with repeated dosing limited the highest dose tested for 3 weeks in rabbits to 8.5 mg/kg bwt/day. No substance-related systemic findings were detected up to the highest dose. Rats were exposed via inhalation for 28 days at concentrations up to 160 mg/m^3. The NOAEL was determined to be 10 mg/m^3 based on serum liver enzyme and cholesterol changes and reduced plasma cholinesterase at higher concentrations.

5.*Chronic toxicity* —i. A combined chronic feeding/oncogenicity study was performed in rats being fed doses of 0, 0.2, 0.3, 1.7, and 8.8 mg/kg/day (males) and 0, 0.2, 0.4, 2.1, and 11.2 mg/kg/day (females) with a NOAEL of 0.3 mg/kg/day (males) and 0.4 mg/kg/day (females) based on the following effects: (a) Decreased body weights were observed in both male and female rats at dose levels > 1.7 mg/kg/day; (b) decreased food consumption in female rats at the 11.2 mg/kg/day; (c) significantly lower activities of plasma cholinesterase were noted in male and female rats in the high dose whereas no effect was found for red blood cell and brain cholinesterase values; (d) at terminal sacrifice, reduced activities of brain cholinesterase were detected in males, only, at the 1.7 and 8.8 mg/kg/day dose levels groups tested; (e) increased liver weights for females at dose levels > 2.1 mg/kg/day and in males of the top dose group; (f) microscopic findings were observed in the liver of male and female rats in both sexes of the two highest dose groups consisting of enlargement of the centriobular hepatocytes and increased incidences of multinucleate hepatocytes; and (g) no increased incidence of neoplasms occurred at any dose levels tested in this study.

ii. A carcinogenicity study in mice fed doses of 0, 0.5, 3.0, 16, and 106 mg/kg/day (males) and 0, 0.5, 3.5, 17, and 118 HDT mg/kg/day (females) with a NOAEL of 3.0 and 3.5 mg/kg/day for male and female mice, respectively, based on the following effects: (a) Decreased body weights were observed with no effect on food consumption in both male and female mice at the highest dose tested; (b) decreased cholinesterase activities were observed in red blood cells for female mice in the 17 and 118 mg/kg/day dose level tested at terminal sacrifice; (c) at the high dose, increased liver weights were observed for female mice at terminal sacrifice and in males at interim sacrifice after 52 weeks; and (d) no increased incidence of neoplasms occurred at any dose levels tested in this study.

iii. A 1 year feeding study in dogs fed doses of 0, 0.8, 3.2, or 12.7 mg/kg/day with a NOAEL of 3.2 mg/kg/day based on the following effects: (a) No changes in body weights nor food consumption for both the high dose male and female dogs were observed at all tested dose levels as compared to controls; (b) blood biochemistry values were slightly increased in high dose males (alkaline phosphatase) and females (alanine aminotransferase); (c) the cholininesterase from plasma, red blood cells, and brain showed comparable activities in treated and untreated dogs; and (d) neither organ weight analyses nor macro- and histopathological examinations demonstrated any treatment-related effects as compared to controls.

6. *Animal metabolism.* Fenpropimorph was well absorbed orally (>90%) and extensively metabolized by rats. Excretion was rapid (plasma half-life of 16–24 hours) occurring by urine and bile. By 48 hours after treatment, essentially all of the administered dose was eliminated by all routes. Levels in tissues were small and rapidly declined, and there was no evidence for a bioaccumulation potential. Fenpropimorph was eliminated exclusively in the form of metabolites. Significant amounts of the metabolites were in conjugated form.

7. *Metabolite toxicology.* There were no metabolites identified in plant commodities which require regulation.

8. *Endocrine disruption.* No specific tests have been performed with fenpropimorph to determine whether the chemical may have an effect in humans that is similar to an effect produced by naturally occurring estrogen or other endocrine effects. However, there are significant findings in other relevant toxicity studies, i.e., teratology, and multi-generation reproductive studies, that would suggest fenpropimorph produces endocrine-related effects.

C. Aggregate Exposure

1. *Dietary exposure.* A dietary assessment was conducted to evaluate the potential risk due to chronic dietary exposure of the U.S. population and all sub-populations to residues of fenpropimorph. Fenpropimorph is not registered in the United States so no tolerances have previously been established.

This dietary analysis was conducted to evaluate the proposed import tolerance for banana pulp at 0.3 ppm. The dietary assessment was conducted using tolerance level residues, default processing factors, and 100% crop treated factors. These assumptions are conservative because it assumes all bananas imported into the United States will be at tolerance level and 100% of all the import bananas will have been treated with fenpropimorph. Inadvertent residues in animal commodities (i.e., meat, meat byproducts, milk, eggs) were not considered because imported bananas will not be used as an animal feed commodity.

i. *Food.* Acute dietary exposure assessment for fenpropimorph. BASF believes there is no concern regarding acute dietary risk since the available toxicity data do not indicate any evidence of significant toxicity from a 1 day or single, event exposure by the oral route.

ii. *Chronic dietary exposure assessment.*Achronic assessment was conducted for all subpopulations. The chronic dietary exposure assessment was conducted using the Dietary Exposure Evaluation Model software with Food Commodity Intake Database (DEEM-FCID). The chronic population adjusted dose (cPAD) used for all subpopulations was 0.003 mg/kg bwt/day. Using the exposure assumptions discussed above, fenpropimorph chronic dietary exposure from food is less than 19% cPAD for all subpopulations. The most highly exposed subpopulation was children 1-2 years old and utilized 18.4 % of the cPAD. The results of the chronic dietary assessment are presented in Table 1.

TABLE 1.— SUMMARY OF CHRONIC DIETARY EXPOSURE ASSESSMENT CONSIDERING CROPS WITH ESTABLISHED AND PROPOSED TOLERANCES FOR FENPROPIMORPH.

Population Subgroups	Exposure Estimate (mg/kg bw/day)	%cPAD
U.S. population	0.0001140	3.8

TABLE 1.— SUMMARY OF CHRONIC DIETARY EXPOSURE ASSESSMENT CONSIDERING CROPS WITH ESTABLISHED AND PROPOSED TOLERANCES FOR FENPROPIMORPH.—Continued

Population Subgroups	Exposure Estimate (mg/kg bw/day)	%cPAD
All Infants	0.0004320	14.4
Children (1-2 years)	0.0005520	18.4
Children (3-5 years)	0.0002880	9.6
Children (6-12 years)	0.0001200	4.0
Females (13-19 years)	0.0000720	2.4
Youth (13-19 years)	0.0000480	1.6

Results of the chronic dietary exposure analysis demonstrate a reasonable certainty that no harm to the general U.S. population or any subpopulation would results from importing bananas treated with fenpropimorph.

iii. *Drinking water.* Fenpropimorph is not registered for use within the United States and therefore exposure through drinking water will not occur.

An aggregate exposure assessment for fenpropimorph is not needed because the only exposure to fenpropimorph will occur from the dietary food route. Fenpropimorph is not registered within the United States for any uses. The dietary assessment conducted above demonstrates that there are no safety concerns for any subpopulation, and that the results clearly meet the FQPA standard of reasonable certainty of no harm.

2. *Non-dietary exposure.* Fenpropimorph is not registered for use within the United States. Thus, residential exposure is not possible.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and other substances that have a common mechanism of toxicity. Results for toxicity studies indicate that toxic effects produced by fenpropimorph would not be cumulative with those of any other chemical.

E. Safety Determination

1. *U.S. population.* Based on this risk assessment, BASF concludes that there is a reasonable certainty that no harm will result to the general population from the aggregate exposure to fenpropimorph residues.

2. *Infants and children.* Based on this risk assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants or children from the aggregate exposure to fenpropimorph.

F. International Tolerances

A maximum residue level has not been established under Codex Alimentarius Commission for fenpropimorph in bananas.

[FR Doc. 05–12079 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0032; FRL–7718–7]

Propazine; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0032, must be received on or before July 22, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5697; e-mail address: *tompkins.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you an agricultural producer, food manufacturer, or

pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
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B. How Can I Get Copies of this Document and Other Related Information?

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2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

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Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also, include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0032. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2005–0032. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically

captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2005–0032.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number OPP–2005–0032. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 3, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by Griffin Corporation, and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Griffin Corporation

PP 7F4837

EPA has received a pesticide petition (PP 7F4837) from Griffin Corporation, P.O. Box 1847, Valdosta, GA 31603–1847 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180, by establishing a tolerance for residues of propazine 2-chloro-4,6-bis(isopropyamine)-s-triazine and its 2 chloro metabolites, 2-amino-4-chloro, 6-isopropylamino-s-triazine (G–30033) and 2,4-diamino-6-chloro-striazine (G-28273) in or on the raw agricultural commodity sorghum, stover, forage, and grain at 0.25 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* In sorghum, metabolism occurs by the three following reactions: N-dealkylation of the side-chains, hydrolytic dehalogenation or nucleophilic displacement of the 2-chloro group with glutathione (GSH). The dehalogenation and formation of GSH conjugates are the two predominant pathways and only small amounts of the chloro residues were found in forage and stover. No chloro residues were detected in sorghum grain in two propazine metabolism studies that were conducted. Griffin believes the metabolism is well characterized in plants and animals and the pathways of metabolism are very similar to those defined for other triazines. The metabolism profile supports the use of an analytical enforcement method that accounts for parent propazine and its two chloro metabolites, 2-amino-chloro-6-isopropyl-amino-s-triazine (G–30033) and 2-chloro-4,6-di-amino-s-triazine (G–28273) in the raw agricultural commodity (RAC's) of grain sorghum and further supports the current tolerance of 0.25 ppm to include the two chloro metabolites.

2. *Analytical method.* A practical analytical method has been submitted, as a part of the sorghum residue study. The method involves extraction, evaporation solid phase clean-up

column and quantitation by high performance liquid chromotography (HPLC) equipped with a ultraviolet ray (UV) detector. One aliquot is used for assaying for propazine and G–30033 and another aliquot is used for quantitating G–27283. The limit of quanitation (LOQ) for propazine and each of its chloro metabolites in each raw agricultural commodities (RAC) and each chloro residue is 0.05 ppm.

3. *Magnitude of residues.* A total of 13 sorghum field residue trails were conducted in the major sorghum growing areas of the United States. No quantifiable residues of parent or the two chloro metabolites were detected in the RAC's of the 13 field residue studies when treated at the 1x rate. Only four samples for sorghum forage contained residues of G–28273 which were quantifiable and residues ranged from 0.05 ppm to 0.087 ppm. The treatment rate for these studies exceeded the maximum proposed use rate and the extrapolated range of residues for the four samples was 0.024 to 0.069 ppm.

The RAC's of sorghum are only used as feed for cattle and poultry. Only the grain is fed to chickens and there were no chloro residues present in grain; therefore, no chloro residues would be expected in eggs and poultry products. The level of chloro residues in forage and fodder are sufficiently low in the metabolism and residue studies to demonstrate that any potential transfer of propazine and its chloro metabolites to milk and meat is not expected. For rotational crops, no chloro residues were present in root and grain crops when planted more than 129 days after treatment. Chloro residues were present in leafy vegetables grown in soils with pH values above 7 and under inclimate growing conditions. One field sample of wheat forage contained low levels of parent propazine but this sample was taken at an interval shorter than will be proposed on the label for plant back and, in addition, the pH of the soil was above 7.

An amendment of the current tolerance of 0.25 ppm to include parent propazine and its two chloro metabolites, G–30033 and G–28273, is proposed for each of the RAC's of grain sorghum. The metabolism and field residue results show that chloro residues of propazine should not exceed 0.25 ppm in any of the RAC's. Potential transfer of propazine and its two chloro metabolites to milk and meat is not expected. Therefore, tolerances in milk, meat, poultry and eggs are not required. The data show that root and grain crops can be rotated with sorghum treated with propazine, but leafy vegetable crops should not be rotated with sorghum in soils with pH values above 7.

B. Toxicological Profile

1. *Acute toxicity.* A complete battery of acute toxicity studies for propazine technical was completed. The acute oral toxicity study resulted in a LD_{50} of greater than 5,050 milligram kilogram (mg/kg) for both sexes. The acute dermal toxicity in rabbits resulted in an LD_{50} in either sex of greater than 5,050 mg/kg. The acute inhalation study in rats resulted in an LC_{50} of greater than 1.22 mg/l. Propazine was non-irritating to the skin of rabbits in the primary dermal irritation study. In the primary eye irritation study in rabbits, no irritation was noted. The dermal sensitization study in guinea pigs indicated that propazine is not a sensitizer. Based on these results, propazine technical is placed in toxicity Category III.

2. *Genotoxicity* Propazine was positive without activation and weakly positive with activation in an *in vitro* Chinese hamster cell point mutation assay. It did not affect DNA repair in rat hepatocytes. In *in vivo* assays, propazine was negative for both production anomalies in Chinese hamster somatic cell nuclei in interphase and induction structural damage (chromosome aberrations) in mouse spermatogonial cells.

3. *Reproductive and developmental toxicity.* The potential maternal and developmental toxicity of propazine were evaluated in rabbits. Propazine technical was suspended in corn oil and administered orally by gavage to three groups of 20 artificially inseminated New Zealand White rabbits as a single daily dose from gestation days 6–18. In the range-finding study, rabbits were dosed at levels of 0, 10, 50, 100, 200, and 400 milligram kilogram/day (mg/kg/day). Maternal toxicity was exhibited by decreased defecation, body weight losses and decreased food consumption during the treatment period at 50, 100, 200 and 400 mg/kg/day. Abortions also occurred at levels of 200 and 400 mg/kg/day. Dose levels of 0, 2, 10, and 50 mg/kg/day were selected based on the results of this study. In the definitive study, no test article related deaths occurred at any dose level tested. The only clinical sign observed was decreased defecation in the 50 mg/kg/day group. Inhibition of body weight gain occurred during the first 6 days of dosing and inhibition of food consumption occurred throughout the treatment period in the 50 mg/kg/day group. No other treatment related findings were noted in the dams at any dose level. Intrauterine parameters were unaffected by treatment. There were no treatment related effects on fetal malformations or developmental variations.

The data from the developmental toxicity studies on propazine show no evidence of a potential for developmental effects (malformations or variations) at doses that are not maternally toxic. The no observed adverse effect level (NOAEL) for maternal toxicity in rabbits was 10 mg/kg/day and the NOAEL for developmental toxicity was 50 mg/kg/day.

4. *Subchronic toxicity.* No test article related deaths occurred at any dose level. Very minimal dermal irritation was noted in the 100 and 1,000 mg/kg/day females. Body weight gain was slightly inhibited in the high dose group during weeks 0–1 (both sexes) and 2–3 (males only). There were no treatment related effects on the clinical observations, food consumption, hematology and serum chemistry parameters or organ weights were observed at any dose level. Macroscopic and microscopic examinations revealed no treatment related lesions at any dose level. Based on the 21 day dermal study in rats, the NOAEL for systemic toxicity was 100 mg/kg/day due to reduced body weight gain at 1,000 mg/kg/day.

5. *Chronic toxicity.* Griffin conclude that the body weight gain and survival data clearly indicate that the high dietary concentration of 1,000 ppm (68 mg/kg/day) for female rats exceeded the maximum tolerance dose (MTD), and therefore, the high dose female group should be excluded from any risk assessment or weight-of-evidence arguments concerning this study. Additionally, the incidence of mammary gland tumors in all doses in this study were within the range of current laboratory historical control incidences and those reported by the breeder, Charles River. No adverse treatment related effects were observed at levels below the MTD (100 ppm or lower for females).

6. *Animal metabolism.* The absorption, distribution, excretion, and metabolism of propazine (ring-UL-14C propazine) was investigated in Sprague-Dawley CD rats. One group of rats was administered a single oral dose at 1.0 mg/kg (low dose), one group was administered a single oral dose at 100 mg/kg (high dose), and a third group was administered fourteen consecutive oral daily doses of non-radioactive propazine at 1.0 mg/kg, followed by a single oral dose of 14C-propazine at 1.0 mg/kg (consecutive dose group). A fourth group of animals (3 rats/sex) was administered a single oral dose of the vehicle only (corn oil), and served as

controls. Since propazine is not soluble in water, it was not possible to include an intravenous dose group. Excretion patterns were very similar in all dose groups. Nearly all of the radioactivity administered was recovered in the excreta within 24 to 48 hours after dosing. The majority of the administered radioactivity was excreted in the urine (66.2–70.5%), and this finding shows that the majority of the administered dose was bioavailable and rapidly absorbed from the gastrointestinal tract. High performance liquid chromotography (HPLC) analysis of the urine indicated a similar profile among all dose groups and both sexes. The excretion of radioactivity in the feces was significantly lower than in the urine (range: 19.9–28.6%) in all dose groups and both sexes. Analysis of this radioactivity demonstrated a relatively consistent pattern among the various dose groups with females containing a quantitatively higher level of the parent compound. The recovery of expired radioactivity was shown in a pilot study to be negligible (< 0.1%), indicating little or no 14CO2 production during the metabolism of propazine.

Seven days post-treatment all animals were sacrificed and the total radioactive residue was quantified in bone, brain, fat (visceral), gastrointestinal tract (including contents), heart, kidney, liver, lung, muscle (thigh), ovary, plasma, red blood cells (RBC), skin, spleen, testis, thyroid, uterus, and residual carcass. Highest concentrations were found in the RBCs of all dose groups (0.472–0.577 ppm parent equivalents at 1.0 mg/kg and 44.649–55.287 ppm at 100 mg/kg). Residue concentration in the remaining tissues ranged from 0.007 to 0.468 ppm at the low and consecutive dose groups, and from 0.859 to 13.246 ppm at the high dose. Mean body burdens for the low, high, and consecutive dose groups accounted for 10.3, 5.9 and 7.1% of the dose, respectively. Material balances were quantitative and accounted for 102.5, 101.1 and 96.3% of the dose, respectively. Metabolite characterization of excreta indicated a biotransformation pathway consistent with historical metabolism of alkylated s-triazines. Confirmed metabolite identification showed that propazine was metabolized via Ndealkylation mechanisms and excreted in urine primarily as the G–27283 metabolite (approximately 27% of the total dose). Unmetabolized parent propazine was the predominant identified compound in the feces (13.8% in the high dose male group). The fact that a greater percentage of administered 14C-propazine was found in the feces of the high dose group probably indicated some degree of saturation of the absorption mechanism. Propazine technical is not metabolized to breakdown products which accumulate in sufficient quantities that can be reasonably expected to present any chronic dietary risk.

7. *Metabolite toxicology.* The hydroxy metabolite of atrazine, an analog of propazine has been shown not to exhibit carcinogenic effects.

8. *Endocrine disruption.* There is no evidence that propazine has endocrinemodulation characteristics as demonstrated by the lack of endocrine effects in developmental, subchronic and chronic studies.

C. Aggregate Exposure

1. *Dietary exposure—i. Food.* A dietary risk exposure study dietary risk evaluation system (DRES) for Griffin for the purpose of estimating dietary exposure to propazine residues. Grain sorghum is the only proposed food or food use of propazine. Therefore, there exists no potential for human consumption of crops treated with propazine. Sorghum (grain, forage and stover) is, however, fed to livestock. Grain is the only sorghum commodity fed to poultry. There are no chloro residues, the residues of toxicological concern, in the grain. In turn, there is no potential for poultry to be exposed to propazine or related residues. Beef and dairy cattle are fed all sorghum commodities: grain, forage, stover, and aspirated grain fractions. Therefore, in evaluating potential human dietary exposure to propazine, the potential exposure via secondary residues in meat and milk must be considered. The total chloro residues for a goat dosed at 9.9 ppm in a metabolism study were low. Specifically, the highest total residue while the lowest residue of < 0.002 ppm was observed in kidney.

These tissues to feed ratios can then be combined with the worst-case diets derived from a sorghum only ration which includes propazine residues at the tolerance level of 0.25 ppm. (It should be noted that this worst-case diet is not a ration that would be fed to cattle). The results of this indicate that even under theoretically worst-case conditions all meat and milk residues are extremely low (all less than 0.01 ppm; the LOQ in plant matrices is 0.05 ppm). In turn, there is no potential for dietary exposure to propazine via secondary residues in meat and milk. Therefore, tolerances for meat and milk are not required for propazine.

ii. *Drinking water.* Griffin conclude that environmental fate and behavior studies, including aerobic soil metabolism, field lysimeter, and long term soil dissipation, indicate little potential for propazine to reach surface or ground water from its proposed use on grain sorghum. Griffin concludes that, there is little potential for dietary exposure to propazine residues in water exists.

2. *Non-dietary exposure.* There are no residential uses for propazine in the United States, therefore, there is no potential for residential exposure.

D. Cumulative Effects

Because of the benefits of propazine, most of the propazine use on sorghum will be substituted for other triazines and since the proposed use rate is lower than the other triazines the cumulative will not increase and could possibly be reduced as a result of registering propazine for use on grain sorghum.

E. Safety Determination

The reference dose (RfD) is based on the rat chronic study. Using the (no adverse effect level (NOAEL) of 5 mg/kg/day in this study and an additional uncertainty factor (UF) of 300 (100 intraspecies and interspecies uncertainty factor plus an additional uncertainty factor of 3X for lack of a chronic study in dogs) an RfD of 0.02 mg/kg/day was established as the chronic dietary endpoint.

1. *U.S. population.* In the DRES analysis referenced above, it was determined that there is no potential exposure to propazine via dietary, water, or nonoccupational routes.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of propazine, the available developmental toxicity study and the potential for endocrine modulation by propazine were considered. The data from the developmental toxicity studies on propazine show no evidence of a potential for developmental effects (malformations or variations) at doses that are not maternally toxic. The developmental NOAELs and lowest observed effect levels (LOAELs) were at higher dose levels (less toxic), indicating no increase in susceptibility of developing organisms. No evidence of endocrine effects were noted in any study. It is therefore concluded that propazine poses no additional risk for infants and children and no additional uncertainty factor is warranted. Federal food, drug and cosmetic act (FFDCA) section 408 provides that an additional safety factor for infants and children may be applied in the case of threshold effects. Since, as discussed in the previous section, the toxicology studies do not indicate that young animals are

any more susceptible than adult animals and the fact that the current RfD calculated from the NOAEL from the rat chronic study already incorporates a 300x uncertainty factor, Griffin believes that an adequate margin of safety is, therefore, provided by the RfD established by EPA. There is no evidence that propazine has endocrine-modulation characteristics as demonstrated by the lack of endocrine effects in developmental, subchronic, and chronic studies. There is no potential exposure to propazine via dietary, water, or non-occupational routes based on the proposed use on grain sorghum. No additional uncertainty factor for infants and children is warranted based on the completeness and reliability of the data base, the demonstrated lack of increased risk to developing organisms, and the lack of endocrine-modulating effects.

F. International Tolerances

There are no Codex Alimentarius Commission (CODEX) maximum residue levels (MRLs) established for residues of propazine and its chloro metabolites in or on raw agricultural commodities.

[FR Doc. 05–12015 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0140; FRL–7715–6]

Tralkoxydim; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0140, must be received on or before July 22, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5697; e-mail address:*Tompkins.Jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0140. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. 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.

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i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0140. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2005–0140. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0140.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0140. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 1, 2005.

Losi A. Rossi,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Syngenta Crop Protection, Inc.

Pesticide Petition (PP) 6F4631

EPA has received PP 6F4631 from Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC, 27419–8300 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.548 by establishing a tolerance for residues of tralkoxydim, 2-(Cyclohexen-1-one, 2-[1-(ethoxyimino)propyl]-3-hydroxy- 5-(2,4,6-trimethylphenyl)-(9Cl), in or on the raw agricultural commodities barley grain, barley hay, wheat grain, and wheat hay at 0.02 parts per million (ppm) and barley straw, wheat forage, and wheat straw at 0.05 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the residue in barley, wheat, rotational crops, and livestock is adequately understood. The residues of concern for the tolerance expression are parent *per se*. Based on the results of animal metabolism studies it is unlikely that secondary residues would occur in animal commodities from the use of tralkoxydim on wheat and barley. Tralkoxydim rapidly metabolizes in plants, and no residues of parent are detected at harvest. Extensive metabolism in grain, forage and straw occurs, with that none of the individual metabolites exceeding 3.6% TRR.

2. *Analytical method*. An adequate analytical method, gas chromatography/mass spectrometry with selected ion monitoring, is available for enforcement purposes.

3. *Magnitude of residues*. Magnitude of the residue trials conducted on spring wheat, winter wheat, and barley showed no detectable residues on wheat grain, straw, hay, forage, or processed commodities at the harvest timing prescribed by the label. Based on the results of animal metabolism studies it is unlikely that significant residues would occur in secondary animal commodities from the use of tralkoxydim on wheat and barley. The nature of the residue in plants is adequately understood.

B. Toxicological Profile

1. *Acute toxicity*. EPA has established an acute Reference Dose (RfD) for tralkoxydim of 0.3 milligrams/kilogram/day (mg/kg/day). This RfD is based on the no observed adverse effect level (NOAEL) of 30 mg/kg/day established in the rat developmental study and using an uncertainty factor of 100 based on 10X for interspecies extrapolation and 10X for intraspecies variation.

2. *Genotoxicty*. Tralkoxydim was negative for mutagenic/genotoxic effects in a Gene mutation Ames Assay in bacteria, a forward gene mutation in mouse lymphoma cells in culture, chromosome damage/*In vitro* assay in human lymphocyte cells, DNA damage repair *in vivo* assay in rat hepatocytes, and chromosome damage *in vivo* mouse micronuclei.

3.*Reproductive and developmental toxicity*. The developmental and reproductive toxicity data do not indicate increase susceptibility of rats or rabbits to in utero and/or postnatal exposure to tralkoxydim. A 3–generation rat reproduction study indicated a parental systemic NOAEL of 200 ppm (20 mg/kg/day) and a systemic lowest observed adverse effect level (LOAEL) of 1,000 ppm (100 mg/kg/day) based on reduced body weights and body weight gains in females. No reproductive toxicity was observed. A rat developmental study with a maternal NOAEL of 30 mg/kg/day and with a maternal LOAEL of 200 mg/kg/day based on maternal mortality, reduced body weights, and reduced food consumption and a developmental NOAEL of 30 mg/kg/day and a developmental LOAEL of 200 mg/kg/day based on reduced ossification of the centrum and hemicentrum, centrum bipartite, misshapen centra and fused centra. A rabbit developmental study with a maternal NOAEL of 20 mg/kg/day and a maternal LOAEL of 100 mg/kg/day based on reduced food consumption and a developmental NOAEL of 20 mg/kg/day and a developmental LOAEL of 100 mg/kg/day based on abortions and increases in late resorptions.

4. *Subchronic toxicity.*Tralkoxydim is of low subchronic toxicity in 21–day dermal testing.

5. *Chronic toxicity*. EPA has established the RfD for tralkoxydim at 0.005 mg/kg/day. This RfD is based on NOAEL of 0.5 mg/kg/day in the chronic toxicity study in dogs with a 100–fold uncertainty factor to account for interspecies extrapolation (10x) and intraspecies variability (10x). The Health Effects Division Cancer Assessment Review Committee has classified Tralkoxydim in accordance with the Agency's *Proposed Guidelines for Carcinogen Risk Assessment* (April 10, 1996) as a ''likely to be human carcinogen''. This classification is based on the following factors:

i. Occurrence of benign Leydig cell tumors at all dose levels with the incidences at the high dose exceeding the concurrent and historical control range.

ii. Lack of an acceptable carcinogenicity study in a second species as required by Subdivision F Guidelines.

iii. The relevance of the testicular tumors to human exposure can not be discounted.

6. *Animal metabolism*. Based on the results of animal metabolism studies it is unlikely that significant residues would occur in secondary animal commodities from the use of tralkoxydim on wheat and barley

7. *Metabolite toxicology*. The nature of the residue in barley, wheat, rotational crops, and livestock is adequately understood. The residues of concern for the tolerance expression are parent *per se*.

8. *Endocrine disruption*. There has been no evidence of endocrine disruption concerns with resulting from tralkoxydim use on wheat and barley.

C. Aggregate Exposure

1. *Dietary exposure*. The proposed tolerances in or on the raw agricultural commodities: Barley grain, barley hay, wheat grain and wheat hay at 0.02 ppm, and barley straw, wheat forage and wheat straw at 0.05 ppm are the first to be established for tralkoxydim. There is no reasonable expectation of residues of tralkoxydim occurring in meat, milk, poultry, or eggs from its use on wheat and barley. Risk assessments were conducted by EPA to assess dietary exposures from tralkoxydim as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an

effect of concern occurring as a result of a one day or single exposure. An acute dietary risk assessment was conducted for tralkoxydim based on the NOAEL of 30 mg/kg/day from the rat developmental study. The acute dietary analysis using the Dietary Exposure Evaluation Model (DEEM™) computer program estimates that the distribution of single-day exposures utilizes 0.02% of acute RfD.

ii. *Chronic exposure and risk*. The RfD for Tralkoxydim is 0.005 mg/kg/day. This value is based on the systemic NOAEL of 0.5 mg/kg/day in the dog chronic feeding study with a 100-fold safety factor to account for interspecies extrapolation (10x) and intraspecies variability (10x).

2. *Food*. A DEEM™ chronic exposure analysis was conducted using tolerance levels for wheat and barley and assuming that 100% of the crop is treated to estimate dietary exposure for the general population and 22 subgroups. The chronic analysis showed that exposures from the tolerance level residues in or on wheat, and barley for children 1–6 years old (the subgroup with the highest exposure) would be 1.4% of the RfD. The exposure for the general U.S. population would be less than 1% of the RfD.

iii. A lifetime dietary carcinogenicity exposure analysis was conducted for tralkoxydim using the proposed tolerances along with the assumption of 100% of the crop treated and a Q* of 1.68×10^{-2} $(mg/kg/day)^{-1}$. A lifetime risk exposure analysis was also conducted using the DEEM™ computer analysis. The estimated cancer risk (5×10^{-7}) is less than the level that the Agency usually considers for negligible cancer risk estimates.

3. *Drinking water*. Drinking water estimated concentrations (DWECs) for surface water (parent tralkoxydim) were calculated by EPA's Pesticide Root Zone Model (PRIZM) computer models to be an average of 9.1 parts per billion (ppb). The DWECs for ground water based on the computer model screening concentration in ground water (SCI-GROW2) were calculated to be an average of .016 ppb.

4. *Non-dietary exposure*. There are no non-food uses of tralkoxydim currently registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended. No non-dietary exposures are expected for the general population.

D. Cumulative Effects

EPA does not have, at this time, available data to determine whether tralkoxydim has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Tralkoxydim is structurally a cyclohexanedione. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, tralkoxydim does not appear to produce a toxic metabolite produced by other substances. For the purposes of these tolerances action, therefore, EPA has not assumed that tralkoxydim has a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population* — i. *Acute risk*. The acute dietary analysis based on the NOAEL of 30 mg/kg/day from the rat developmental study using the DEEM™ computer program estimates that the distribution of single-day exposures utilizes 0.02% of acute RfD. The drinking water level of comparisons (DWLOCs) for acute exposure to tralkoxydim in drinking water calculated for females 13+ years old was 9,000 ppb. The estimated average concentration in surface water for tralkoxydim is 9 ppb. EPA's acute drinking water level of comparison is well above the estimated exposures for tralkoxydim in water for the subgroup of concern. For ground water, the estimated environmental concentrations (EEC's) using the SCI-GROW model were all less than 1 ppb.

ii. *Chronic risk*. A DEEM chronic exposure analysis showed that exposure from tolerance level residues in or on wheat, and barley for children 1–6 years old (the subgroup with the highest exposure) would be 1.4% of the RfD. The exposure for the general U.S. population would be less than 1% of the RfD. The DWLOCs for chronic exposure to tralkoxydim in drinking water calculated for U.S. population was 150 ppb and for children (1–6 years old) the DWLOC was 50 ppb. The estimated average concentration in surface water for tralkoxydim is 9 ppb. EPA's chronic drinking water level of concern is above the estimated exposures for tralkoxydim in water for the U.S. population and the subgroup of concern. Conservative model estimates (SCI-GROW) of the concentrations of tralkoxydim in ground water indicate that exposure will be minimal.

iii. *Cancer risk*. A DWLOC for cancer was calculated as 1 ppb. The estimated concentration in surface water and ground water for tralkoxydim for chronic exposure are 0.9 ppb (2.8 ppb (the 56–day concentration)/3) and 0.1 ppb, respectively. The model exposure estimates are less than the cancer DWLOC. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tralkoxydim residues.

2. *Infants and children*. The Agency concluded that an extra safety factor to protect infants and children is not needed based on the following considerations: The toxicology data base is complete for the assessment of special sensitivity of infants and children; the developmental and reproductive toxicity data do not indicate increase susceptibility of rats or rabbits to in utero and/or postnatal exposure; the NOAEL used in deriving the RfD is based on changes in liver function and morphology in male adult dogs (not developmental or neurotoxic effects) after chronic exposure and thus are not relevant for enhanced sensitivity to infants and children; unrefined dietary exposure estimates (assuming all commodities contain tolerance level residues) overestimate dietary exposure; model data used for ground and surface source drinking water exposure assessments result in estimates considered to be upper-bound concentrations; there are no registered uses for tralkoxydim that could result in residential exposures. EPA concludes that there is a reasonable certainty that no harm will result to children from aggregate exposure to tralkoxydim residues.

F. International Tolerances

There are no Codex Alimentarius Commission (Codex) or Mexican Maximum Residue Levels (MRLs) for tralkoxydim at this time.

[FR Doc. 05–12076 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7926–1]

Environmental Justice Strategic Plan Framework and Outline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Public comment period.

SUMMARY: The Office of Environmental Justice seeks public comment on: (1) The draft ''Framework for Integrating Environmental Justice''; and (2) ''Environmental Justice Strategic Plan Outline,'' which includes proposed Environmental Justice Priorities (EJ Priorities). These two draft documents will be the foundation for the Environmental Justice Strategic Plan for 2006–2011. EPA is drafting the Environmental Justice Strategic Plan to integrate its environmental justice

efforts into the Agency's planning and budgeting processes.

DATES: The Agency must receive written comments on or before July 15, 2005.

ADDRESSES: Comments should be addressed to Mr. Barry E. Hill, Director, Office of Environmental Justice, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 2201A, Ariel Rios South Building, Room 2226, Washington, DC 20460–0001. You may also email comments to *hill.barry@epa.gov*. Please identify e-mailed comments with the words ''EJ Strategic Plan Comments'' in the subject line

FOR FURTHER INFORMATION CONTACT: Danny Gogal, Senior Environmental Protection Specialist, EPA Office of Environmental Justice, (202) 564–2576, *gogal.danny@epa.gov* or Delleane McKenzie, Senior Program Analyst, EPA Office of Environmental Justice, (202) 564–6358, *mckenzie.delleane@epa.gov*.

SUPPLEMENTARY INFORMATION: The draft Framework identifies the proposed key elements of the EJ Strategic Plan that will help the Agency track progress and benchmark its environmental justice objectives. The draft Framework also describes the proposed link between the Environmental Justice Action Plans of the Agency's 10 regional offices and the substantive program offices (e.g., Office of Air and Radiation, Office of Solid Waste and Emergency Response) and the priorities and targets established in the EJ Strategic Plan.

The draft Outline identifies the ''mission'' and ''vision'' that will guide the EJ Strategic Plan and identifies where specific Environmental Justice Strategic Targets will be included, once they are developed. The Outline also includes 12 potential EJ Priorities, which would help focus attention on critical human health and environmental issues faced by communities with disproportionate impacts (e.g., asthma reduction, healthy schools, safe drinking water). While we will continue to take action on a wide range of environmental justice issues, using a spectrum of strategies including cross-cutting approaches (e.g., community capacity building, grants, training), we would like to select 5–7 priorities for heightened attention. Therefore, in addition to providing comments on the overall Outline, we ask that you rank the potential priorities (1 = highest priority, 12 = lowest priority) and submit your ranking with your other comments. If you have additional suggested priorities, please include those as well.

The draft ''Framework for Integrating Environmental Justice'' and ''Environmental Justice Strategic Plan Outline,'' along with responses to anticipated questions, are available online at: *http://www.epa.gov/compliance/resources/reports/ej.html*. A hardcopy of this document is available upon request.

Dated: June 16, 2005.

Barry E. Hill,

Director, Office of Environmental Justice.

[FR Doc. 05–12357 Filed 6–21–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

June 14, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 22, 2005. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Leslie F. Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., DC 20554 or via the Internet to *Leslie.Smith@fcc.gov*. If you would like to obtain or view a copy of this new or revised information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Leslie F. Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Rules and Regulations Implementing Minimum Customer Account Record Obligations on All Local and Interexchange Carrier (CARE), CG 02–386.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,778.

Estimated Time per Response: 0.75 to 6.70 hours.

Frequency of Response: Annual reporting and recordkeeping requirements.

Total Annual Burden: 44,576 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: In the *Report and Order and Further Notice of Proposed Rulemaking*, In the Matter of Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers (*2005 Report and Order*), CG Docket No. 02–386, FCC 05–29, which was released on February 25, 2005, the Commission adopted rules governing the exchange of customer account information between local exchange carriers (LECs) and interexchange carriers (IXCs). The Commission concluded that mandatory, minimum standards are needed in light of record evidence demonstrating that information needed by carriers to execute customer requests and properly bill customers is not being consistently provided by all LECs and IXCs.

In the *2005 Further Notice of Proposed Rulemaking*, as cited above, the Commission sought comment on whether to mandate the exchange of particular customer account information between two LECs when a customer switches local service providers. The Commission proposed to take this action in light of concerns reflected in the record regarding the need for more effective communications between LECs. Because the information exchanges proposed in the *2005 Further Notice of Proposed Rulemaking*

constitute proposed new information collections under the PRA, the Commission specifically invited the general public and OMB to comment on the proposed requirements.

The information collection requirements include: (1) Those that are contained in the *2005 Report and Order*, noted above. Specifically, Commission is requesting OMB approval for specific rules under 47 CFR 64.4002 Notification obligations of LECs and 47 CFR 64.4003 Notification obligation of IXCs. (The Commission notes that it previously published these requirements as proposed in its *2004 Notice of Proposed Rulemaking*, which was released on March 25, 2004.) The information collection requirements for the *2004 Notice of Proposed Rulemaking* were published on April 19, 2004, 69 FR 20845; and (2) those that the Commission proposes in the *2005 Further Notice of Proposed Rulemaking*, published on June 2, 2005, 70 FR 31406.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–12230 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–05–60–B; DA 05–737]

Auction of Lower 700 MHz Band Licenses Scheduled for July 20, 2005; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** of May 12, 2005, concerning the Auction of Low Power Television Construction Permits and the Procedures. The document contained incorrect data concerning the calculation formula for minimum opening bids for Auction No. 60.

FOR FURTHER INFORMATION CONTACT: Auctions and Spectrum Access Division, Wireless Telecommunications Bureau: Howard Davenport at (202) 418–0660.

Correction

In the **Federal Register** of May 12, 2005, in FR Doc. 05–9537 on page 25056, in the second column, paragraph 104, correct the text to read as follows:

In the *Auction No. 60 Comment Public Notice,* the Bureau proposed to establish minimum opening bids for Auction No. 60 and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 60, the Bureau proposed the following license-by-license basis using a formula based on bandwidth and license area population:

$0.01 * MHz * License Area Population with a minimum of $1,000 per license.

Federal Communications Commission.

Gary D. Michaels,

Deputy Chief, Auction Spectrum and Access Division, WTB.

[FR Doc. 05–12320 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of cancellation of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, Public Law 92–463, as amended, this notice advises interested persons that the meeting of he Network Reliability and Interoperability Council scheduled for June 28, 2005 has been cancelled.

FOR FURTHER INFORMATION CONTACT: Jeffery Goldthorp at (202) 418–1096, TTY (202) 418–2989, or e-mail *Jeffery-Goldthorp@fcc.gov.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–12321 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2715]

Petitions for Reconsideration of Action in Rulemaking Proceeding

June 8, 2005.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by July 7, 2005. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Chillicothe, Dublin, Hillsboro, and Marion, Ohio) (MB Docket No. 02–266).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–11911 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2716]

Petitions for Reconsideration of Action in Rulemaking Proceeding

June 8, 2005.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by July 7, 2005. *See* section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Request of State Farm Mutual Automobile Insurance Company for Clarification & Declaratory Ruling (CG Docket No. 02–278).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–11912 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–05–63–A (Auction No. 63); DA 05–1555]

Multichannel Video Distribution and Data Service Comment Public Notice

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the auction of 22 Multichannel Video Distribution and Data Service (''MVDDS'') licenses scheduled to commence on December 7, 2005 (Auction No. 63). This document also seeks comment on reserve prices or minimum opening bids and other procedures for Auction No. 63.

DATES: Comments are due on or before June 28, 2005, and reply comments are due on or before July 6, 2005.

ADDRESSES: Parties who file by paper must file an original and four copies of each filing. U.S. Postal Service first class, express and priority mail must be addressed to the Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. Comments and reply comments must also be sent by electronic mail to the following address: *auction63@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For legal questions: Brian Carter at (202) 418–0660. For general auction questions: Roy Knowles, Debbie Smith or Barbara Sibert at (717) 338–2888. For service rules questions: Mindy Littell (legal) or Michael Pollack (technical) at (202) 418–2487.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice released on June 9, 2005 *Auction No. 63 Comment Public Notice*. The complete text of the *Auction No. 63 Comment Public Notice*, including attachments and any related Commission documents is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction No. 63* Comment Public Notice and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–488–5300, facsimile 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com*. When ordering documents from BCPI, please make sure you provide the appropriate FCC document number (for example, DA05–1555 for the *Auction No. 63 Comment Public Notice*). The *Auction No. 63 Comment Public Notice* and related documents are also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/63/*.

1. The Wireless Telecommunications Bureau (Bureau) announces the auction of 22 MVDDS licenses. This auction is scheduled to commence on December 7, 2005. Auction No. 63 will offer the MVDDS licenses that remained unsold in Auction No. 53, which closed on January 27, 2004. These licenses authorize the use of one block of unpaired spectrum in the 12.2–12.7 GHz band and may be used for any digital fixed one-way non-broadcast service, including direct-to-home/office wireless service. Mobile and aeronautical services are not authorized. Two-way services may be provided by using other spectrum or media for the return or upstream path. Licenses are not available in every market. A complete list of the licenses available in Auction No. 63 is included as *Attachment A of the Auction No. 63 Comment Public Notice*.

2. Auction No. 63 will use the FCC's Integrated Spectrum Auction System (ISAS or FCC Auction System), which is the Commission's new auction application filing and bidding system and is an extensive redesign of the previous auction application and bidding systems. The redesign includes FCC Form 175 application enhancements such as discrete data elements in place of free-form exhibits and improved data accuracy through automated checking of FCC Form 175 applications. Enhancements have also been made to the FCC Form 175 application search function. The auction bidding system has also been updated for easier navigation, customizable results, and improved functionality.

3. The following table describes the licenses that will be offered in Auction No. 63:

Frequency band (GHz)	Total Bandwith	Pairing	Geographic area type	Number of Licenses
12.2–12.7	500 MHz	Unpaired	MVDDS Service Area	22

4. Section 309(j)(3) of the Communications Act of 1934, as amended, requires the Commission to ''ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *.'' Consistent with the provisions of Section 309(j)(3) and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. The Bureau therefore seeks comment on the following issues relating to Auction No. 63.

I. Auction Structure

A. Simultaneous Multiple-Round Auction Design

5. The Bureau proposes to award all licenses included in Auction No. 63 in a simultaneous multiple-round auction. This methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids on individual licenses. The Bureau seeks comment on this proposal.

B. Upfront Payments and Bidding Eligibility

6. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area and the value of similar spectrum. The upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 63, the Bureau proposes to calculate upfront payments on a license-by-license basis as follows:

7. The upfront payment for each license in Auction No. 63 is based on 50 percent of the corresponding minimum opening bid amount from Auction No. 53, with a minimum of $1,000 per license. The specific proposed upfront payment for each license available in Auction No. 63 is set forth in *Attachment A of the Auction No. 63 Comment Public Notice*. The Bureau seeks comment on this proposal.

8. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine

the maximum number of bidding units on which a bidder may place bids. This limit is a bidder's initial bidding eligibility. Each license is assigned a specific number of bidding units equal to the upfront payment listed in *Attachment A of the Auction No. 63 Comment Public Notice*, on a bidding unit per dollar basis. Bidding units for a given license do not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses it selected on its FCC Form 175 as long as the total number of bidding units associated with those licenses does not exceed the bidder's current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units upon which it may wish to be active (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that total number of bidding units. Provisionally winning bids at the end of the auction become the winning bids. The Bureau seeks comment on this proposal.

C. Activity Rules

9. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. A bidder that does not satisfy the activity rule either will lose bidding eligibility or use an activity rule waiver.

10. The Bureau proposes to divide the auction into two stages, each characterized by a different activity requirement. The auction will start in Stage One. The Bureau proposes that the auction generally will advance from Stage One to Stage Two when the auction activity level, as measured by the percentage of bidding units receiving new provisionally winning bids, is approximately twenty percent or below for three consecutive rounds of bidding. However, the Bureau further proposes that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau seeks comment on these proposals.

11. For Auction No. 63, the Bureau proposes the following activity requirements:

Stage One: In each round of the first stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility for the next round of bidding unless an activity rule waiver is used. During Stage One, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by five-fourths ($5/4$).

Stage Two: In each round of the second stage, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. During Stage Two, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by twenty-nineteenths ($20/19$).

12. The Bureau seeks comment on these proposals. Commenters that believe these activity rules should be modified should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

D. Activity Rule Waivers and Reducing Eligibility

13. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either proactive or automatic and are principally a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

14. The FCC Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round where a bidder's activity level is below the minimum required unless: (1) The bidder has no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirement. **Note:** If a bidder has no waivers remaining and does not satisfy the required activity level, its eligibility will be permanently reduced, possibly eliminating the bidder from further bidding in the auction. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the ''reduce eligibility'' function in the FCC Auction System. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

15. A bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity rule waiver (using the ''apply waiver'' function in the FCC Auction System) during a bidding round in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver applied by the FCC Auction System in a round in which there are no new bids or withdrawals will not keep the auction open. **Note:** Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.

16. The Bureau proposes that each bidder in Auction No. 63 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth above. The Bureau seeks comment on this proposal.

E. Information Relating to Auction Delay, Suspension, or Cancellation

17. For Auction No. 63, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes

that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

II. Bidding Procedures

A. Round Structure

18. The Commission will conduct Auction No. 63 over the Internet. Telephonic bidding will also be available. The toll free telephone number through which telephonic bidding may be accessed will be provided to bidders.

19. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction. The simultaneous multiple-round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

20. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. The Bureau seeks comment on this proposal.

B. Reserve Price or Minimum Opening Bid

21. Section 309(j) calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid amount when FCC licenses are subject to auction, unless the Commission determines that a reserve price or minimum opening bid amount is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid amount and/or reserve price prior to the start of each auction.

22. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid amount, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid amount and the reserve price to be the same amount.

23. In light of Section 309(j)'s requirements, the Bureau proposes to establish minimum opening bid amounts for Auction No. 63. The Bureau believes a minimum opening bid amount, which has been used in other auctions, is an effective bidding tool.

24. Specifically, for Auction No. 63, the Bureau proposes to calculate minimum opening bids on a license-by-license basis as follows:

The minimum opening bid amount for each license in Auction No. 63 is based on a 50 percent reduction of the corresponding minimum opening bid amount from Auction No. 53, with a minimum of $1,000 per license.

25. The specific minimum opening bid amount for each license available in Auction No. 63 is set forth in *Attachment A of the Auction No. 63 Comment Public Notice.* The Bureau seeks comment on this proposal.

26. If commenters believe that these minimum opening bid amounts will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid amount levels or formulas. In establishing the minimum opening bid amounts, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the MVDDS spectrum. The Bureau also seeks comment on whether, consistent with Section 309(j), the public interest would be served by having no minimum opening bid amount or reserve price.

C. Minimum Acceptable Bid Amounts and Bid Increments

27. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. The FCC Auction System will list the nine acceptable bid amounts for each license.

28. The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until there is a provisionally winning bid for the license. After there is a provisionally winning bid for a license, the minimum acceptable bid amount for that license will be equal to the amount of the provisionally winning bid plus an additional amount. The minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage—*e.g.*, if the minimum acceptable bid percentage is 5 percent, the minimum acceptable bid amount will equal (provisionally winning bid amount) * (1.05), rounded. The Bureau will round the result using its standard rounding procedures.

29. The nine acceptable bid amounts for each license consist of the minimum acceptable bid amount and additional amounts calculated using the minimum acceptable bid amount and the bid increment percentage. The Bureau will round the results using our standard rounding procedures. The first additional acceptable bid amount equals the minimum acceptable bid amount times the sum of one plus the bid increment percentage, rounded—*e.g.*, if the bid increment percentage is 5 percent, the calculation is (minimum acceptable bid amount) * (1 + 0.05), rounded, or (minimum acceptable bid amount) * 1.05, rounded; the second additional acceptable bid amount equals the minimum acceptable bid amount times the sum of one plus two times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.10, rounded; the third additional acceptable bid amount equals the minimum acceptable bid amount times the sum of one plus three times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.15, rounded; etc. Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

30. In the case of a license for which the provisionally winning bid has been withdrawn, the minimum acceptable bid amount will equal the second highest bid received for the license.

31. For Auction No. 63, the Bureau proposes to use a minimum acceptable bid percentage of five percent. This means that the minimum acceptable bid amount for a license will be approximately five percent greater than the provisionally winning bid amount for the license. The Bureau proposes to use a bid increment percentage of five percent.

32. The Bureau retains the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, and the bid increment percentage if it determines that circumstances so dictate. The Bureau

will do so by announcement in the FCC Auction System during the auction. The Bureau seeks comment on these proposals.

D. Provisionally Winning Bids

33. At the end of a bidding round, a provisionally winning bid for each license will be determined based on the highest bid amount received for the license. In the event of identical high bid amounts being submitted on a license in a given round (*i.e.*, tied bids), the Bureau proposes to use a random number generator to select a single provisionally winning bid from among the tied bids. If the auction were to end with no higher bids being placed for that license, the winning bidder would be the one that placed the selected provisionally winning bid. However, the remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. If any bids are received on the license in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the license.

34. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same license at the close of a subsequent round, unless the provisionally winning bid is withdrawn. Provisionally winning bids at the end of the auction become the winning bids. Bidders are reminded that provisionally winning bids confer credit for activity.

E. Information Regarding Bid Withdrawal and Bid Removal

35. For Auction No. 63, the Bureau proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding round, a bidder has the option of removing any bid placed in that round. By removing selected bids in the FCC Auction System, a bidder may effectively unsubmit any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

36. A bidder may withdraw its provisionally winning bids using the ''withdraw bids'' function in the FCC Auction System. A bidder that withdraws its provisionally winning bid(s) is subject to the bid withdrawal payment provisions of the Commission's rules. The Bureau seeks comment on these bid removal and bid withdrawal procedures.

37. In the *Part 1 Third Report and Order*, 63 FR 770, January 7, 1998, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

38. Applying this reasoning, the Bureau proposes to limit each bidder in Auction No. 63 to withdrawing provisionally winning bids in no more than one round during the course of the auction. To permit a bidder to withdraw bids in more than one round may encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The round in which withdrawals may be used will be at each bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of provisionally winning bids that may be withdrawn in the round in which withdrawals are used. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureau seeks comment on this proposal.

F. Stopping Rule

39. The Bureau has discretion ''to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time.'' For Auction No. 63, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain available for bidding until bidding closes simultaneously on all licenses.

40. Bidding will close simultaneously on all licenses after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids. Thus, unless circumstances dictate otherwise, bidding will remain open on all licenses until bidding stops on every license.

41. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 63:

i. Use a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, places a withdrawal or submits any new bids on any license for which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage two of the auction.

ii. Keep the auction open even if no bidder submits any new bids, applies a waiver or places any withdrawals. In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

iii. Declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) and the auction will close.

42. The Bureau proposes to exercise these options only in certain circumstances, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Bureau seeks comment on these proposals.

III. Conclusion

43. Comments are due on or before June 28, 2005, and reply comments are due on or before July 6, 2005. All filings must be addressed to the Commission's Secretary Attn: WTB/ASAD, Office of the Secretary, Federal Communications Commission. Parties who file by paper must file an original and four copies of each filing. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. Because of the disruption of regular mail and other deliveries in

Washington, DC, the Bureau also requires that all comments and reply comments be filed electronically. Comments and reply comments and copies of material filed with the Commission pertaining to Auction No. 63, must be sent by electronic mail to the following address: *auction63@fcc.gov.* The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 63 Comments and the name of the commenting party. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection between 8 a.m. and 4:30 p.m. Monday through Thursday and 8 a.m. to 11:30 a.m. on Fridays in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, and will also be posted on the Web page for Auction No. 63 at *http://wireless.fcc.gov/auctions/63/.*

44. This proceeding has been designated as a permit-but-disclose proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.

Federal Communications Commission.

Gary D. Michaels,

Deputy Chief, Auctions and Spectrum Access Division.

[FR Doc. 05–12319 Filed 6–21–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may obtain copies of agreements by contacting the Commission's Office of Agreements at (202) 523–5793 or via e-mail at *tradeanalysis@fmc.gov.* Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011830–004.

Title: Indamex/APL Agreement.

Parties: American President Lines, Ltd./APL Co. PTE Ltd. (''APL''); CMA CGM, S.A. (''CMA''); Contship Containerlines (''Contship''); and the Shipping Corporation of India, Ltd. (''SCI'').

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell, LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes SCI as a party; inserts CP Ships (UK) Limited/CP Ships in place of Contship; corrects CMA's address; adjusts the vessel size, provision of vessels, and space allocation; deletes obsolete language; and restates the agreement.

Agreement No.: 011887–002.

Title: Zim/CCNI Space Charter Agreement.

Parties: Zim Integrated Shipping Services, Ltd. and Compania Chilena de Navegacion Interoceanica.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment adds authority for the parties to provide one another with space for the movement of empty containers.

Agreement No.: 201103–004.

Title: Memorandum Agreement of the Pacific Maritime Association of December 14, 1983 Concerning Assessments to Pay ILWU–PMA Employee Benefit Costs, as Amended, Through June 13, 2005.

Parties: Pacific Maritime Association and International Longshore and Warehouse Union.

Filing Party: Matthew J. Thomas, Esq.; Troutman Sanders LLP; 401 9th Street, NW., Suite 1000; Washington, DC 20004–2134.

Synopsis: The amendment adjusts assessment rates under the agreement.

By Order of the Federal Maritime Commission.

Dated: June 16, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–12248 Filed 6–21–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date reissued
018035F ..	Ameritrans World Group, Inc., 7102 NW 50th Street, Miami, FL 33466–5636.	May 31, 2005.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 05–12246 Filed 6–21–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 013760N
Name: Asia Trans Line NJ, Inc.
Address: 535 Secaucus Road, Secaucus, NJ 07094.
Date Revoked: June 10, 2005.
Reason: Failed to maintain a valid bond.

License Number: 018173N
Name: Export Cargo, Inc.
Address: 13100 NW 113 Avenue Road, Miami, FL 33178.
Date Revoked: May 26, 2005.
Reason: Failed to maintain a valid bond.

License Number: 018825N
Name: Nara Express, Inc.
Address: 401 E. Ocean Blvd., Suite 204, Long Beach, CA 90802.
Date Revoked: May 26, 2005.
Reason: Failed to maintain a valid bond.

License Number: 018731N
Name: Seabright Shipping, Inc.
Address: 1525 Seabright Avenue, Long Beach, CA 90803.
Date Revoked: May 18, 2005.
Reason: Failed to maintain a valid bond.

License Number: 003984F
Name: Superior Shipping, Inc.
Address: 13910 SW 28th Street, Miami, FL 33175.

Date Revoked: June 2, 2005.
Reason: Failed to maintain a valid bond.

License Number: 016266N
Name: Transtainer Costa Rica Corp.
Address: 8120 NW 29th Street, Miami, FL 33122.
Date Revoked: June 8, 2005.
Reason : Failed to maintain a valid bond.

License Number: 004560F
Name: Tur Enterprises, Inc. dba Seven Winds Shipping.
Address: 8443 NW 68th Street, Miami, FL 33166.
Date Revoked: May 25, 2005.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 05–12247 Filed 6–21–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR Part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission,Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicants:

Forest Fiberslogistics 7900 Tascherean Blvd. West, Suite 203, Building C, Brossard, Quebec, Canada J4X–1C2, Dominic Colubriale, Sole Proprietor.

Fame Cargo International, Inc., 5879–B New Peachtree Road, Doraville, GA 30340, Officers:Ernesto G. Agustin, Treasurer, (Qualifying Individual), Ederlinda E. Agustin, President.

T4 Logistics, LLC, 3401 K Street NW, Suite 201, Washington, DC 20007, Officer: Tim H. Rose, Manager, (Qualifying Individual).

JKC International Inc., 1972 W. Holt Avenue, Pomona, CA 91768, Officers: Allen Man-Yiu Wei, Vice President, (Qualifying Individual), Yong Chen, President.

NMC Logistics International, Inc., 17870 Castleton Street, Suite 246, City of Industry, CA 91748, Officers: Kun Kai Chang, Vice President, (Qualifying Individual), Bryan Fang, President.

Advance Continental Logistics, Inc., 230–19 International Airport Center Blvd., Suite 238, Bldg. A, Jamaica, NY 11413, Officer: Yiu Cheung Wong, President, (Qualifying Individual).

Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Interport Global Logistics Pvt. Ltd., 5 & 6 Shrikant Chambers, Sion Trombay Rd., Chembur, Mumbai, Maharashtra State, 400071, India, Officers: Sam Bendre, CEO/Director, (Qualifying Individual), Vaidyanathan B., Director.

Cargo Embassy S.p.a., Via Lavoria, 56/L/M/N, Cenaia-Crespina 56040 Italy, Officer: Umberto Nizzola, Import/Export Manager, (Qualifying Individual).

Expedited Logistics and Freight Services, Ltd., 3340–D Greens Road, Suite 300, Houston, TX 77032, Officers: Dian A. Mazzei, International Director, (Qualifying Individual), Frederick J. Lalumandier, Partner.

Sigma Logistics, Inc., 1100 S. El Molino Avenue, Pasadena, CA 91106, Officer: Yi Ren, CEO/CFO, (Qualifying Individual).

Acorn International Forwarding, Co., 2200 Pacific Coast Highway 219, Hermosa Beach, CA 90254, Officers: Houman Razi, President, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Yowell International Airlines, Inc., dba Yowell International, One Air Cargo Place, Suite #3, Melbourne, FL 32901, Officers: William H. Cantillon, Vice President, (Qualifying Individual), Neil T. Yowell, Jr., President.

NFI Global, LLC, 1515 Burnt Mill Road, Cherry Hill, NJ 08003, Officers: Robert John Skulsky, Dir. of Intl. Logistics, (Qualifying Individual), Sidney Brown, President.

Jaime Maduro, U.S. Customs Broker, Foreign Trade Zone, State Rd. #165, Km. #2.4, Bldg #1, Door #10, Guaynabo, PR 00956, Jaime Maduro Santana, Sole Proprietor

Chukwuocha Motors, 8219 Viny Ridge Drive, Houston, TX 77072, Victor Chinedum Chukwuocha, Sole Proprietor.

Seven Seas Consultants, Inc., 4722 Autumn Alcove Court, Kingwood, TX 77345, Officers: Charles J. Buscemi, President, (Qualifying Individual), Tommie W. Buscemi, Secretary/Treasurer.

Dated: June 16, 2005.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 05–12245 Filed 6–21–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 5, 2005.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Gregory L. Massey, Durant, Oklahoma; to retain voting shares of Durant Bancorp, Inc., Durant, Oklahoma, and thereby indirectly retain voting shares of First United Bank and Trust Company, Durant, Oklahoma.

Board of Governors of the Federal Reserve System, June 15, 2005.

Robert deV. Frierson,
Deputy Secretary of the Board.

[FR Doc. 05–12268 Filed 6–21–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part

225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 15, 2005.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Lamplighter Financial, MHC, Wauwatosa, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Wauwatosa Savings Bank, Wauwatosa, Wisconsin.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Mercantile Bancorp, Inc., Quincy, Illinois; to increase its ownership from 32.81 percent to 39.95 percent of the voting shares of New Frontier Bancshares, Inc., and thereby indirectly acquire additional voting shares of New Frontier Bank, both of Saint Charles, Missouri.

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FEDERAL TRADE COMMISSION

[File No. 051 0022]

Valero L.P., Valero Energy Corporation, Kaneb Services LLC, and Kaneb Pipe Line Partners, L.P.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 14, 2005.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Valero Kaaneb, *et al.*, File No. 051 0022,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.*

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2805.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 15, 2005), on the World Wide Web, at *http://www.ftc.gov/os/2005/06/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'' or ''FTC'') has issued a complaint (''Complaint'') alleging that Valero L.P.'s proposed acquisition of Kaneb Services LLC and Kaneb Pipe Line Partners, L.P. (collectively ''Kaneb'') would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and has entered into an agreement containing consent orders (''Agreement

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

Containing Consent Orders'') pursuant to which Valero L.P., Valero Energy, and Kaneb (collectively ''Respondents'') agree to be bound by a proposed consent order that requires divestiture of certain assets (''Proposed Consent Order'') and a hold separate order that requires Respondents to hold separate and maintain certain assets pending divestiture (''Hold Separate Order''). The Proposed Consent Order remedies the likely anticompetitive effects arising from the proposed acquisition, as alleged in the Complaint. The Hold Separate Order preserves competition pending divestiture.

II. Description of the Parties and the Transaction

Valero L.P. is a publicly traded master limited partnership based in San Antonio, Texas. Valero L.P. shares its headquarters with Valero Energy, which owns 46% of Valero L.P.'s common units. Valero L.P. is engaged in the transportation and storage of crude oil and refined petroleum products and currently derives 98% of its total revenues from services provided to Valero Energy. The remaining 2% of revenue is generated from third parties who pay fees to use Valero L.P.'s pipelines and terminals. Valero L.P. reported 2004 net income of $78.4 million on total revenue of $221 million.

Respondent Valero Energy Corporation is an independent domestic refining company, headquartered in San Antonio, Texas. It is engaged in national refining, transportation, and marketing of petroleum products and related petrochemical products. Valero Energy reported 2004 net income of $1.8 billion on revenues of nearly $55 billion.

Kaneb is a single company represented by two publicly traded entities: Kaneb Pipe Line Partners, L.P. (''KPP'') and Kaneb Services LLC (''KSL''). Kaneb owns and operates refined petroleum product pipelines and petroleum and specialty liquids storage and terminaling facilities. KPP is a master limited partnership that owns Kaneb's pipeline and terminaling assets. KSL owns the general partnership in KPP and five million of KPP's limited partnership units. KSL's wholly owned subsidiary, Kaneb Pipeline Company LLC, manages and operates KPP's pipeline and terminaling assets. KSL reported 2004 consolidated net income of $24 million on total revenue of approximately $1 billion.

Pursuant to the terms of the Agreements and Plans of Merger between Valero L.P. and the Kaneb entities, (1) Valero L.P. will pay $525 million in cash for the entirety of KSL's partnership units, and (2) Valero L.P. will exchange $1.7 billion in Valero L.P. partnership units for all outstanding KPP partnership units. As a result of the transactions, both KSL and KPP will be wholly owned subsidiaries of Valero L.P., and Valero Energy's equity ownership in Valero L.P. would be reduced to 23%.

III. The Investigation and the Complaint

The Complaint alleges that the merger of Valero L.P. and Kaneb would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in each of the following markets: (1) Terminaling services for bulk suppliers of light petroleum products in the Greater Philadelphia Area; (2) pipeline transportation and terminaling services for bulk suppliers of light petroleum products in the Colorado Front Range; (3) terminaling services for bulk suppliers of refining components, blending components, and light petroleum products in Northern California; and (4) terminaling for bulk ethanol in Northern California.

To remedy the anticompetitive effects of the merger, the Proposed Consent Order requires Respondents to divest the following assets: (1) In the Greater Philadelphia Area, Kaneb's Paulsboro, New Jersey, Philadelphia North, and Philadelphia South terminals; (2) in the Colorado Front Range, Kaneb's West Pipeline system, which originates in Casper, Wyoming, and terminates in Rapid City, South Dakota, and Colorado Springs, Colorado, and includes Kaneb's terminals in Rapid City, South Dakota, Cheyenne, Wyoming, Denver, Colorado, and Colorado Springs, Colorado; and (3) in Northern California, Kaneb's Martinez and Richmond terminals. Finally, the Order also requires Valero L.P. not to discriminate in favor of or otherwise prefer Valero Energy in bulk ethanol terminaling services and to maintain customer information confidentiality at the Selby and Stockton terminals.

The Commission's decision to issue the Complaint and enter into the Agreement Containing Consent Orders was made after an extensive investigation in which the Commission examined competition and the likely effects of the merger in the markets alleged in the Complaint and in other markets.[2] The Commission has concluded that the merger is unlikely to reduce competition significantly in markets other than those alleged in the Complaint.

The Complaint alleges that the merger would violate the antitrust laws in four product and geographic markets, each of which is discussed below. The analysis applied in each market requiring structural relief follows the analysis set forth in the FTC and U.S. Department of Justice Horizontal Merger Guidelines (1997) (''Merger Guidelines''). The relief obtained in the bulk ethanol terminaling market is consistent with the Commission's past remedies in similarly-structured mergers.

In addition, the Commission focused on the identity and corporate control of the merging parties. Valero Energy owns the general partner of Valero L.P. The general partner is presumed to exercise all operational rights afforded by the partnership agreements and applicable state corporation law. In light of this relationship, and for purposes of competitive analysis, the Commission attributes Valero Energy's assets and incentives to Valero L.P. The Commission further determined that Valero Energy may have incentives to operate the Valero L.P. assets less competitively than would Kaneb, by maximizing product prices rather than terminal or pipeline revenues. Given the trend toward master limited partnerships holding midstream petroleum transportation and terminaling assets, Commission staff will continue to scrutinize the ownership and control of limited partnerships in its evaluation of midstream asset transactions. Where it appears an operator's interests may be more closely aligned with downstream output reductions than increased transportation and terminaling throughput, the Commission will apply the analysis conducted during this investigation.

Count I Terminaling Services for Bulk Suppliers of Light Petroleum Products in the Greater Philadelphia Area

The Complaint charges that the proposed merger would likely reduce competition in the market for terminaling services for bulk suppliers of light petroleum products in the Greater Philadelphia Area, thereby increasing the price for terminaling services and bulk supply of transportation fuels, by (1) eliminating direct competition between Valero L.P.

[2] The Commission conducted the investigation leading to the Complaint in collaboration with the Attorney General of the State of California. As part of this joint effort, Respondents have entered into a State Decree with California settling charges that aspects of the transaction affecting California consumers would violate both State and Federal antitrust laws.

and Kaneb; and (2) increasing the ability and likelihood of coordinated interaction between the combined company and its competitors in the Greater Philadelphia Area. The proposed merger reduces the number of suppliers of terminaling services for transportation fuels and eliminates Kaneb as a source of imported transportation fuel, thereby increasing the likelihood of coordination.

Valero L.P. and Kaneb compete in the supply of terminaling services for bulk suppliers of light petroleum products in the Greater Philadelphia Area, a relevant antitrust market. Terminaling customers such as refiner-marketers, independent marketers, and traders rely on terminals to supply transportation fuel to the area. There are no substitutes for terminals in supplying and distributing transportation fuels in the Greater Philadelphia Area.

The Greater Philadelphia Area includes the city of Philadelphia, the Philadelphia suburbs, and portions of southern New Jersey and northern Delaware. Terminals outside the Greater Philadelphia Area are not economic substitutes for terminals within the area because of additional costs of transporting product by truck from more distant terminals. Post-merger, the remaining terminal operators could profitably impose a small but significant and nontransitory price increase in terminaling services for transportation fuels because no additional terminals can serve the Greater Philadelphia Area without significantly raising the cost of distributing fuel.

Seven firms currently provide terminaling services for transportation fuels in the Philadelphia area: Valero L.P., Kaneb, Sunoco, ConocoPhillips, Hess, Premcor, and ExxonMobil. Each of these firms owns or has contractual rights to one or more terminals in the Greater Philadelphia Area. The proposed merger would significantly increase market concentration, and post-merger the market would be highly concentrated. The change in market concentration understates the competitive significance of the merger because Kaneb is the only terminal system in the Greater Philadelphia Area capable of facilitating imports into the market.

Valero L.P.'s purchase of Kaneb's terminals in the Greater Philadelphia Area would allow the remaining terminaling owners to profitably impose a small but significant and nontransitory price increase in the price of terminaling services. Eliminating Kaneb as an independent terminaling service competitor would have additional anticompetitive effects in the sale of bulk supplies of transportation fuels. Kaneb does not own or market any of the product in its terminals and earns its revenue solely from providing terminaling services to third parties. The other terminaling services providers, including Valero, also provide bulk supply to the market and sell their own transportation fuels through downstream marketing assets. These terminal owners use their terminal assets primarily for their own marketing needs and often do not provide terminaling services to third parties.

Because Kaneb does not earn any revenue from the sale of product, it has no economic interest in the price of the product. Kaneb's incentive is strictly to obtain as much third party terminaling business as it can. Thus, third party marketers can reliably use the Kaneb terminals to receive and throughput bulk supplies imported by pipeline and by water from outside the Greater Philadelphia Area. These imports are critical in maintaining a competitive market and to keeping prices low for transportation fuels in the Greater Philadelphia Area. The proprietary terminal operators have different incentives from Kaneb. As downstream marketers, higher product prices increase their profitability from their marketing operations, which typically accounts for a much larger portion of their business than terminaling. Post-merger, Valero would control the Kaneb terminals and could restrict access by third parties to these terminals. Without open access to the Kaneb terminals, it would be much more difficult for third party marketers to import product into the Greater Philadelphia Area. The elimination of imports would reduce competitive pressure on the local bulk suppliers, including Valero, thereby allowing them to maintain higher prices for bulk supplies of transportation fuel in the Greater Philadelphia Area.

Entry into the terminaling market is difficult and would not be timely, likely, or sufficient to preclude anticompetitive effects resulting from the proposed merger. Building a new terminal requires significant sunk costs and would be a very long process, in part due to lengthy permitting requirements. Converting a non-transportation fuel terminal is also expensive and time consuming, and would not be likely in the Greater Philadelphia Area.

The efficiencies proposed by the Respondent, to the extent they relate to this market, are not cognizable under the Merger Guidelines, and are small compared to the extent of the potential anticompetitive harm. Even if the proposed efficiencies were achieved, they would not be sufficient to reverse the merger's potential to raise the price of bulk supply and terminal services.

Count II Pipeline Transportation and Terminaling Services for Bulk Suppliers of Light Petroleum Products in the Colorado Front Range

The Complaint charges that the proposed acquisition would likely substantially reduce competition in pipeline transportation and terminaling services for bulk suppliers of light petroleum products in Denver and Colorado Springs by (1) eliminating direct competition between Valero L.P. and Kaneb, (2) increasing the ability and likelihood of coordinated interaction between the combined company and its competitors in the Denver area, and (3) eliminating all competition in Colorado Springs, making Valero L.P. a monopolist in pipeline transportation and terminaling services. While the relevant market is pipeline transportation and terminaling services, any purchaser of light petroleum products would have to pay for the product to get to the market through pipeline transportation and/or terminals. Therefore, a price increase in these relevant markets would also cause an increase in light petroleum products prices.

Valero L.P. and Kaneb compete in the pipeline transportation and terminaling services for bulk suppliers of light petroleum products in both Denver and Colorado Springs. While light petroleum products can be trucked to Denver and Colorado Springs, pipeline transportation is the only economic means to ship bulk supplies of light petroleum products to either Denver or Colorado Springs. There is no economically feasible substitute to pipeline transportation to reach these geographic areas.

Light petroleum products reach Denver and Colorado Springs through terminals that can receive product from either pipelines or refineries. Tank trucks pick up the light petroleum products from these local terminals and deliver them short haul distances to retail outlets and other customers. Terminals outside of Denver and Colorado Springs cannot economically supply those areas due to the costs of shipping light petroleum products by truck. Therefore, terminaling services provided by those terminals in the Denver and Colorado Springs areas is a relevant market.

Following the merger, the combined firm would control a significant share of bulk supply and terminaling services for light petroleum products in the

Colorado Front Range. The proposed transaction would significantly increase market concentration, and post-merger the market would be highly concentrated. Moreover, the proposed transaction would result in the combined firm having a monopoly in the Colorado Springs area. The change in market concentration underestimates the likely competitive harm because it does not take into account how Valero L.P.''s incentives differ from Kaneb's current incentives in operating the Kaneb West Pipeline system.

Entry is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects arising from the proposed acquisition. Pipeline entry in Denver or Colorado Springs is very unlikely because of the high expense of constructing a new pipeline to these geographically isolated areas. It is highly improbable, if not impossible, that a new pipeline originating in a distant market could be both approved and constructed within the two-year period required by the Merger Guidelines.

Terminal entry in Denver or Colorado Springs is also very unlikely. Each refinery in and each pipeline to the Denver and Colorado Springs markets is accommodated by an existing terminal. Given the sufficient terminal capacity for the existing refinery and pipeline infrastructure, it is highly unlikely that a potential entrant could find a financial incentive to make a major investment, involving high sunk costs, in the construction of a new terminal.

The efficiency claims of the Respondents, to the extent they relate to these markets, are not cognizable under the Merger Guidelines, are small as compared to the magnitude of the potential harm, and would not be sufficient to reverse the merger's potential to raise the price of bulk supply and terminal services.

The proposed acquisition would create a highly concentrated market in Denver and Colorado Springs and create a presumption that the acquisition ''will create or enhance market power or facilitate its exercise * * *'' Merger Guidelines § 1.5(c). These anticompetitive effects could result from the coordinated interaction between Valero L.P. and the remaining firms with enough excess capacity to defeat a price increase in Denver, and from a unilateral reduction in supply or price increase instituted by Valero L.P. in Colorado Springs.

Count III Terminaling Services for Bulk Suppliers of Refining Components, Blending Components, and Light Petroleum Products in Northern California

The Complaint charges that the proposed acquisition would likely substantially reduce competition in terminaling services for bulk suppliers of refining components, blending components, and light petroleum products in Northern California by (1) eliminating direct competition between the firms in the provision of terminaling services for bulk suppliers of refining components, blending components, and light petroleum products, and (2) increasing the ability and likelihood of coordinated interaction between the combined company and its competitors in Northern California. Downstream effects will likely result in increased prices for light petroleum products.

Valero L.P. and Kaneb compete in providing terminaling services for bulk suppliers of refining components, blending components, and light petroleum products in Northern California. Refiner-marketers, independent marketers, and traders use Kaneb's three marine-accessible Northern California terminals to receive and store imported products and to distribute light petroleum products via pipeline to other Northern California terminals. In addition, refiners use the Kaneb terminals to store refining components, blending components, and light petroleum products that are needed to optimize production from their refineries. There are no substitutes for terminaling services for these products.

Northern California is a relevant geographic market. Due to trucking costs, firms need access to the Kinder Morgan intrastate pipeline to distribute bulk volumes of California gasoline and other light petroleum products throughout the state, and Southern California terminals are not connected to Kinder Morgan's Northern California pipeline network. In addition, constraints in Southern California terminal infrastructure make it unlikely that Southern California terminals could handle excess volume in the event of a Northern California terminal services price increase.

The market for terminaling services for bulk suppliers of refining components, blending components, and light petroleum products in Northern California will be highly concentrated following the proposed acquisition. Participants in the market include Kaneb and the five San Francisco Bay Area refiners (Valero Energy, Chevron Corp., ConocoPhillips, Shell, and Tesoro). Other terminals lack sufficient capacity into the Kinder Morgan pipeline system to transport excess product in the event of a price increase. The proposed acquisition would significantly increase market concentration, and post-merger the market would be highly concentrated.

Post-acquisition, Valero L.P. would have an incentive to increase light petroleum prices by restricting products moving into and through the three marine-accessible Kaneb terminals in Northern California. Valero L.P. could limit the amount of product reaching that market by (1) limiting out-of-state marine shipments of California-grade gasoline and other products into Northern California; (2) limiting the volume of product entering the Kinder Morgan pipeline system in Northern California; and (3) limiting the ability of other Bay Area refiners to produce California-grade gasoline by restricting their storage for refining components, blending components, and other products needed to optimize refinery output.

The acquisition increases the likelihood of coordinated interaction among the remaining market participants by eliminating the terminal services provider with different incentives. Kaneb is the only market participant that does not also own or market light petroleum products in Northern California. Because after the merger all market participants will benefit from higher prices for light petroleum products, Valero L.P.'s restriction of terminaling services would likely not trigger an offsetting response from its terminaling competitors.

Entry into the market for Northern California terminaling services for these products would not be likely or timely, for the reasons discussed in other terminal markets. Indeed, if anything, entry is even more difficult in California, given that the state imposes an extensive and costly permitting process that would prolong any attempt to secure and develop new terminal space.

The efficiency claims of the Respondents, to the extent they relate to any of these three markets with horizontal overlaps, are not cognizable under the Merger Guidelines, are small as compared to the magnitude of the potential harm, and would not be sufficient to reverse the merger's potential to raise the price of bulk supply and terminal services.

Count IV Terminaling for Bulk Ethanol in Northern California

The Complaint charges that the proposed acquisition would likely substantially reduce competition in terminaling services for bulk ethanol in Northern California by changing the owner of Kaneb's Selby and Stockton terminals. Ethanol is a necessary input in producing California-grade ''CARB'' gasoline. This is the Commission's first opportunity to examine a merger's competitive effects on ethanol since California adopted it as the preferred oxygenate.

In Northern California, Kaneb's Selby, Stockton, and Richmond terminals are the only terminals capable of receiving and storing bulk quantities of ethanol. From these terminals, ethanol is offloaded from large rail or marine shipments, placed into storage tanks, and loaded onto trucks for delivery to other nearby terminals. Once the ethanol reaches these other terminals, ethanol is blended at the truck rack to produce CARB gasoline.

Terminal services for bulk ethanol is the relevant product market. There are no substitutes for these services; large quantities of ethanol received from producers must be broken into smaller volumes for distribution to remote gasoline terminals. Because remote terminals must receive ethanol supplies by truck, the geographic market is limited to Northern California. It is simply not feasible to supply Northern California terminals with ethanol trucked from Southern California terminals. Similarly, customers currently using Kaneb's Stockton terminal would face additional trucking costs if forced to use either of Kaneb's Selby or Richmond terminals.

The proposed acquisition raises vertical issues relating to ethanol terminaling services with likely effects in finished gasoline sales. Valero Energy and the other Northern California refiners do not offer ethanol terminaling services that compete with Kaneb and would not likely be able to do so in the event of a price increase. Post-acquisition, Valero L.P.'s ownership of the Kaneb terminals would give it control over an input necessary to finish gasoline for portions of Northern California. Valero Energy refines and markets CARB gasoline. By virtue of the merger, Valero L.P. could use control over bulk ethanol terminaling to limit access to ethanol storage by refusing to renew storage agreements with terminaling customers, by canceling contracts at some terminals to force competitors to truck longer distances, or by simply raising prices or abusing confidential information for ethanol terminaling. Because a percentage of ethanol must be added to CARB gasoline where oxygenation is required, any of these actions could increase the price of finished gasoline in Northern California. Because Kaneb does not market CARB gasoline, Kaneb currently has no incentive to manipulate ethanol access in these ways.

New entry into the market for Northern California bulk ethanol terminaling services would not be likely or timely, for the same reasons that entry would not be timely or likely for terminaling services for refining components, blending components, and light petroleum products in Northern California.

IV. The Proposed Consent Order

The Commission has provisionally accepted the Agreement Containing Consent Orders executed by Valero L.P., Valero Energy, and Kaneb in the settlement of the Complaint. The Agreement Containing Consent Orders contemplates that the Commission would issue the Complaint and enter the Proposed Order and the Hold Separate Order for the divestiture of certain assets described below. Under the terms of the Proposed Order, the merged firm must: (1) Divest Kaneb's Paulsboro, New Jersey, Philadelphia North, and Philadelphia South terminals; (2) divest the Kaneb West Pipeline System; (3) divest Kaneb's Martinez and Richmond terminals; (4) ensure that customers and prospective customers have non-discriminatory access to commingled terminaling of ethanol at its retained San Francisco Bay terminals, on terms and conditions no less advantageous to those given to Valero Energy; and (5) create firewalls that prevent the transfer of competitively sensitive information between the merged firm and Valero Energy. The Commission will appoint James F. Smith as the hold separate trustee.

A. Kaneb's Paulsboro, Philadelphia North, and Philadelphia South Terminals

To remedy the lessening of competition in the supply of terminaling services for bulk suppliers of light petroleum products in the Greater Philadelphia Area alleged in Count I of the Complaint, Paragraph III of the Proposed Order requires Respondents to divest Kaneb's Paulsboro, New Jersey, Philadelphia North, and Philadelphia South terminals. The assets to be divested include the three terminals, and all assets located at or used in connection with these terminals, including truck racks, local connector pipelines, storage tanks, real estate, inventory, customer contracts, and real estate.

The divestiture is designed to ensure that, post-merger, the same number of players will compete in supplying terminaling services as at present. In addition, divesting the Philadelphia area package to an independent terminal operator that does not benefit from higher product prices will complicate the ability of the integrated terminal owners in the Greater Philadelphia Area to coordinate their bulk supply decisions and will maintain the pre-merger competition in this market.

These terminal assets must be divested within six months of the date the merger is effectuated to a buyer that receives that prior approval of the Commission. In a separate Order to Hold Separate and Maintain Assets, Respondents are required to hold all assets to be divested separate and to maintain the viability and marketability of the assets until they are divested.

B. Kaneb West Pipeline System

To remedy the lessening of competition in pipeline transportation and terminaling services for bulk suppliers of light petroleum products in the Colorado Front Range alleged in Count II of the Complaint, Paragraph II of the Proposed Order requires Respondents to divest the Kaneb West Pipeline System. The assets to be divested include: (1) A refined products pipeline originating near Casper, Wyoming, and terminating in Rapid City, South Dakota, and Colorado Springs, Colorado; (2) refined products terminals in Rapid City, South Dakota; Cheyenne, Wyoming; Dupont, Colorado; and Fountain, Colorado. The assets to be divested also include all assets located at, or used in connection, with these pipelines and terminals, including truck racks, local connector pipelines, storage tanks, real estate, inventory, customer contracts, and real estate.

This divestiture is designed to maintain the likelihood that the new owner of the Kaneb West Pipeline System will not restrict Montana and Wyoming refiners' ability to send product to Denver and Colorado Springs. The divestiture will eliminate the ability of the combined company to raise light petroleum product prices in Denver and Colorado Springs by restricting access to the West Pipeline System. It also ensures that the current competition for pipeline transportation to and terminaling services in Denver and Colorado Springs will be maintained, with the same number of competitors post-acquisition as pre-

acquisition. The divestiture of the West Pipeline System will also complicate the ability of the terminal and pipeline owners in these markets to coordinate in raising their pipeline transportation or terminaling service fees. Finally, the divestiture prevents Valero L.P. from controlling light petroleum product pipeline transportation to and terminaling in Colorado Springs. It effectively maintains the pre-merger competition in this market.

These pipeline and terminal assets must be divested within six months of the date the merger is effectuated to a buyer that receives the prior approval of the Commission. In a separate Order to Hold Separate and Maintain Assets, Respondents are required to hold all assets to be divested separate and to maintain the viability and marketability of the assets until they are divested.

C. Kaneb's Martinez and Richmond Terminals

To remedy the lessening of competition in terminaling services for bulk suppliers of refining components, blending components, and light petroleum products in Northern California as alleged in Count III of the Complaint, Paragraph IV of the Proposed Order requires Respondents to divest Kaneb's Martinez and Richmond terminals to a Commission-approved buyer. The assets to be divested include both terminals, and all assets located at or used in connection with these terminals, including truck racks, local connector pipelines, storage tanks, real estate, inventory, customer contracts, and real estate.

The divestiture is ordered to maintain the likelihood that the new owner of these terminals does not restrict access to these terminals or otherwise limit imports into the Northern California market. The divestiture also complicates the ability of the remaining terminal owners in the market to coordinate to raise the prices of terminaling services. Although Valero L.P. will acquire Kaneb's Selby terminal, the presence of an independent operator of Martinez and Richmond will check Valero L.P.'s incentive and ability to restrict access at that terminal.

These terminal assets must be divested within six months of the date the Merger is effectuated to a buyer that receives the prior approval of the Commission. In a separate Order to Hold Separate and Maintain Assets, Respondents are required to hold all assets to be divested separate and to maintain the viability and marketability of the assets until they are divested.

In considering an application to divest any of these three asset packages, to one or more buyers, the Commission will consider factors such as the acquirer's ability and incentive to invest and compete in the businesses in which Kaneb was engaged in the relevant geographic markets alleged in the Complaint. The Commission will consider whether the acquirer has the business experience, technical judgment, and available capital to continue to invest in the terminals in order to maintain current levels of competition.

D. Terminaling Services for Bulk Ethanol in Northern California

To remedy the lessening of competition in terminaling services for bulk ethanol in Northern California alleged in Count IV of the Complaint, Paragraph VI of the Proposed Order requires Respondents to maintain an information firewall. The Paragraph also requires that the Respondents not discriminate in offering access to commingled terminaling of ethanol at its retained Northern California terminals in Stockton and Selby, and offer access to third parties on terms and conditions no less advantageous to those given to Valero Energy. This remedy is ordered to ensure that the Respondents do not use confidential business information or limit access to ethanol storage to maintain competition in the terminaling of ethanol and the sale of finished gasoline in Northern California.

E. Other Terms

Paragraph VII requires the Respondents to provide written notification prior to acquiring the Paulsboro, New Jersey, Philadelphia North, or Philadelphia South terminals, or any portion thereof. It further requires Respondents to provide reports to the Commission regarding compliance with the Proposed Order. Paragraph IX requires the Respondents to provide written notification prior to any proposed dissolution, acquisition, merger, or consolidation, or any other change that may affect compliance obligations arising out of the Proposed Order. Paragraph X requires the Respondents to provide the Commission with access to their facilities and employees for purposes of determining or securing compliance with the Proposed Order. Paragraph XI provides for an extension of time to complete divestitures required under the Proposed Order if the particular divestiture has been challenged by a State.

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the Proposed Order and the comments received and will decide whether it should withdraw from the Proposed Order or make it final. By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Order, including the proposed divestitures, to aid the Commission in its determination of whether to make the Proposed Order final. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.

By direction of the Commission, Chairman Majoras recused.

Donald S. Clark,

Secretary.

[FR Doc. 05–12381 Filed 6–21–05; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Funding Availability for State Partnership Grant Program To Improve Minority Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice.

Funding Opportunity Title: State Partnership Grant Program To Improve Minority Health.

Announcement Type: Initial Announcement of Availability of Funds.

Catalog of Federal Domestic Assistance Number: 93.006.

DATES: Application Availability Date: June 22, 2005. Application Deadline: July 22, 2005.

SUMMARY: This announcement is made by the United States Department of Health and Human Services (HHS or Department), Office of Minority Health (OMH) located within the Office of Public Health and Science (OPHS), and working in a ''One-Department'' approach collaboratively with participating HHS agencies and programs (entities). The mission of the OMH is to improve the health of racial

and ethnic minority populations through the development of policies and programs that address disparities and gaps. OMH serves as the focal point in the HHS for leadership, policy development and coordination, service demonstrations, information exchange, coalition and partnership building, and related efforts to address the health needs of racial and ethnic minorities.

As part of a continuing HHS effort to improve the health and well being of racial and ethnic minorities, the Department announces availability of FY 2005 funding for the State Partnership Grant Program To Improve Minority Health.

SUPPLEMENTARY INFORMATION:

Section I. Funding Opportunities

Authority: This program is authorized under 42 U.S.C. 300u–6, section 1707 of the Public Health Service Act, as amended.

1. Purpose: The State Partnership Grant Program To Improve Minority Health (hereinafter referred to as State Partnership Program) seeks to facilitate the improvement of minority health and elimination of health disparities (adult/child immunization, asthma, cancer, diabetes, heart disease and stroke, HIV, infant mortality, and mental health) through the development of partnerships with State and territorial offices of minority health.

2. OMH Expectations: It is intended that this program will result in:

- Improved coordination and collaboration among state and territorial public health offices that benefit minority health and contribute to eliminating health disparities;
- Improved State and territory-wide coordination, collaboration, and linkages among public and private entities that specifically address minority health and health disparities;
- Improved State and territorial planning focused on minority health and health disparities;
- Dedicated State and territorial leadership and staffing to support planning and coordination, promote and implement evidence-based approaches and programs to address priority minority health problem(s), monitor and evaluate State and territorial efforts, and disseminate information focused on improving minority health and eliminating health disparities;
- Increased State and territory-wide efforts to improve minority health and eliminate health disparities through the support of community programs;
- Establishment or enhancement of multicultural coalition building efforts within communities of color to collaboratively address health issues impacting minority communities; and
- Strategies to improve diversity of the health care workforce.

3. Applicant Project Results: Applicants must identify anticipated project results that are consistent with the overall program purpose and that address selected OMH expectations. Project results should fall within the following general categories:

- Establishing Policy(ies).
- Mobilizing Communities, Coalitions, and Networks.
- Enhancing Infrastructure.
- Changing Systems.
- Increasing Access to Health Care for Minority Populations.
- Increasing Knowledge and Awareness About Minority Health Care Issues.
- Increasing Participation of Minorities in the Health Professions.

4. Project Requirements: Each applicant under the State Partnership Program must propose to:

- Carry out projects that facilitate the improvement of minority health and elimination of health disparities.
- Address at least two of the identified OMH expectations.

Section II. Award Information

Estimated Funds Available for Competition: $5,000,000.

Anticipated Number of Awards: Up to 39.

Range of Awards: $125,000 to $175,000 per year.

Anticipated Start Date: September 1, 2005.

Period of Performance: 5 Years (September 1, 2005 to August 31, 2010).

Budget Period Length: 12 months.

Type of Award: Grant.

Type of Application Accepted: New.

Section III. Eligibility Information

1. Eligible Applicants

This is a limited competition. To qualify for funding, an applicant must be a currently established State or territorial office of minority health at the time of this announcement (see Section VIII.3 for list of eligible States/territories with established offices of minority health). States that do not have a formally recognized office of minority health (established through legislation, executive order, or a directive process) may not apply for these State Partnership Program grants. States that do not have formal offices of minority health are not as likely to have the linkages and infrastructure necessary to foster effective relationships with public/private entities and/or community-based minority-focused organizations necessary to address the health needs of racial and ethnic minorities, as required for this program.

Documentation that verifies official status as an established state or territorial office of minority health must be submitted. Examples of such documentation include: a signed statement from a State/territorial level authorizing official (*e.g.*, Governor or designated official, Commissioner of Health, or designee) verifying official status, or a copy of the Executive Order or statute that established the State or territorial office of minority health.

A signed letter of support and commitment for the proposed project from an authorizing State or territorial official (*e.g.*, Commissioner of Health, State health director, or designee) is also required as part of the application.

The established State or territorial office of minority health will:

- Serve as the lead office for the project.
- Be responsible for grant implementation, management, and evaluation.

2. Cost Sharing or Matching

Matching funds are not required for the State Partnership Program.

3. Other

This limited competition is based, in part, on OMH's 1998 study to assess the minority health infrastructure within selected States and territories, and to examine the capacity of these States and territories to address racial and ethnic health disparities in their jurisdictions. A finding of the Assessment of State Minority Health Infrastructure and Capacity to Address Issues of Health Disparity (final report—September 2000) was that, despite many challenges, State and/or territorial offices of minority health are an organized and visible presence at the State policymaking level and provide opportunities for shaping and creating initiatives that could affect the health status of minority populations and serve as pivotal points for Federal, State, and local efforts to improve the health status of minority populations. In addition, these offices serve an important information dissemination function-providing information on minority health issues to policymakers, health professionals, community-based organizations, and the general public.

Established State and/or territorial offices of minority health may submit no more than one application to the State Partnership Program. Eligible States and territories submitting more than one proposal for this grant program will be deemed ineligible. The proposals will be returned without comment.

Established State and/or territorial offices of minority health are not eligible to receive funding from more than one OMH grant program to carry out the same project and/or activities.

Section IV. Application and Submission Information

1. Address To Request Application Package

Application kits may be obtained:

• At *http://www.omhrc.gov*

• By writing to Ms. Karen Campbell, Director, Office of Grants Management, OPHS, Tower Building, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; or contact the Office of Grants Management at (240) 453–8822. Please specify the OMH program for which you are requesting an application kit.

2. Content and Form of Application Submission

A. Application and Submission: Applicants must use Grant Application Form OPHS–1. Forms to be completed include the Face Page/Cover Page (SF424), Checklist, and Budget Information Forms for Non-Construction Programs (SF424A). In addition to the application forms, applicants must provide a project narrative.

The project narrative (including summary) is limited to 25 double-spaced pages. The appendices are limited to an additional 20 pages.

The narrative must be printed on one side of 8½ by 11-inch white paper, with one-inch margins, double-spaced and 12-point font. All pages must be numbered sequentially including any appendices. (Do not use decimals or letters, such as: 1.3 or 2A). Do not staple or bind the application package. Use rubber bands or binder clips.

The narrative description of the project must contain the following:

• Table of Contents: Include with page numbers for each of the following sections.

• Project Summary: Briefly describe key aspects of the Statement of Need, Objectives, Program Plan, Evaluation Plan, and Management Plan. The summary should be no more than 3 pages in length.

• Statement of Need: Describe and provide demographic information and data on the minority health and health disparities issues in the State/territory, and the significance or prevalence of the health problem or issues affecting the target minority group(s). Describe the minority group(s) targeted by the project (e.g., race/ethnicity, age gender, educational level/income). Describe the applicant organization (State/territorial office of minority health) and efforts that are currently being undertaken by the organization to address minority health and health disparities.

• Objectives: State objectives in measurable terms, including baseline data and time frames for achievement for the five-year project period.

• Program Plan: Clearly describe how the project will be carried out. Describe specific activities and strategies planned to achieve each objective. For each activity, describe how, when, where, by whom, and for whom the activity will be conducted. Describe the role of any proposed linkage organization(s) in the project. Describe any products to be developed by the project. Provide a time line chart.

• Evaluation Plan: The evaluation plan must clearly articulate how the State/territory will evaluate program activities. It is expected that evaluation activities will be implemented at the beginning of the program in order to capture and document actions contributing to program outcomes. The evaluation plan must be able to produce documented results that demonstrate whether and how the strategies and activities funded under the Program made a difference in the improvement of minority health and the elimination of health disparities. The plan should identify the expected results for each major objective and activity. The description should include data collection and analysis methods, demographic data to be collected on project participants, process measures describing indicators to be used to monitor and measure progress toward achieving projected results by objectives, outcome measures which will show that the project has accomplished planned activities, and impact measures demonstrating achievement of the objectives to positively affect minority health issues. Discuss the potential for replication.

• Management Plan: Provide a description of proposed program staff, including resumes and job descriptions for key staff, qualifications and responsibilities of each staff member, and percent of time each is committing to the project. Provide a description of duties for any proposed consultants and/or collaborating public health entities. Discuss the applicant organization's experience in managing projects/activities, especially those targeting the population to be served. Include a chart of the organization's structure, showing who reports to whom, and of the proposed project's organizational structure. Describe how senior State health officials will be engaged in this program and/or periodically informed on the activities and outcomes of the program. Describe the background/experience of any proposed linkage organization and how the organization will interface with the applicant organization.

• Appendices: Include documentation and other supporting information in this section and other relevant information.

In addition to the project narrative, the application must contain a detailed budget justification (does not count toward the page limitation). The detailed budget justification must include a narrative and computation of expenditures for each year in which grant support is requested. The budget request should include funds for key project staff to attend an annual OMH grantee meeting and the OMH Second National Leadership Summit on Eliminating Racial and Ethnic Disparities in Health, scheduled for January 9–11, 2006.

The complete application kit will provide instructions on the content of each of these sections.

B. Data Universal Numbering System number (DUNS): Applicants are required to obtain a DUNS number as preparation for doing business electronically with the Federal Government. The DUNS number must be obtained prior to applying for OMH funds.

The DUNS number is a nine-character identification code provided by the commercial company Dun & Bradstreet, and serves as a unique identifier for business entities. There is no charge for requesting a DUNS number, and you may register and obtain a DUNS number by either the following methods: Telephone: 1–866–705–5711; Web site: *https://eupdate.dnb.com/requestoptions.html*.

Click on the link that reads, ''DUNS Number Only'' at the left hand, bottom corner of the screen to access the free registration page. Please note that registration via the Web site may take up to 30 business days to complete.

3. Submission Dates and Times

Application Deadline Date: July 22, 2005.

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 Office of Grants Management, OPHS, confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the Office of Grants Management,

OPHS, after the deadlines described below will not be accepted for review. 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.

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 Office of Grants Management, OPHS, 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 the **DATES** section of the announcement. All required hardcopy original signatures and mail-in items must be received by the Office of Grants Management, OPHS, no later than 5 p.m. Eastern Time on the next business day after the deadline specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the Office of Grants Management, OPHS, according to the deadlines specified above. Any application submitted electronically after 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the 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 Office of Grants Management, OPHS, by 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the 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 Office of Grants Management, OPHS, where all required hard copy materials must be submitted.

As items are received by the Office of Grants Management, OPHS, 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 Office of Grants Management, OPHS, 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 the **DATES** section of the announcement. All required hardcopy original signatures and mail-in items must be received by the Office of Grants Management, OPHS, no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the Office of Grants Management, OPHS, 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 the **DATES** section of the 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 Office of Grants Management, OPHS, by 5:00 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the 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 Office of Grants Management, OPHS, 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 Office of Grants Management, OPHS, 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 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 pertaining to the electronic application process conducted through the Grants.gov Web site Portal.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications 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 Office of Grants Management, OPHS, on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the 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

The State Partnership Program is subject to the requirements of Executive Order 12372 which allows States the options of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kits available under this notice will contain a list of States which have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. The SPOC list is also available on the Internet at the following address: *http://www.whitehouse.gov/omb/grants/spoc.html.* Applicants should contact their SPOC as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. The due date for State process recommendations is 60 days after the application deadlines established by the OPHS Grants Management Officer. The OMH does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR Part 100 for a description of the review process and requirements.)

5. Funding Restrictions

Budget Request: If funding is requested in an amount greater than the ceiling of the award range, the application will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements.

Grant funds may be used to cover costs of:

- Personnel.
- Consultants.
- Equipment.
- Supplies (including screening and outreach supplies).
- Grant-related travel (domestic only), including attendance at an annual OMH grantee meeting and an OMH leadership summit.
- Other grant-related costs.

Grants funds may not be used for:

- Building alterations or renovations.
- Construction.
- Fund raising activities.
- Job training.
- Medical care, treatment or therapy. Political education and lobbying.
- Research studies involving human subjects.
- Vocational rehabilitation.

Guidance for completing the budget can be found in the Program Guidelines, which are included with the complete application kits.

6. Other Submission Requirements

For applications submitted in hard copy, send an original, signed in blue ink, and two copies of the complete grant application to: Ms. Karen Campbell, Director, Office of Grants Management, OPHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852. Information about electronic submissions is available on the Grants.gov Web Site. Applications submitted by e-mail, Facsimile transmission (FAX) or any other electronic format will not be accepted.

Section V. Application Review Information

1. Criteria

The technical review of the State Partnership Program applications will consider the following five generic factors.

A. Factor 1: Program Plan (30%)

- Appropriateness of proposed approach and specific activities for each objective.
- Logic and sequencing of the planned approaches in relation to the objectives and program evaluation.
- Soundness of any proposed partnerships (*e.g.*, coalitions), if applicable.
- Likelihood of successful implementation of the project.

B. Factor 2: Evaluation (25%)

- The degree to which expected results are appropriate for major objectives and activities.
- Appropriateness of the proposed data collection (including demographic data to be collected), analysis, and reporting procedures.
- Clarity of the intent and plans to assess and document progress toward achieving objectives, planned activities, and intended outcomes.
- Suitability of process, outcome, and impact measures.
- Potential for the proposed project to impact the health status of, and barriers

to, health care experienced by the targeted minority populations.

• Potential for replication of the project by other State and territorial offices of minority health.

C. Factor 3: Objectives (20%)

• Merit of the objectives.

• Relevance to the Program purpose, expectations, and stated problem.

• Attainability of the objectives in the stated time frames.

D. Factor 4: Management Plan (15%)

• Applicant's capability to manage and evaluate the project as determined by:

—Qualifications and appropriateness of proposed staff or requirements for ''to be hired'' staff and consultants.
—Proposed staff level of effort.
—Management experience of the applicant.
—The applicant's organizational structure and proposed project organizational structure.

• Appropriateness of defined roles including staff reporting channels and that of any proposed contractors or other collaborating department of health entities.

• Clear lines of authority among the proposed staff within and between participating organizations, if applicable.

• Inclusion and/or plan for communicating program activities and outcomes with senior state health officials.

E. Factor 5: Statement of Need (10%)

• Demonstrated knowledge of the stated problem at the State and/or local level, as applicable.

• Significance and prevalence of any identified health problem(s) or health issue(s) in the State/territory.

• Inclusion of information on priority health disparities issue areas.

• Extent to which the applicant demonstrates access to the target population/community, and whether it is well positioned and accepted within the population/community to be served.

• Extent and documented outcome of past efforts and activities with the target population.

2. Review and Selection Process

Accepted State Partnership Program applications will be reviewed for technical merit in accordance with PHS policies. Applications will be evaluated by an Objective Review Committee (ORC). Committee members are chosen for their expertise in minority health, health disparities, and their understanding of the unique health problems and related issues confronted by the racial and ethnic minority populations in the United States. Funding decisions will be determined by the Deputy Assistant Secretary for Minority Health who will take under consideration the recommendations and ratings of the ORC.

3. Anticipated Award Date

September 1, 2005.

Section VI. Award Administration Information

1. Award Notices

Successful applicants will receive a notification letter from the Deputy Assistant Secretary for Minority Health and a Notice of Grant Award (NGA), signed by the OPHS Grants Management Officer. The NGA shall be the only binding, authorizing document between the recipient and the Office of Minority Health. Notification will be mailed to the Program Director identified in the application.

Unsuccessful applicants will receive a notification letter with the results of the review of their application from the Deputy Assistant Secretary for Minority Health.

2. Administrative and National Policy Requirements

In accepting this 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.

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 designated 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.*

3. Reporting Requirements

A successful applicant under this notice will submit: (1) Semi-annual progress reports; (2) an annual Financial Status Report; and (3) a final progress report and Financial Status Report in the format established by the OMH, in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR Part 74–51—74.52, with the exception of State and local governments to which 45 CFR Part 92, Subpart C reporting requirements apply.

Uniform Data Set: The Uniform Data Set (UDS) system is designed to assist in evaluating the effectiveness and impact of grant and cooperative agreement projects. All OMH grantees are required to report project information, using the Web-based UDS. Training will be provided to all new grantees on the use of the UDS system, during the annual grantee meeting.

Grantees will be informed of the progress report due dates and means of submission. Instructions and report format will be provided prior to the required due date. The Annual Financial Status Report is due no later than 90 days after the close of each budget period. The final progress report and Financial Status Report are due 90 days after the end of the project period. Instructions and due dates will be provided prior to required submission.

Section VII. Agency Contacts

For questions on budget and business aspects of the application, contact the Office of Grants Management, OPHS, Tower Building, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, at (240) 453–8822.

For questions related to the State Partnership Program or assistance in preparing a grant proposal, contact Ms. Cynthia Amis, Director, Division of Program Operations, Office of Minority Health, Tower Building, Suite 600, 1101 Wootton Parkway, Rockville, MD 20852. Ms. Amis can be reached by telephone at (240) 453–8444.

For additional technical assistance, contact the OMH Regional Minority Health Consultant for your region listed in your grant application kit.

For health information, call the OMH Resource Center (OMHRC) at 1–800–444–6472.

Section VIII. Other Information

1. Healthy People 2010

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a PHS-led national activity announced in January 2000 to eliminate health disparities and improve years and quality of life. More information may be found on the Healthy People 2010 Web site: *http://www.healthypeople.gov* and copies of the document may be downloaded. Copies of the Healthy People 2010: Volumes I and II can be purchased by calling (202) 512–1800 (cost $70.00 for printed version; $20.00 for CD–ROM). Another reference is the Healthy People 2010 Final Review—2001.

For 1 free copy of the Healthy People 2010, contact: The National Center for

Health Statistics, Division of Data Services, 3311 Toledo Road, Hyattsville, MD 20782, or by telephone at (301) 458–4636. Ask for HHS Publication No. (PHS) 99–1256. This document may also be downloaded from: *http://www.healthypeople.gov.*

2. Definitions

For purposes of this announcement, the following definitions apply:

Minority Populations—American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or Other Pacific Islander. (Revision to the Standards for the Classification of Federal Data on Race and Ethnicity, **Federal Register**, Vol. 62, No. 210, pg. 58782, October 30, 1997.)

State and Territorial Office of Minority Health—An entity formally established by Executive Order, statute, or a State health officer to improve the health of racial and ethnic populations.

3. List of States and Territories With Established Offices of Minority Health as of This Notice Include

Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Virgin Islands, West Virginia, Wisconsin.

Dated: May 27, 2005.

Garth N. Graham,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 05–12318 Filed 6–21–05; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement AA146]

A Cooperative Agreement for the Alzheimer's Association To Partner and Implement Public Health Strategies Related to Alzheimer's Disease; 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 conduct Alzheimer's disease related strategies that promote public awareness and partnership; provide Alzheimer's disease education for the general public and for health professionals; and develop and enhance communication channels to allow for improved interaction and information sharing among those with Alzheimer's disease, researchers, public health scientists, and the general public. The Catalog of Federal Domestic Assistance number for this program is 93.283.

B. Eligible Applicant

Assistance will be provided only to the Alzheimer's Association (ALZ), 225 N. Michigan Avenue, Fl. 17, Chicago, IL 60601–7533.

The 2005 funding authority for this activity comes from the Congressional Conference Committee language specifically stating under the Senate Committee language S-Rep. 108–345, ''* * * The Committee strongly urges the CDC to work with the Alzheimer's Association to design and launch an Alzheimer's specific-segment of the Healthy Aging program, to aggressively educate the public and health professionals as to ways to reduce the risks of developing Alzheimer's by maintaining a healthy lifestyle.''

- The Alzheimer's Association (ALZ), is the world leader in Alzheimer research and support. It is a voluntary health organization founded in 1980. It is dedicated to finding preventions, treatments and eventually, a cure for Alzheimer dementia. The mission of ALZ is to eliminate Alzheimer's disease through the advancement of research and to enhance care and support for individuals, their families and caregivers. ALZ's extensive nationwide network includes the national office in Chicago, the public policy office in Washington DC, 81 chapters and 300 local points of service across the United States, making it highly probable that ALZ will successfully achieve the activities outlined in section 1 of this RFA. Among some of ALZ's major organizational accomplishments are:
- The establishment of a nationwide toll-free ''Contact Center'' available 24 hours a day, seven days a week, to families and health care professionals where staff provide information and put people in touch with ALZ local chapters to address a variety of dementia-related issues;
- A peer-reviewed research grant program which has funded more than 1,300 studies at approximately $165 million since it was founded, into the science that may lead to the causes, treatment and prevention of Alzheimer's disease;
- The establishment of the Alzheimer's Association ''Safe Return'' program which is a nationwide identification, support and enrollment program that provides security for those who may wander; and
- The operation of the Alzheimer's Association Green-Field Library, the nation's largest library dedicated to Alzheimer's disease, to name just a few.

These accomplishments are unmatched by any other public or private Alzheimer's disease specific organization currently conducting similar activities in the United States. As of fiscal year 2004, ALZ had total assets of $98.6 million and is the largest voluntary private organization funding Alzheimer's research in the United States. No other public or private Alzheimer's disease specific organization can claim a fiscal record as ALZ. For these reasons, the Alzheimer's Association is the only organization being considered for this program announcement.

C. Funding

Approximately $759,000 is available in FY 2005 to fund this award. It is expected that the award will begin on or before August 31, 2005 and will be made for a 12-month budget period within a project period of up to Five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: (770) 488–2700.

For technical questions about this program, contact: Lynda A. Anderson, Project Officer, HCAS/DACH/NCCDPHP/CDC, 4770 Buford Hwy., NE., MS K–51,Telephone: (770) 488–5998, E-mail: *laa0@cdc.gov.*

Dated: June 16, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12291 Filed 6–21–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Technical Evaluation Panel (TEP): Pilot Follow-Up of Former Workers at Vermiculite Processing Sites in the United States, Contract Solicitation Number #0000HTB8–2005–19635

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Technical Evaluation Panel (TEP): Pilot Follow-Up of Former Workers at Vermiculite Processing Sites in the United States, Contract Solicitation Number #0000HTB8–2005–19635.

Times and Dates: 11:30 a.m.–12 p.m., July 7, 2005 (Open); 12 p.m.–3 p.m., July 7, 2005 (Closed).

Place: Teleconference (404) 498–0003.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to: Pilot Follow-Up of Former Workers at Vermiculite Processing Sites in the United States, Contract Solicitation Number #0000HTB8–2005–19635.

Contact Person for More Information: Mildred Williams-Johnson, Ph.D., D.A.B.T., Health Science Administrator, National Center for Environmental Health, CDC, 1600 Clifton Road NE., Mailstop E28, Atlanta, GA 30333, Telephone (404) 498–0639.

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: June 16, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12296 Filed 6–21–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices

In accordance with section 10(a)(2) of the FederalAdvisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal Committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8 a.m.–6:45 p.m., June 29, 2005;8 a.m.–3:35 p.m., June 30, 2005.

Place: Atlanta Marriott Century Center, 2000 Century Boulevard, NE., Atlanta, Georgia 30345–3377.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters To Be Discussed: The agenda will include discussions on pertussis adolescent recommendation and use in adults; Hepatitis B vaccine recommendation; recommendations of use of Hepatitis A vaccine and possibleVFC vote; Measles, Mumps, Rubella, and Varicella VirusVaccine (MMRV): Overview of varicella epidemiology and possible VFC votes on second dose varicella and MMRV; summary of American Academy of Pediatrics recommendations; Human Papilloma Virus vaccine working group update; general recommendations: vaccine storage and handling; adult immunization schedule; Advisory Committee on Immunization Practices and National Vaccine Advisory Committee joint working group and the preliminary results on pandemic vaccine prioritization; Advisory Committee on ImmunizationPractices and Healthcare Infection Control PracticesAdvisory Committee joint statement on immunization of health care workers against influenza; rotavirus; HIV vaccine update; and Departmental updates.

Contact Person for more Information: Demetria Gardner, Epidemiology and Surveillance Division, NationalImmunization Program, CDC, 1600 Clifton Road, NE., (E–61),Atlanta, Georgia 30333, telephone 404/639–8096, fax 404/639–8616.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

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 the CDC and ATSDR.

Dated: June 16, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12293 Filed 6–21–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health Advisory Board on Radiation and Worker Health

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and pursuant to the requirements of 42 CFR 83.15(a), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Board on Radiation and Worker Health(ABRWH), National Institute for Occupational Safety andHealth (NIOSH) and Subcommittee for Dose Reconstruction andSite Profile Reviews.

Subcommittee Meeting Times and Dates:
7:30 a.m.–8:30 a.m., July 6, 2005.
7:30 a.m.–9 a.m., July 7, 2005.

Committee Meeting Times and Dates:
1 p.m.–6 p.m., July 5, 2005.
7:30 p.m.–9 p.m., July 5, 2005.
8:30 a.m.—5:30 p.m., July 6, 2005.
9 a.m.–4:15 p.m., July 7, 2005.
4:15 p.m.–5:45 p.m., July 7, 2005.

Place: Chase Park Plaza Hotel, 212–232 N. Kingshighway Blvd., St. Louis, Missouri 63108, telephone: 314–633–1000, fax: 314–633–1144.

Status: Open to the public, limited only by the space available. The meeting space accommodates approximately 200 people.

Background: The ABRWH was established under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 to advise the President, delegated to the Secretary of Health and Human Services (HHS), on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this

authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, and renewed on August 3, 2003.

Purpose: This board is charged with (a) providing advice to the Secretary, HHS on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: Agenda for this meeting will focus on comments by Members of Congress; Review of the Draft Minutes; Bethlehem Steel Technical Basis Document; Y–12 Site Profile; Y–12 SEC Petition; Board Discussion of Y–12 SEC Petition; Iowa Army Ammunition Plant (IAAP) SEC Petition; Board Discussion of IAAP SEC Petition; Mallinckrodt Site Profile; Mallinckrodt SEC Petition; Board Discussion of Mallinckrodt SEC Petition; Policy Issues related to SEC Petitions; SC&A Task III/Workbook Issues; Report on the review of the first 20 Dose Reconstructions; Report on the review of the second 18 Dose Reconstructions; SC&A Contract Issues; Board Discussion; Program Updates; and Science Issues. There will be an evening general public comment period scheduled for July 5, 2005 and one on the afternoon on July 7. Summaries of the petitions for designation of classes of employees at Mallinckrodt, IAAP, and the Y–12 Plant as members of the SEC and the NIOSH findings from evaluating the petitions that will be considered are as follows: Mallinckrodt Chemical Company, Destrehan Street Plant, St. Louis, Missouri, the entire uranium division, 1942–1957. The NIOSH SEC Petition Evaluation Report and Supplement for Mallinckrodt 1949–1957 finds sufficient scientific and technical basis to estimate radiation doses.

IAAP, Line 1, Burlington, Iowa, 1947–1974. The NIOSH SEC Petition Evaluation Report finds it is not feasible to estimate radiation doses potentially incurred by radiographers with sufficient accuracy from May 1948 to March 1949.

Y–12 Plant, Oak Ridge, Tennessee, Control Operators, January 1944 through December 1945. The NIOSH SEC Petition Evaluation Report finds it is not feasible to estimate radiation doses with sufficient accuracy for employees who worked in uranium enrichment operations or other radiological processes at the Y–12 facility from March 1943 through December 1947.

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Contact Person for More Information: Dr. Lewis V. Wade, Executive Secretary, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone (513) 533–6825, fax (513) 533–6826.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

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 the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: June 16, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12292 Filed 6–21–05; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0219]

Guidance for Industry: General Principles for Evaluating the Safety of Compounds Used in Food-Producing Animals; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised guidance for industry entitled ''General Principles for Evaluating the Safety of Compounds Used in Food-Producing Animals (GFI #3).'' This version of the guidance replaces the version that was made available in July 1994. This has been revised to remove outdated information on toxicological testing and to provide references to other available guidance on the topic. In addition, the document has been revised to address minor formatting issues.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Mark M. Robinson, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5282, e-mail: *mrobinson@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA published the guidance for industry entitled ''General Principles for Evaluating the Safety of Compounds Used in Food-Producing Animals (GFI #3)'' in July 1994. Since that time, FDA has published a number of guidance documents in its participation with International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) that provide recommendations on toxicological testing of compounds used in food-producing animals. This version of guidance #3 replaces the version that was made available in July 1994. The guidance has been updated to remove outdated information on toxicological testing and refers the reader to the relevant Center for Veterinary Medicine/VICH guidance documents. In addition, the document was revised to address minor formatting issues including correcting an error in the numbering of the guidance sections.

II. Significance of Guidance

This document is being revised as a level 2 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115.) The guidance represents the agency's current thinking on the subject matter. The document does not create or confer any rights for or on any person and will not operate to bind FDA or the public. Alternative methods may be used as long as they satisfy the requirements of the applicable statutes and regulations.

III. Comments

As with all of FDA's guidances, the public is encouraged to submit written or electronic comments pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document.

Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Copies of the guidance document entitled ''General Principles for Evaluating the Safety of Compounds Used in Food-Producing Animals (#3)'' may be obtained on the Internet from the CVM home page at *http://www.fda.gov/cvm*.

Dated: June 13, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–12323 Filed 6–21–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0180]

Guidance for Industry and Food and Drug Administration: Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors With Interest in Exporting to Chile; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or agency) is announcing the availability of a revised guidance document entitled ''Guidance for Industry and FDA: Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors With Interest in Exporting to Chile.'' The guidance explains that FDA has established a list that is provided to the government of Chile and posted on FDA's Internet site, which identifies U.S. dairy product manufacturers that have expressed interest to FDA in exporting dairy products to Chile, are subject to FDA jurisdiction, and are not the subject of a pending judicial enforcement action (e.g., injunction or seizure) or a pending warning letter. Application for inclusion on the list is voluntary. However, Chile has advised that dairy products from firms not on this list could be delayed or prevented by Chilean authorities from entering commerce in Chile. The revised guidance document describes the recommended process for U.S. manufacturers to follow to be included on the list and explains FDA's request, on Chile's behalf, that this information be updated every 2 years.

DATES: This revised guidance is final upon the date of publication. Submit written or electronic comments on the revised guidance document at any time.

ADDRESSES: Submit written requests for single copies of the revised guidance document to the Office of Plant and Dairy Foods and Beverages, Division of Dairy and Egg Safety (HFS–306), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Include a self-addressed adhesive label to assist that office in processing your request or include a fax number to which the guidance document may be sent.

Submit written comments on the revised guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the revised guidance document.

FOR FURTHER INFORMATION CONTACT: Esther Z. Lazar, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1485, or e-mail: *elazar@cfsan.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

As a direct result of discussions that have been adjunct to the United States-Chile Free Trade Agreement, Chile has recognized FDA as the competent U.S. food safety authority and has accepted the U.S. regulatory system for dairy inspections. Chile has concluded that it will not require individual inspections of U.S. firms by Chile as a prerequisite for trade, but will accept firms identified by FDA as eligible to export to Chile. Therefore, FDA has established a list, which is provided to the government of Chile and posted on FDA's Internet site, identifying U.S. dairy product manufacturers/processors that have expressed to FDA their interest in exporting dairy products to Chile, are subject to FDA jurisdiction, and are not the subject of a pending judicial enforcement action (i.e., an injunction or seizure) or a pending warning letter. The term ''dairy products,'' for purposes of this list, is not intended to cover the raw agricultural commodity raw milk.

II. Discussion

The revised guidance document states that FDA has established a list identifying U.S. manufacturers/processors that have expressed interest to FDA in exporting dairy products to Chile, are subject to FDA jurisdiction, and are not the subject of a pending judicial enforcement action (i.e., an injunction or seizure) or a pending warning letter. Inclusion of U.S. dairy product manufacturers/processors on this list is voluntary. However, Chile has advised that dairy products from firms not on this list could be refused entry at the Chilean port of entry. The revised guidance explains what information firms should submit to FDA in order to be considered for inclusion on the list and what criteria FDA intends to use to determine eligibility for placement on the list. The document also explains how FDA intends to update the list and how FDA intends to communicate any new information to Chile. Finally, the revised guidance notes that FDA considers the information on this list, which is provided voluntarily with the understanding that it will be posted on FDA's Internet site and communicated to, and possibly further disseminated by, Chile, to be information that is not protected from disclosure under 5 U.S.C. 552(b)(4).

This is a revision of the guidance that FDA issued in May 2003 (68 FR 28237, May 23, 2003). This revised guidance adds to the information that FDA intends to post on its Web site and share with Chile, and it explains the actions that FDA intends to take to update the list every 2 years.

FDA is issuing this revised guidance as a level 1 guidance consistent with FDA's good guidance practices regulation § 10.115 (21 CFR 10.115). Consistent with FDA's good guidance practices regulation, the agency will accept comment, but is implementing the revised guidance document immediately in accordance with § 10.115(g)(2), because the agency has determined that prior public participation is not feasible or appropriate. This revised guidance represents the agency's current thinking on how FDA intends to comply with Chile's request for a list of U.S. manufacturers or processors that are eligible to export dairy products to Chile. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

This revised final guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in this guidance was approved under OMB control number 0910–0509. The approval expires on December 31, 2006. 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.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this revised guidance at any time. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The revised guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Persons with access to the Internet may obtain the revised guidance document at *http://www.cfsan.fda.gov/guidance.html*.

Dated: June 13, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–12234 Filed 6–21–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children (ACHDGDNC).

Dates and Times: July 21, 2005, 9 a.m. to 5 p.m., and July 22, 2005, 9 a.m. to 3 p.m.

Place: Ronald Reagan Building and International Trade Center, Rotunda Room, 1300 Pennsylvania Avenue, NW., Washington, DC 20004.

Status: The meeting will be open to the public with attendance limited to space availability.

Purpose: The Advisory Committee provides advice and recommendations concerning the grants and projects authorized under the Heritable Disorders Program and technical information to develop policies and priorities for this program that will enhance the ability of the State and local health agencies to provide for newborn and child screening, counseling and health care services for newborns and children having or at risk for heritable disorders. Specifically, the Advisory Committee shall advise and guide the Secretary regarding the most appropriate application of universal newborn screening tests, technologies, policies, guidelines, and programs for effectively reducing morbidity and mortality in newborns and children having or at risk for heritable disorders.

Agenda: Presentations and discussions will include: an update on the American College of Medical Genetics report; the role of evidence and other factors in decisionmaking; the status of newborn screening in States; the newborn screening policy of the American College of Obstetrics and Gynecology; and reports from the Subcommittees on Education and Training, Treatment and Follow-up, and Laboratory Standards and Procedures.

Proposed agenda items are subject to change as priorities indicate.

Public Comments: Time will be provided each day for public comment. Written comments should be submitted no later than July 14, 2005. Individuals who wish to provide public comment or who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the ACHDGDNC Executive Secretary, Michele A. Lloyd-Puryear, M.D., Ph.D., Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1080.

For Further Information Contact: Anyone interested in obtaining a roster of members or other relevant information should write or contact Jill Shuger, Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1080. Information on the Advisory Committee is available at *http://mchb.hrsa.gov/programs/genetics/committee.*

Dated: June 16, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05–12233 Filed 6–21–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes on Aging; 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 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 institute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Aging Special Emphasis Panel HRS.

Date: June 29–30, 2005.

Time: 6:15 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Alfonso R. Latoni, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, 301–402–7707, *latonia@nia.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: National Institute on Aging Special Emphasis Panel; Alzheimer Trials.

Date: July 8, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Ave, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Long Term Care.

Care: July 10–11, 2005.

Time: 6 p.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: Jon Rolf, PhD, Health Scientist Administrator, Scientific Review

Office, National Institutes of Health, National Institute on Aging, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814, (301) 402–7703, *rolfj@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Calcium and Muscle Aging.

Date: July 11–12, 2005.

Time: 6:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Ramesh Vemuri, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Cellular Models.

Date: July 19, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Ave, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: William Cruce, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 14, 2005.

LaVerne J. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12269 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Huntington's Disease: Development of Novel Therapeutics.

Date: June 20, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: W. Ernest Lyons, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056.

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: National Institute of Neurological Disorders and Stroke Special Emphasis Panel MRI Review.

Date: June 21, 2005.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuoroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@nids.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: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Huntington's Disease Review.

Date: June 23, 2005.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5324. *mcconnej@nids.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: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Molecular Libraries HTS Assay Development RFA.

Date: June 29–30, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Shantadurga Rajaram, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20852, (301) 435–6033, *rajarams@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 14, 2005.

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12271 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, ITV COI.

Date: July 8, 2005.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, (301) 443–7216, *hhaigler@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Review of HIV/AIDS applications.

Date: July 13, 2005.

Time: 9 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: Martha Ann Carey, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6151, MSC 9608, Bethesda, MD 20892–9608, (301) 443–1606, *mcarey@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Psychosocial Needs for Children Affected by AIDS in Low-Resource Countries..

Date: July 14–15, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6154, MSC 9609, Bethesda, MD 20892–9608, (301) 443–0004, *sechu@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, SRV COI: Panel 2.

Date: July 21, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, (301) 443–7216, *hhaigler@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Brain Bank Review.

Date: July 29, 2005.

Time: 9 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, (301) 443–7216, *hhaigler@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel SRV—COI.

Date: July 29, 2005.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, (301) 443–7216, *hhaigler@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12272 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, SBIR Phase II: 028–Developing Research Based Training Modules.

Date: July 22, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call.)

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, (301) 443–7216, *hhaigler@mailih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12273 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Institute of Mental Health, June 12, 2005, 7 p.m. to June 14, 2005, 4:30 p.m. Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC, 20015 which was published in the **Federal Register** on May 12, 2005, 70 FR 25096.

The location for this meeting has changed. The meeting will be held at Hyatt Regency Bethesda Hotel, One Bethesda Metro Center, Bethesda, Maryland, from 7 p.m. on June 12, 2005, to 4:30 p.m. on June 14, 2005. The meeting is closed to the public.

Dated: June 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12274 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 05–77, Review T14.
Date: July 7, 2005.
Time: 11 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mary Kelly, Scientific Review Specialist, National Institute of Dental & Crainofacial Res., 45 Center Drive, Natcher Bldg., RM 4AN38J, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 05–62, Review K23.
Date: July 12, 2005.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Soheyla Saadi, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr, Rm 4AN32A, National Inst of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–4805, *saadisoh@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 05–85, Review F32.
Date: July 18, 2005.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Soheyla Saadi, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN32A, National Inst of Dental & Crainofacial Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–4805, *saadisoh@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 05–75, Review K08.
Date: July 19, 2005.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone conference call).
Contact Person: Soheyla Saadi, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr. Rm 4AN32A, National Inst of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–4805, *saadisoh@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 05–87, Review R21s (AIDS).
Date: August 24, 2005.
Time: 10:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 Bethesda, MD 20892 (Telephone conference call).
Contact Person: Peter Zelazowski, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, National Inst of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–593–4861, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12275 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 05–88, review R21s, PARs 03–042, 03–043.
Date: July 7, 2005.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Institute of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12276 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Minority Institutions' Drug Abuse Research Development Program (MIDARP).
Date: July 28, 2005.
Time: 10 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call.)
Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institutes on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401, (301) 435–1389, *ms80x@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: June 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12278 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

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 seventh 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: July 12, 2005.

Time: 8 a.m. to 4 p.m.

Agenda: Healthcare Information Technology Standards.

Place: Food and Drug Administration at Irvine, 19701 Fairchild, Irvine, California 92612.

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: June 15, 2005.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12281 Filed 6–21–05; 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, Infection, Accessory Cells and Immunity Special Emphasis Panel.

Date: June 22, 2005.

Time: 2 p.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: Patrick K. Lai, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, 301–435–1052, *laip@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: Oncological Sciences Integrated Review Group, Cancer Biomarkers Study Section.

Date: June 22–24, 2005.

Time: 6:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Mary Bell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7804, Bethesda, MD 20892, 301–451–8754, *bellmar@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, Tumor Diagnosis and Treatment.

Date: June 23, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

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.*

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, SBIR/STTR: Risk Prevention and Health Behavior.

Date: July 7–8, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Claire E. Gutkin, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7759, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIR/STTR: Risk Prevention and Health Behavior.

Date: July 7, 2005.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Claire E. Gutkin, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7759, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Platelet Function.

Date: July 8, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195, *sur@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis panel, Oncological Fellowship and AREA.

Date: July 10–12, 2005.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Manzoor Zarger, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS-

associated Opportunistic Infections and Cancer Study Section.

Date: July 11–12, 2005.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Ave., NW., Washington, DC 20036.

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Musculoskeletal Tissue Engineering Study Section.

Date: July 11–12, 2005.

Time: 8 a.m. 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: Jean Dow Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, 301/435–1743, *sipej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: CIGP, GCMB, GMPB, HBPP.

Date: July 11, 2005.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, FO3A Biochemical and Molecular Neuroscience.

Date: July 11–12, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, DC, 1400 M Street, NW., Washington, DC 20005.

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ONC–T (10)B: Cancer Drug Development and Therapeutics.

Date: July 11–12, 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: Eva Petrakova, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–1716, *petrakoe@mail.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: July 11–12, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Jose H Guerrier, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerrej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, AIDS/HIV Small Business Innovative Research.

Date: July 11, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott North Bethesda Hotel & Conference Center, 5701 Marinelli Road North, Bethesda, MD 20814.

Contact Person: Kenneth A. Roebuck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 F01–R (20) L: Brain Disorders and Clinical Neuroscience Fellowships.

Date: July 11–12, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Rossana Berti, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3015–G, MSC 7846, Bethesda, MD 20892, 301–402–6411, *bertiros@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIR Visual System.

Date: July 11–12, 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: Jerome Wujek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–2507, *wujekjer@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Nanotechnology and Nanoscience Special Emphasis Panel.

Date: July 11–12, 2005.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: 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, Drug Discovery and Development SBIR/STTR.

Date: July 11–12, 2005.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Contact Person: Sergei Ruvinov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chemical and Bioanalytical Sciences Fellowship Review Panel.

Date: July 11–12, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: David R. Jollie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business Grant Applications: Non-HIV Microbial Vaccine Development.

Date: July 11–12, 2005.

Time: July 11, 2005, 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Jin Huang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1187, *jh377p@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cognition, Perception and Language Fellowships.

Date: July 11–12, 2005.

Time: 8:30 a.m. to 6 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: Lynn T. Nielsen-Bohlman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089F, MSC 7848, Bethesda, MD 20892, (301) 594–5287, *nielsenl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business Applications: Developmental Disabilities, Communication, and Science Education.

Date: July 11–12, 2005.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 594–6836, *tathamt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular, Cellular, and Developmental Neurosciences Special Emphasis Panel-B
Date: July 11, 2005.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@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: June 14, 2005

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12270 Filed 6–21–05; 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, Small Business Cardiovascular Devices.
Date: June 28, 2005.
Time: 5 p.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Roberto J. Matus, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–2204, *matusr@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, Fellowship-Physiology and Pathobiology of Organ Systems.
Date: June 30, 2005.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Md 20814.
Contact Person: Najma Begum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, (301) 435–1243, *begumn@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Clinical Studies and Epidemiology Study Section.
Date: July 7–8, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Hilary D. Sigmon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Innate Immunity Special Emphasis Panel Review.
Date: July 7, 2005.
Time: 8 a.m. to 2 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 Intern, 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, RFA on Aging Through the Life Span.
Date: July 7–8, 2005.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Rebecca L. Clark, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3048C, MSC 7770, Bethesda, MD 20892, (301) 594–7436.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chemistry/Biophysics SBIR/STTR Panel.
Date: July 7–8, 2005.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.
Contact Person: Vonda K. Smith, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, (301) 435–1789, *smithvo@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Social and Developmental Psychology Fellowships.
Date: July 7–8, 2005.
Time: 8:30 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Karen Lechter, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3128, MSC 7759, Bethesda, MD 20892, (301) 496–0726, *lechterk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bacterial Biodefense Agents.
Date: July 7–8, 2005.
Time: 8:30 a.m. to 5:30 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: Fouad A. El-Zaatari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814–9692, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 RES D (50)R: PAR–04–203: Bioengineering Research Partnerships: Respiratory.
Date: July 7, 2005.
Time: 10 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 HOP–K (02) R21 Member Application.
Date: July 7, 2005.
Time: 10:30 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: Bob Weller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694, *wellerr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Pain and Somatosensory.

Date: July 7, 2005.

Time: 11 a.m. to 1:30 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: 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: Center for Scientific Review Special Emphasis Panel, LIRR Member Conflicts.

Date: July 7, 2005.

Time: 1 p.m. to 4 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: George M. Barnas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bioengineering Sciences and Technologies.

Date: July 7, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Steven J. Zullo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7849, Bethesda, MD 20892, (301) 435–2810, *zullost@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIB L 10: Small Business Bioelectromagnetics.

Date: July 7, 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: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Endocrinology, Metabolism, Nutrition and Reproductive Sciences Fellowship Panel (F06).

Date: July 7–8, 2005.

Time: 7 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular, Cellular, and Developmental Neurosciences Special Emphasis Panel-A.

Date: July 8, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@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: June 14, 2005

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12277 Filed 6–21–05; 8:45 am]

BILLING CODE 4401–01–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, Family Dynamics and Human Development.

Date: July 7–8, 2005.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Karen Lechter, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3128, MSC 7759, Bethesda, MD 20892. 301–496–0726. *lechterk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical CV.

Date: July 11–12, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892. (301) 435–1850. *dowellr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Radiation Therapy and Biology SBIR.

Date: July 11, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bo Hong, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, 301–435–5879. *hongb@csr.nih.gov.*

Name of Committee: Renal and Urological Studies Integrated Review Group, Pathobiology of Kidney Disease Study Section.

Date: July 11–12, 2005.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: M. Chris Langub, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7814, Bethesda, MD 20892. (301) 496–8551. *langubm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 HEME F 03M: Member Conflict: Hematopoiesis.

Date: July 11, 2005.

Time: 11 a.m. to 1 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: Jerrold Fried, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7840, Bethesda, MD 20892. (301) 435–2633. *friedje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuronal Control of Motor Mechanisms.
Date: July 11, 2005.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)
Contact Person: Daniel R. Kerishalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892. (301) 435–1255. *kenshalod@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 HOP–J (03) M BGES Member Applications A.
Date: July 11, 2005.
Time: 1:30 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: 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: Center for Scientific Review Special Emphasis Panel, P01 Program in Virus Translational Control.
Date: July 12, 2005.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20802. (301) 435–1728. *radtkem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tissue Engineering Bioengineering Research Partnership (BRP)s.
Date: July 12, 2005.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jean D. Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892. 301–435–1743. *sipe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Transplantation and Tumor Immunology.
Date: July 12, 2005.
Time: 1 p.m. to 4 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: Jian Wang, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892. (301) 435–2778. *wangjia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Vestibular Development.
Date: July 12, 2005.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)
Contact Person: 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, Neonatology.
Date: July 12, 2005.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)
Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892. (301) 435–1044. *lesszczyd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIR Visual Systems Member Conflicts Panel.
Date: July 12, 2005.
Time: 1 p.m. to 2 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: 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: Center for Scientific Review Special Emphasis Panel, Cardiac Ion Channels.
Date: July 12, 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: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892. 301–435–4522. *gibsonj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Coagulation Pathway.
Date: July 12, 2005.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)
Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892. 301–435–1195. *sur@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Biofilm.
Date: July 12, 2005.
Time: 3 p.m. to 4 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: Fouad A. El-Zaatari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814–9692. 301–435–1149. *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cognitive Neuroscience.
Date: July 12, 2005.
Time: 12 p.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: Lynn T. Nielsen-Bohlman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089F, MSC 7848, Bethesda, MD 20892. 301–594–5287. *nielsenl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Microbial Vaccine Development.
Date: July 12, 2005.
Time: 8:30 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
Contact Person: Jin Huang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892. 301–435–1187. *jh377p@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Review of SBIR and R03 HIV/AIDS Applications.
Date: July 13, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.
Contact Person: Mark P. Rubert, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892. 301–435–1775. *rubertm@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review

Group, Biodata Management and Analysis Study Section.

Date: July 13–14, 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: 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, Member Conflict: Auditory Development.

Date: July 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Nursing Science: Children and Families.

Date: July 13, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Scott Osborne, MPH, 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: Center for Scientific Review Special Emphasis Panel, Neonatology.

Date: July 13, 2005.

Time: 2 p.m. to 4 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: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892. 301–435–1044. *leszczyd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ELSI: Special Review.

Date: July 13, 2005.

Time: 2 p.m. to 4 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: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892. (301) 435–1037. *dayc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Animal Models of Drug Abuse.

Date: July 13, 2005.

Time: 3 p.m. to 4 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: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892. (301) 435–0676. *siroccok@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, 98.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 15, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12279 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biochemistry and Biophysics of Membranes Study Section, June 16, 2005, 8:30 a.m. to June 17, 2005, 5 p.m., Double Tree Rockville, 1750 Rockville Pike, Rockville, MD, 20852 which was published in the **Federal Register** on May 11, 2005, 70 FR 24829–24832.

The meeting will be held at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: June 15, 2005

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12280 Filed 6–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD05–05–020]

Special Local Regulations for Marine Events; Piankatank River, Gloucester County, Virginia

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting; correction.

SUMMARY: The Coast Guard published a document in the **Federal Register** on May 27, 2005, concerning a public meeting to provide a forum for citizens to provide oral comments relating to the ''2005 Piankatank River Race'', a marine event proposed to be held over the waters of the Piankatank River in Gloucester County, Virginia on July 23, 2005. The document contained the incorrect zip code in the **ADDRESSES** paragraph.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Recreational Boating Safety Specialist, Fifth Coast Guard District, telephone 757–398–6204, Fax 757–398–6203.

Correction

In the **Federal Register** of May 27, 2005, in FR Doc. Vol 70, Number 102, on page 30656, in the second column, correct the zip code within the **ADDRESSES** paragraph from ''23321'' to read ''23704''.

Dated: June 14, 2005.

Kevin B. Smith,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Chief of Operations.

[FR Doc. 05–12238 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Reports, Forms, and Record Keeping Requirements: Agency Information Collection Activity Under OMB Review; Law Enforcement Officer Flying Armed Training

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice.

SUMMARY: This notice announces that TSA has forwarded the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected

burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on January 26, 2005, 70 FR 3726.

DATES: Send your comments by July 22, 2005. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Comments may be faxed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: DHS–TSA Desk Officer, at (202) 395–5806

FOR FURTHER INFORMATION CONTACT: Katrina Wawer, Information Collection Specialist, Office of Transportation Security Policy, TSA–9, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–1995; facsimile (571) 227–2594.

SUPPLEMENTARY INFORMATION:

Transportation Security Administration (TSA)

Title: Law Enforcement Officer Flying Armed Training.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): NA.

Affected Public: State and local law enforcement officers.

Abstract: Under the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71) (codified at 49 U.S.C. 44918), TSA is required to manage the training and certification of state and local law enforcement officers (LEOs) needing to fly armed on commercial air carriers. To satisfy this requirement, TSA will establish a web-based training course accessible to LEO personnel by way of a controlled access Internet-based portal. LEOs are required to submit employment and identifying information online to confirm their eligibility to take this training course. TSA is exploring the option of soliciting written feedback on the course from the LEOs after they complete the training. Any request for feedback would be voluntary and anonymous.

TSA also will offer this training course to Federal law enforcement agencies via CD-ROM or during basic training courses that LEOs attend at the Federal training academies. TSA will not require Federal LEOs to submit employment and identifying information due to the different method by which the course is administered to them, unless these Federal LEOs choose to take the training course online as a refresher.

Number of Respondents: 40,000.

Estimated Annual Burden Hours: An estimated 4,666 hours annually. The burden estimate originally stated in TSA's January 26, 2005, notice has been reduced after further program development.

TSA is soliciting comments 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.

Issued in Arlington, Virginia, on June 16, 2005.

Lisa S. Dean,

Privacy Officer.

[FR Doc. 05–12337 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

U.S. Immigration and Customs Enforcement; Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-day notice of information collection under review: Guarantee of Payment; Form I–510.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 22, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Guarantee of Payment.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–510. U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. Form I–510 is executed upon each arrival of an alien crewman within the purview of Section 253 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 5 minutes (.083) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument with instructions, or additional information, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC, 20529; 202–272–8377. The U.S. Citizenship and Immigration Services has published this notice on behalf of U.S. Immigration and Customs Enforcement.

Dated: June 15, 2005.

Richard A. Sloan,

Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–12331 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-day notice of information collection under review: Registration for Classification as Refugee; Form I–590.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 22, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Registration for Classification as Refugee.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–590, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked to required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection provides a uniform method for applicants to apply for refugee status and contains the information needed in order to adjudicate such applications.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 140,000 responses at 35 (.583) minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 81,620 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, Regulatory Management Divisions, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 202059; (202) 272–8377.

Dated: June 15, 2005.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–12332 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Notice of Naturalization Oath Ceremony; Form N–445.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 22, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Notice of Naturalization Oath Ceremony.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–445. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information furnished on this form refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer to make and render an appropriate decision on the application.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 650,000 responses at 5 minutes (.083) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 53,950 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument with instructions, or additional information, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 20529; (202) 272–8377.

Dated: July 15, 2005.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–12333 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-day notice of information collection under review: nonimmigrant petition based on blanket L petition, form I–129S.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 22, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–129S. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used by an employer to classify employees as L–1 nonimmigrant intracompany transferees under a blanket L petition approval. The USCIS will use the data on this form to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250,000 responses at 35 minutes (.583) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 145,750 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 20529; (202) 272–8377.

Dated: June 15, 2005.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–12334 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of information collection under review: Application for waiver of grounds of excludability, Form I–690.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 22, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Waiver of Grounds of Excludability.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–690. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary Individuals or Households. This information on the application will be used by the USCIS in considering eligibility for legalization under sections 210 and 245A of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 85 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 21 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111

Massachusetts Avenue, NW., Washington, DC 20529; 202–272–8377.

Dated: June 15, 2005.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship Immigration Services.

[FR Doc. 05–12335 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request.

ACTION: 60-Day Notice of Information Collection Under Review: Interagency Alien Witness and Informant Record; Form I–854.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 22, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection.

(1) *Type of Information Collection:* Extension of currently approved collection(s).

(2) *Title of the Form/Collection:* Interagency Alien Witness and Informant Record.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–854. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond,, as well as a brief abstract:* Primary: Individuals and Households. The information collection is used by law enforcement agencies to bring alien witnesses and informants to the United States in ''S'' nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 125 responses at 4.25 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 531 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 20529; 202–272–8377.

Dated: June 17, 2005.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–12336 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Cabeza Prieta National Wildlife Refuge Draft Comprehensive Conservation Plan, Draft Environmental Impact Statement, and Draft Wilderness Stewardship Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; reopening of public comment period.

SUMMARY: With this notice, the U.S. Fish and Wildlife Service (Service, we) reopen the public comment period on the Draft Comprehensive Conservation Plan (CCP), Draft Environmental Impact Statement (EIS), and Draft Wilderness Stewardship Plan (Plan) for the Cabeza Prieta National Wildlife Refuge in Pima and Yuma Counties, Arizona. We also intend to announce upcoming public meetings, at which we will receive comments.

DATES: Please submit your written comments on the Draft CCP, Draft EIS, and Draft Plan on or before August 15, 2005.

ADDRESSES: The Draft CCP, Draft EIS, and Draft Plan are available on a compact disk or as a hard copy. To request a copy, please contact Mr. John Slown, Biologist/Conservation Planner, U.S. Fish and Wildlife Service, National Wildlife Refuge System, Southwest Region, Division of Planning, P.O. Box 1306, Albuquerque, NM 87103; please specify the format you prefer. You may also access or download a copy at the following Web site: *http://southwest.fws.gov/refuges/Plan/index.html.*

FOR FURTHER INFORMATION CONTACT: Mr. John Slown, 505–248–7458; or e-mail: *john_slown@fws.gov.*

SUPPLEMENTARY INFORMATION: This notice advises the public that the U.S. Fish and Wildlife Service (Service, we) will accept public and agency comments regarding the Draft CCP, Draft EIS, and Draft Plan for Cabeza Prieta National Wildlife Refuge in Pima and Yuma Counties, Arizona, until Monday, August 15, 2005. We announced availability of the Draft CCP, Draft EIS and Draft Plan for Cabeza Prieta National Wildlife Refuge, gave background information, and opened a public comment period on March 16, 2005 (70 FR 12895). This comment period closed on June 14, 2005.

We now reopen the comment period. This will give interested members of the public and agencies sufficient time to provide us comments on the Draft CCP, Draft EIS, and Draft Plan. Comments previously submitted need not be resubmitted, as they will be incorporated into the public record as part of this reopened comment period, and will be fully considered. We also plan to hold public meetings to present the Draft CCP, Draft EIS, and Draft Plan; answer questions; and receive formal public comments in Yuma, Tucson, Sells, and Ajo, Arizona, during the public comment period. We will post notice of the meetings in local newspapers and other media outlets, and we will also send notice through mailings to individuals and organizations that have expressed interest in this planning effort.

Dated: June 10, 2005.

Larry G. Bell,

Acting, Regional Director, U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

[FR Doc. 05–12289 Filed 6–21–05; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1082–1083 (Final)]

Chlorinated Isocyanurates From China and Spain

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China and Spain of chlorinated isocyanurates, provided for in subheading 2933.69.60 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTVV). With regard to U.S. imports from China, the Commission also makes a negative finding of critical circumstances.

Background

The Commission instituted these investigations effective May 14, 2004, following receipt of a petition filed with the Commission and Commerce by Clearon Corp. (''Clearon''), Fort Lee, NJ, and Occidental Chemical Corp. (''OxyChem''), Dallas, TX. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of chlorinated isocyanurates from China and Spain 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 January 5, 2005 (70 FR 916). The hearing was held in Washington, DC, on May 5, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 17, 2005. The views of the Commission are contained in USITC Publication 3782 (June 2005), entitled Chlorinated Isocyanurates from China and Spain: Investigation Nos. 731–TA–1082–1083 (Final).

Issued: June 16, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–12251 Filed 6–21–05; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,194]

Hampden Corporation, Chicago, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 17, 2005 in response to a petition filed by a company official on behalf of workers at Hampden Corporation, Chicago, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of June, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3232 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 1, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 1, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 14th day of June, 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted between 05/23/2005 and 06/03/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
57,232	Ingram Micro (Comp)	Santa Ana, CA	05/23/2005	05/09/2005

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

APPENDIX—Continued

[Petitions instituted between 05/23/2005 and 06/03/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
57,233	Culp, Inc. (Wkrs)	High Point, NC	05/23/2005	05/19/2005
57,234	Lucent Technologies, Inc. (Wkrs)	Westford, MA	05/23/2005	05/18/2005
57,235	3M Company (State)	Stillwater, MN	05/23/2005	05/20/2005
57,236	Pinnacle Foods Group, Inc. (Comp)	Erie, PA	05/23/2005	05/18/2005
57,237	Tingstol Company (State)	Golden Valley, MN	05/23/2005	05/19/2005
57,238	Rieter Greensboro, Inc. (Comp)	Greensboro, NC	05/23/2005	05/20/2005
57,239	Materials Processing, Inc. (Comp)	Bradner, OH	05/23/2005	05/18/2005
57,240	Consolidated Metco-Rivergate (IAM)	Portland, OR	05/24/2005	05/09/2005
57,241	Victor Forstmann, Inc. (State)	E. Dublin, GA	05/24/2005	05/19/2005
57,242	K and C Custom Design, Inc. (Comp)	Greenville, SC	05/24/2005	05/19/2005
57,243	Celanese Acetate (UNITE)	Narrows, VA	05/24/2005	05/17/2005
57,244	Alcatel, Inc. (State)	Plano, TX	05/24/2005	05/12/2005
57,245	Delta Airlines, Inc. (Wkrs)	Atlanta, GA	05/24/2005	05/23/2005
57,246	TRW Automotive (Comp)	Warrensville Hg, OH	05/24/2005	05/24/2005
57,247	Menasha Packaging (State)	Neenah, WI	05/24/2005	05/24/2005
57,248	Arkay Industries (Comp)	Belcamp, MD	05/24/2005	05/16/2005
57,249	Lamplight Farms, Inc. (Comp)	Menomonee Falls, WI	05/24/2005	05/24/2005
57,250	Flowline Division, Markovitz Enterprises (Comp)	Whiteville, NC	05/24/2005	05/24/2005
57,251	J.C. Viramontes (Comp)	El Paso, TX	05/25/2005	05/23/2005
57,252	Bemis Company, Inc. (Comp)	West Hazelton, PA	05/25/2005	05/23/2005
57,253	Vision Knits, Inc. (Comp)	Albemarle, NC	05/25/2005	05/24/2005
57,254	Holcim US, Inc (Wkrs)	Dundee, MI	05/25/2005	05/05/2005
57,255	Black-n-Decker (Wkrs)	Fayetteville, NC	05/25/2005	05/01/2005
57,256	AC Nielson Trade Dimensions (Wkrs)	Wilton, CT	05/25/2005	05/11/2005
57,257	IEC Electronics (Wkrs)	Newark, NY	05/25/2005	05/16/2005
57,258	Virginia Metalcrafters, Inc. (Wkrs)	Waynesboro, VA	05/25/2005	05/17/2005
57,259	Omni Intergrated Technologies (State)	Fairfield, OH	05/25/2005	05/09/2005
57,260	Renfro Corporation (Wkrs)	Ft. Payne, AL	05/26/2005	05/25/2005
57,261	Burlington Futon Company (Wkrs)	Burlington, VT	05/26/2005	05/20/2005
57,262	Raybestors Automotive Components (UAW)	Sterling Height, MI	05/26/2005	05/24/2005
57,263	Whaling Manufacturing Co., Inc. (Wkrs)	Fall River, MA	05/26/2005	05/26/2005
57,264	Kasco Corporation (Comp)	St. Louis, MO	05/27/2005	04/26/2005
57,265	Transcanada GTN System (State)	Redmond, OR	05/27/2005	05/26/2005
57,266	Ind. Control Associates (State)	Cartersville, GA	05/27/2005	04/30/2005
57,267	Texas Boot, Inc. (Comp)	Waynesboro, TN	05/27/2005	05/03/2005
57,268	Dun and Bradstreet (Wkrs)	Austin, TX	05/27/2005	05/20/2005
57,269	Temple Inland (AWPPW)	Antioch, CA	05/27/2005	05/19/2005
57,270	TRW Automotive (Comp)	El Paso, TX	06/01/2005	05/23/2005
57,271	Cerro Flow Products, Inc. (USWA)	St. Louis, MO	06/01/2005	05/31/2005
57,272	Calumet Lubricants Co., L.P. (Comp)	Reno, PA	06/01/2005	05/25/2005
57,273	Bernhardt Company, Plant 5 (Wkrs)	Lenoir, NC	06/01/2005	05/25/2005
57,274	Laidlaw Corporation (Comp)	Monticello, WI	06/01/2005	05/27/2005
57,275	Integra Tool and Mold, Inc. (Wkrs)	Erie, PA	06/01/2005	05/27/2005
57,276	Johnson Controls (State)	Watertown, WI	06/01/2005	05/27/2005
57,277	Hilltop Cedar (Comp)	St. Maries, ID	06/01/2005	05/27/2005
57,278	Meyersdale Mfg. Co. (UNITE)	Meyersdale, PA	06/01/2005	05/31/2005
57,279	Guardsmark, LLC (Comp)	Macon, GA	06/01/2005	05/24/2005
57,280	ElringKlinger Sealing Systems (USA), Inc (Comp)	Livonia, MI	06/02/2005	05/27/2005
57,281	Continental J.C., Inc. (Comp)	New York, NY	06/02/2005	06/01/2005
57,282	Bernhardt Furniture (Wkrs)	Lenoir, NC	06/02/2005	05/25/2005
57,283	Safegard Corporation (Wkrs)	Lancaster, KY	06/02/2005	05/23/2005
57,284	Samsung (State)	Woodbury, MN	06/02/2005	06/01/2005
57,285	Pemstar (State)	Chaska, MN	06/02/2005	06/01/2005
57,286	Bareville Garment Corp. (Comp)	Martindale, PA	06/02/2005	05/26/2005
57,287	Stora Enso North America (Comp)	Wisconsin Rapid, WI	06/02/2005	06/01/2005
57,288	Dana Glacier Vandervell, N.A. (Wkrs)	Caldwell, OH	06/02/2005	06/01/2005
57,289	Lane Home Furnishings (Wkrs)	Tupelo, MS	06/02/2005	05/18/2005
57,290	Paslode (Comp)	Cleveland, MS	06/02/2005	05/23/2005
57,291	GE Consumer and Industrial (Wkrs)	St. Louis, MO	06/02/2005	06/01/2005
57,292	JDS Uniphase (State)	Santa Rosa, CA	06/02/2005	05/27/2005
57,293	Hayes Lemmerz (State)	La Mirada, CA	06/02/2005	06/02/2005
57,294	Hawley Products, Inc. (Comp)	Paducah, KY	06/02/2005	05/25/2005
57,295	Findlay Industries, Inc. (Comp)	Findlay, OH	06/02/2005	05/31/2005
57,296	Penn Metal Stamping, Inc. (Wkrs)	St. Mary's, PA	06/02/2005	05/24/2005
57,297	Fashionspun Sales and Develop. (Comp)	New York, NY	06/02/2005	05/19/2005
57,298	Guilford Mills, Inc. (Comp)	Greensboro, NC	06/03/2005	05/03/2005
57,299	Bradley Scott Clothes (Comp)	Fall River, MA	06/03/2005	06/01/2005
57,300	Aegis Communications (Comp)	Irving, TX	06/03/2005	05/24/2005
57,301	Contec, LLC (Comp)	Seatac, WA	06/03/2005	06/01/2005
57,302	Emerson Process Management (Wkrs)	Austin, TX	06/03/2005	06/03/2005

APPENDIX—Continued

[Petitions instituted between 05/23/2005 and 06/03/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
57,303	TI Automotive (Comp)	Normal, IL	06/03/2005	06/02/2005
57,304	Phil Knit, Inc. (Comp)	Liberty, NC	06/03/2005	05/26/2005
57,305	Robcol, Inc. (Wkrs)	Shippenville, PA	06/03/2005	05/23/2005
57,306	Bernhardt (Wkrs)	Lenoir, NC	06/03/2005	05/25/2005
57,307	Traverse Precision, Inc. (Comp)	Williamsburg, MI	06/03/2005	05/16/2005
57,308	Sonic Manufacturing Technologies (State)	Fremont, CA	06/03/2005	05/26/2005
57,309	Kulicke and Soffa (State)	Hayward, CA	06/03/2005	05/26/2005
57,310	Autodie International, Inc. (Comp)	Grand Rapids, MI	06/03/2005	05/26/2005
57,311	EMA, Inc. (Wkrs)	New York, NY	06/03/2005	05/16/2005
57,312	Transwestern Polymers, Inc. (State)	Livermore, CA	06/03/2005	05/20/2005
57,313	Dorby Frocks (Comp)	Bishopville, SC	06/03/2005	05/16/2005
57,314	Wex Tex Industries (Wkrs)	Ashford, AL	06/03/2005	06/01/2005

[FR Doc. E5–3234 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,169]

JDS Uniphase Corporation, FBN New Jersey Holdings Corporation, Ewing, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 10, 2005, applicable to workers of JDS Uniphase Corporation, Ewing, New Jersey. The notice was published in the **Federal Register** on March 9, 2005 (70 FR 11704).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of optical receivers, amplifiers and CATV products for the telecommunications and communications industry.

New information shows that the New Jersey manufacturing operations of JDS Uniphase Corporation were sold to FBN New Jersey Holdings Corporation in May 2005. Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax accounts for FBN New Jersey Holdings Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of JDS Uniphase Corporation, Ewing, New Jersey who were adversely affected by increased imports.

The amended notice applicable to TA–W–56,169 is hereby issued as follows:

''All workers of JDS Uniphase Corporation, FBN New Jersey Holdings Corporation, Ewing, New Jersey who became totally or partially separated from employment on or after December 6, 2003, through February 10, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 10th day of June, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3228 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,905]

The Lane Company, a Subsidiary of Lane Furniture Industries, Inc., a Subsidiary of Furniture Brands International, Altavista, VA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at The Lane Company, a subsidiary of Lane Furniture Industries, Inc., a subsidiary of Furniture Brands International, AltaVista, Virginia. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–56,905; The Lane Company a subsidiary of Lane Furniture Industries, Inc. a subsidiary of Furniture Brands International, AltaVista, Virginia (June 9, 2005)

Signed at Washington, DC, this 14th day of June, 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–3230 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,854]

Mettler-Toledo, Inc., Spartanburg Product Organization, Inman, SC; Notice of Revised Determination on Reconsideration

By letter dated May 2, 2005 a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination signed on April 18, 2005 was based on the finding that the worker group does not produce an article within the meaning of Section 222 of the Trade Act of 1974. The denial notice was published in the **Federal Register** on May 16, 2005 (70 FR 25860).

The petitioner provided additional information relating to products manufactured at the subject facility.

New information provided by the company illustrates that the workers of

the subject firm were engaged in production of engineering models and customer prototypes during the relevant period. Workers are not separately identifiable by production line. The investigation also revealed that sales, production and employment declined during the relevant period. The investigation further revealed that company imports of models and customer prototypes increased from 2003 to 2004 and during the period of January through March of 2005 when compared to the same period in 2004.

The workers of Mettler-Toledo, Inc., Spartanburg Product Organization, Inman, South Carolina were under an existing Trade Adjustment Assistance (TAA) certification (TA–W–51,640) which expired on April 25, 2005.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

The group eligibility criteria for the ATAA program that the Department must consider under Section 246 of the Trade Act are:

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.
2. Whether the workers in the workers' firm possess skills that are not easily transferable.
3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

The Department has determined that criterion (1) has not been met. The investigation revealed that a not significant number of workers in workers' firm are 50 years of age or older.

Conclusion

After careful review of the initial investigation, I conclude that increased imports of articles like or directly competitive with those produced at Mettler-Toledo, Inc., Spartanburg Product Organization, Inman, South Carolina, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

''All workers of Mettler-Toledo, Inc., Spartanburg Product Organization, Inman, South Carolina, who became totally or partially separated from employment on or after April 26, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are denied alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed in Washington, DC, this 8th day of June, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3229 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,278]

Meyersdale Manufacturing Co., Division of Elbeco, Inc., Meyersdale, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 1, 2005, in response to a worker petition filed by UNITE (Mid-Atlantic Regional Joint Board) on behalf of workers at Meyersdale Manufacturing Co., division of Elbeco, Inc., Meyersdale, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 8th day of June, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3237 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,215]

Plastic Dress-Up Company, South El Monte, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 19, 2005 in response to a petition filed by a company official on behalf of workers at Plastic Dress-Up Company, South El Monte, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 6th day of June, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3233 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,953]

Rods Indiana, Inc., Butler Plant, Butler, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 13, 2005 in response to a petition filed by a company official on behalf of workers at Rods Indiana, Inc., Butler Plant, Butler, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of June, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3231 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W–57,267]

Texas Boot, Inc., Waynesboro, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 27, 2005 in response to a petition filed by a company official on behalf of workers at Texas Boot, Inc., Waynesboro, Tennessee.

The petitioning group of workers is covered by an earlier petition (TA–W–57, 221) filed on May 19, 2005 that is the subject of an ongoing investigation for which a determination has not yet been issued.

Further investigation in this case would serve no purpose and the investigation under this petition has been terminated.

Signed at Washington, DC, this 2nd day of June, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3236 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W–57,241]

Victor Forstmann, Inc.; East Dublin, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 24, 2005 in response to a worker petition filed by the State of Georgia on behalf of workers at Victor Forstmann, Inc., East Dublin, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of June, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–3235 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Notice of Two Accepted Methods for Determining Positive Identification for Exchanging Criminal History Record Information for Noncriminal Justice Purposes

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice.

SUMMARY: Pursuant to the publication requirement in title 42, United States Code, 14616, Article VI(e), the Compact Council, established by the National Crime Prevention and Privacy Compact (Compact) Act of 1998, is providing public notice of two accepted methods for determining positive identification for exchanging criminal history record information (CHRI) for noncriminal justice purposes.

FOR FURTHER INFORMATION CONTACT: Todd C. Commodore, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Telephone (304) 625–2803; e-mail *tcommodo@leo.gov;* fax number (304) 625–5388.

SUPPLEMENTARY INFORMATION: The Compact establishes uniform standards and processes for the interstate and Federal-State exchange of criminal history records for noncriminal justice purposes. The Compact was approved by the Congress on October 9, 1998, (Pub. L. 105–251) and became effective on April 28, 1999, when ratified by the second state. Article VI of the Compact provides for a Compact Council that has the authority to promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice purposes. The III is the system of federal and state criminal history records maintained by the Federal Bureau of Investigation (FBI).

Due to innovative noncriminal justice initiatives in state and federal communities, the Compact Council has received numerous inquiries regarding its interpretation of the definition of positive identification which is defined in the Compact, Article I (20), as follows:

> The term 'positive identification' means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

At its May 2004 meeting, the Compact Council accepted two methods for determining positive identification for the exchange of CHRI for noncriminal justice purposes. By way of background, ten-rolled fingerprints has been the method to determine positive identification for over 80 years in the criminal justice community. The use of ten-rolled fingerprints has also served as the standard business practice in the noncriminal justice community. As a result of this long standing practice and reliability of using ten-rolled fingerprints to determine positive identification, the Compact Council formally accepted ten-rolled fingerprints as one method of positive identification for exchanging CHRI for noncriminal justice purposes.

The FBI's Criminal Justice Information Services (CJIS) Division conducted a study, known as the National Fingerprint-based Applicant Check Study (N–FACS), to examine the reliability of using ten-flat fingerprints for determining positive identification. The results of the N–FACS study were presented to the Compact Council at its May 2004 meeting. After close examination of various N–FACS pilot program findings, the Compact Council formally accepted ten-flat fingerprints as another method for determining positive identification for exchanging CHRI for noncriminal justice purposes.

Hereafter, interested parties should contact the FBI's Compact Council Office for future updates to the Compact Council's list of accepted methods of positive identification for exchanging CHRI for noncriminal justice purposes. Further, information regarding a state or federal agency's acceptable standards and technical capabilities to process fingerprints should be obtained from the State Compact Officer in a Compact Party State's criminal history record repository, the Chief Administrator of the State criminal history record repository in a Nonparty State, or the FBI Compact Officer for a federal or regulatory agency.

In addition, the definition of positive identification in Article I (20) of the Compact refers to a ''comparison of fingerprints'' without specifying the number of fingerprint images. Accordingly, the Compact Council has determined that the definition is flexible enough to accommodate any future position the Compact Council may favor concerning the use of less than ten-rolled or ten-flat fingerprints when acceptable reliability is sufficiently documented. Future alternatives for determining positive identification for exchanging CHRI for noncriminal justice purposes must be coordinated with the CJIS Division. The scientific reliability of any such future alternative should not significantly deviate from the reliability of ten-rolled fingerprints or ten-flat fingerprints; nor shall it degrade the standards for search accuracy and/or computing capacity of the Integrated Automated Fingerprint Identification System as determined by the CJIS Division. Agencies should coordinate the submission of ten-flat fingerprints with the CJIS Division.

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05–12328 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

National Fingerprint File Qualification Requirements

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice of approval of the National Fingerprint File (NFF)

Qualification Requirements as the standards for NFF participation.

Authority: 42 U.S.C. 14616.

SUMMARY: Pursuant to Title 42, United States Code, section 14616, Article VI(e), and Title 28, Code of Federal Regulations (CFR), chapter IX, the Compact Council (Council), established by the National Crime Prevention and Privacy Compact (Compact) Act of 1998, approved the attached NFF Qualification Requirements as the standards for NFF participation (see proposed rule ''Qualification Requirements for Participation in the National Fingerprint File Program,'' published in today's **Federal Register**, which is to be codified at 28 CFR 905). The Council coordinated the development of the NFF Qualification Requirements with the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS) Division staff and forwarded the document to the CJIS Advisory Policy Board for its endorsement prior to publication. Hereafter, the most current version of the NFF Qualification Requirements will be available upon request to the Compact Council Office, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306, Attention: FBI Compact Officer. Interested parties should contact the Compact Council Office to request the most current version prior to utilizing the requirements document.

FOR FURTHER INFORMATION CONTACT: Todd C. Commodore, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Telephone (304) 625–2803; e-mail *tcommodo@leo.gov;* fax number (304) 625–5388.

SUPPLEMENTARY INFORMATION: Since both the FBI and Compact Party States are to participate in the NFF Program and each has its unique system and responsibilities as outlined in the Compact, two sets of NFF Qualification Requirements were developed. One set applies to the requirements for the FBI's participation and the second for a Compact Party State's participation. The requirements are set forth as follows:

FBI NFF Qualification Requirements

I. Fingerprint Identification Matters

A. The FBI shall establish and maintain a National Fingerprint File (NFF) of criterion [1] offenses provided by criminal justice agencies.

B. The FBI shall maintain a National Identification Index consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the Interstate Identification Index (III) System.

C. The FBI shall also maintain the NFF consisting of a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual to provide positive identification of record subjects indexed in the III System.

D. The FBI shall accept state requests for a criminal history record check of the national indices, when such requests are made under an approved state statute. Such requests shall be submitted only through the state central criminal history record repository.

E. The FBI shall accept Federal requests for criminal history record checks of the national indices, when such request are made under Federal authority. Said requests shall be submitted through the FBI or, if the state consents to process a Federal agency's fingerprint submissions, through the state central criminal history record repository as coordinated with the FBI.

F. The FBI shall inform the state central criminal history record repository or Federal agency when original fingerprint impressions provided to the FBI are not of sufficient quality to establish a subject's record and request that additional fingerprint impressions be forwarded to the FBI.

G. For each offender, the NFF shall maintain one full set of fingerprint impressions [2] to support the establishment of the subject's record for a NFF participating state.

H. The master fingerprint impressions maintained at the FBI shall include all ten fingers, noting amputation(s), scars, or missing fingers.

I. The FBI will not accept or maintain additional fingerprint submissions to support subsequent individual arrest events pertaining to a subject's record maintained by the NFF participating state.

J. The FBI shall maintain fingerprint submissions for criterion offenses from NFF participating states that have a unique State Identification Number (SID) for each individual and shall maintain only those fingerprint submissions that contain a SID not previously submitted from the NFF participating states to establish a NFF record.

K. The FBI shall not maintain multiple SIDs for the same individual from the same state due to missed identifications.

L. Fingerprint submissions containing an SID previously submitted by a NFF state to establish a NFF record shall be returned to the state central criminal history record repository for correction.

M. The FBI shall send electronic messages via Criminal Justice Information Services telecommunications network(s) to the NFF participating state regarding the results of the FBI's fingerprint processing for subjects arrested for the first time; the NFF participating state may elect to receive electronic messages regarding applicant fingerprint submissions. [3]

II. Record Content and III Maintenance

A. The FBI shall provide assistance to the NFF participating state central criminal history record repositories for identifying and correcting record discrepancies. FBI staff shall provide timely assistance so that the state may resolve record discrepancies within 90 calendar days of receiving the synchronization tape from the FBI.

B. The FBI shall update the National Identification Index and the NFF in a timely manner to assure record completeness and accuracy.

C. Upon receipt of a NFF participating state's Criminal Print Ident (CPI) message, the FBI will advise the appropriate agency [4] of the subject's current arrest status.

D. The FBI shall provide the NFF state central criminal history record repository a means to electronically update the National Identification Index with supplemental identifiers not previously recorded (*i.e.*, scars, marks, tattoos, dates of birth, Social Security numbers, miscellaneous numbers, and aliases).

E. The FBI shall evaluate fingerprint submissions for image quality and feature vectors. The Criminal Master File will be updated if the new fingerprint impressions are of a better quality than the master fingerprint.

[1] If 28 CFR is amended to permit the inclusion of all fingerprint-based arrests into the III System, these qualification requirements shall be amended accordingly.

[2] Fingerprint impressions are the subject's fingerprints in the Criminal Master File, which contain ten rolled and four plain impressions, and may be a composite of the ''best'' images taken from several sources (*i.e.*, arrest, civil, probation, corrections, court fingerprints, *etc.*). The source document (impression) must be available to support any image replacement in the master file.

[3] There are three options presently available for receiving responses for applicant processes. The state may utilize: The electronic unsolicited III messages reporting the results of applicant fingerprint processing ($.A.CFN, $.A.CFR); the Integrated Automated Fingerprint Identification System (IAFIS) Submission Results—Electronic (SRE) response which provides the identification results as communicated over the CJIS Wide Area Network; or the IAFIS System Type of Transaction which generates a manual response to an electronic fingerprint submission (NFFC).

[4] Appropriate agency includes the agency that entered the want on the individual and/or the agency that registered the individual in the sex offender file.

F. The FBI shall conduct file maintenance such as record corrections and expungements in a timely manner and notify the NFF participating state central criminal history record repository of the corresponding state record maintenance. The FBI shall conduct consolidations within two (2) business days of notification; other file maintenance shall be conducted within seven (7) business days of notification.

III. Record Response

A. The FBI III System shall have sufficient capability to provide a normal on-line record response time [5] of ten (10) minutes or less.

B. The FBI shall respond to III on-line record requests electronically, providing the FBI's portion of a subject's record to include a listing of all other III/NFF state record holders. The FBI shall electronically notify the III/NFF state(s) to send its portion of the record to the requesting agency.

C. The FBI shall, upon positive identification of the record subject, electronically request the indexed NFF portion(s) of the criminal history record, noting the authorized purpose for the record request. Upon receipt of the NFF state record response, the FBI shall append all portions of the subject record and provide the record to the authorized requesting agency(ies).

D. When the FBI's III System cannot provide on-line record responses within ten (10) minutes, experienced personnel shall be available as necessary to assist with problem resolutions and to restore the FBI III System capacity, allowing timely on-line responses.

E. The FBI shall provide criminal history records (those records for which the FBI has assumed responsibility) for all authorized purpose codes via III for both criminal justice purposes and noncriminal justice purposes as authorized by Federal statute, Federal Executive Order, or a State statute that has been approved by the Attorney General.

F. The FBI shall disseminate records (containing NFF participating state(s) data received by means of the III System) for all authorized purpose codes for both criminal justice purposes and noncriminal justice purposes as authorized by Federal statute, Federal Executive Order, or a state statute that has been approved by the Attorney General.

[5] Normal record response time should be measured from the receipt of the incoming III on-line record request (QR) until the FBI transmits its portion of the III record to the requesting agency (CR) and notifies all other III/NFF state(s) which maintain a portion of the record ($.A.CHR).

IV. Accountability

A. The FBI Compact Officer shall be responsible for ensuring that Compact provisions and rules, procedures, and standards prescribed by the Council are complied with by the FBI.

B. The FBI shall have written procedures requiring thorough testing of upgrades or modifications to its computer system(s) to detect software errors and/or related procedural problems, particularly on-line testing of these changes to limit adverse effects to the NFF system operations. The FBI shall demonstrate adherence to the procedures by documenting the test results in writing.

State NFF Qualification Requirements

In order to participate in the NFF, a state must first be capable of III participation. A state which joins the NFF subsequent to the enactment of the National Crime Prevention and Privacy Compact Act of 1998 must be a signatory to the Compact. The following NFF Qualification Requirements are written to include and augment the minimum standards for III participation.

I. Fingerprint Identification Matters

A. A NFF state shall maintain a central criminal history record repository with full technical fingerprint search capability. A NFF state shall perform technical searches [1] on both applicant and criminal fingerprint impressions prior to their submission to the FBI. When an individual is identified at the state level as having records previously indexed in the National Identification Index, the NFF state shall notify the contributor of the search results and provide the criminal history record information if requested on the fingerprint submission.

B. A NFF state shall collect and maintain any appropriate criminal history record information, including dispositions, sealing orders, and expungements, relevant to each offender and the records maintained by that state.

C. A NFF state's central criminal history record repository shall serve as the sole conduit for the transmission of non-federal applicant [2] and criminal fingerprint impressions [3] for criterion offenses [4] within the state to the FBI (single source submission).

D. The total percentage of FBI Integrated Automated Fingerprint Identification System (IAFIS) rejects due to low image quality on criminal fingerprint submissions shall be less than 0.5% of the total criminal fingerprint submissions. The total percentage of service provider rejects due to insufficient, indiscernible, erroneous or incomplete criminal fingerprint image submissions shall be less than 5%.

E. A NFF state shall not forward criminal fingerprint impressions nor related information for individuals identified at the state level as having records previously indexed in the National Identification Index as NFF records with the State Identification Number (SID). Errors resulting from forwarding fingerprint submissions for previously indexed NFF records shall be less than 2% of the total criminal fingerprint submissions.

F. A NFF state participant shall continue submitting criminal fingerprint impressions for criterion offenses and related information for individuals for whom primary identification records were established by the FBI prior to the state's becoming a NFF participant and which are not identified by SIDs in the National Identification Index by the state or are FBI non-automated identification records (*i.e.*, the state has not taken responsibility for managing or controlling the III record).

G. Criminal fingerprint impressions shall be forwarded to the FBI within two (2) weeks of receipt at the state central criminal history record repository.

H. A NFF state's central criminal history record repository shall maintain the subject's fingerprint impressions, or copies thereof, to support each Indexed record and shall maintain fingerprint impressions, or copies thereof, supporting each arrest event in each such criminal history record.

I. The master fingerprint impressions maintained at the state central criminal history record repository shall include all ten fingers, noting amputation(s), scars, or missing fingers.

J. Additional/(subsequent) criminal fingerprint impressions maintained at the state central criminal history record repository to support individual arrest events may include less than all ten fingers.

K. A NFF state shall submit to the FBI criminal fingerprint impressions

[1] A technical search may consist of a name search with candidate verification by fingerprint comparison; short of that, a manual or AFIS search of the state master fingerprint file is required.

[2] A state may also at its discretion consent to process federal applicant fingerprint submissions through the repository in which such request originated. See Compact Article V(c).

[3] Criminal fingerprint impression may include a fingerprint submission that supports or is linked to an arrest event (*i.e.*, includes corrections fingerprints).

[4] If 28 CFR is amended to permit the inclusion of all fingerprint-based arrests into the III System, these qualification requirements shall be amended accordingly.

containing a unique SID for each individual. The number of fingerprint submissions that contain non-unique SIDs shall be less than 0.25% of the total criminal fingerprint submissions.

L. Missed identifications by the state's central criminal history record repository resulting in the issuance of multiple SIDs for the same individual shall be less than 2% of total criminal fingerprint submissions.

M. The state shall ensure that a SID is on each criminal fingerprint impression not identified at the state level and submitted to the FBI for establishment of a NFF record.

N. In those instances when the applicant or criminal fingerprint submission includes a request for the rapsheet and/or the results of the search, a NFF state shall either receive and forward electronic messages concerning the results of FBI fingerprint impression processing to its fingerprint contributors or shall print and mail these results.[5]

II. Record Content and III Maintenance

A. For each NFF record maintained, the state's central criminal history record repository shall contain all known fingerprint-based arrests, final dispositions and custody/supervision actions occurring in that state which are reported to the state central criminal history record repository pursuant to applicable federal or state law.

B. A NFF state shall remove the SID from a III record when corresponding record data no longer exists at the state level.

C. A NFF state shall conduct an audit of III record synchronization with the FBI at least twice a year to identify, analyze, and correct record discrepancies within 90 calendar days of audit tape receipt from the FBI. A NFF state shall maintain the discrepancy reports resulting from the last two (2) synchronization tapes.

D. Record completeness, accuracy, and timeliness shall be considered by a NFF state to be of primary importance and shall be maintained at the highest level possible.

E. When a second and/or subsequent criminal fingerprint submission is identified with an Indexed record by a NFF state, the state shall send an electronic Criminal Print Ident (CPI) message to the FBI, no later than 24 hours after the arrest is posted within the state's central criminal history record system.

F. A NFF state shall add supplemental identifiers to Indexed records when a second and/or subsequent criminal fingerprint impression is identified by the state and contains identifiers not previously recorded.

G. Supplemental identifiers which shall be added to the National Identification Index include scars, marks, tattoos, dates of birth, Social Security numbers, miscellaneous numbers, and aliases, obtained after establishment of an offender's primary identification record by the FBI.

H. A NFF state shall submit criminal fingerprint impressions to the FBI for second and/or subsequent criterion offenses if these fingerprint impressions show new amputations or new permanent scars.

I. NFF states shall submit ten-finger fingerprint impressions to the FBI as they become available when second and/or subsequent offenses yield improved image quality fingerprint impressions.

J. Required record file maintenance shall be conducted by NFF state personnel based upon receipt of unsolicited file maintenance messages from the FBI via the III interface. Unsolicited file maintenance messages may include advisories of state/FBI missed identifications or expungements of the state SID. The state shall conduct consolidations within two (2) business days of notification; other file maintenance shall be conducted within seven (7) business days of notification.

III. Record Response

A. A NFF state's automated criminal history record system shall have sufficient capability to provide a normal on-line record response time of ten (10) minutes or less.

B. A NFF state shall respond within ten (10) minutes to III record requests via the National Law Enforcement Telecommunications Systems (NLETS) with the record or an acknowledgment and a notice of when the record will be provided.

C. When a NFF state's system cannot provide on-line record responses within ten (10) minutes, the state shall assign personnel as necessary to resolve record processing problems and to restore the system's capacity to provide timely on-line responses.

D. NFF state record responses shall include literal translations of all alphabetic and/or numeric codes in order that the record responses can be readily understood.

E. A NFF state shall not include in its III record response any out-of-state and/or federal criminal history record information maintained in its files.

F. A NFF state's central criminal history record repository shall provide its indexed criminal history records in response to all authorized requests made through the NFF and III for criminal justice purposes and, when based on positive identification[6], for noncriminal justice purposes as authorized by the Compact.

G. In responding to a III record request for a noncriminal justice purpose, a NFF state shall provide the entire record it maintains on the record subject, except for information that is sealed in accordance with the definition of ''Sealed Record Information'' set out in Art. I (21) of the Compact.

IV. Accountability

A. In NFF states that have ratified the National Crime Prevention and Privacy Compact, the Compact Officer shall be responsible for ensuring compliance with these qualification requirements.[7]

B. In the event a state ceases to participate in the NFF for any reason, the state shall reasonably assist the FBI in reconstructing any fingerprint and arrest/disposition record deficiencies that otherwise would have been submitted to the FBI during the state's NFF participation.

C. A NFF state shall have written procedures requiring thorough testing of upgrades or modifications to its computer system(s) to detect software errors and/or related procedural problems, particularly on-line testing of these changes to limit adverse effects to the NFF system operations. A NFF state shall demonstrate adherence to the procedures by documenting the test results in writing.

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05–12329 Filed 6–21–05; 8:45 am]

BILLING CODE 4410–02–P

[5] There are three options presently available for receiving responses for applicant processes. The state may utilize: The electronic unsolicited III messages reporting the results of applicant fingerprint processing ($.A.CFN, $.A.CFR); the IAFIS Submission Results (SRE) response which provides the identification results as communicated over the CJIS Wide Area Network; or the IAFIS System Type of Transaction which generates a manual response to an electronic fingerprint submission (NFFC).

[6] Responses to III name-based searches are permitted for noncriminal justice purposes utilizing purpose code ''X'' under the Compact Council Fingerprint Submission Requirements Rule.

[7] This requirement is inherent in the Compact itself as stated in Article III(b)(1)(B) that the state Compact Officer shall ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with.

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 three 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:

AccessAbility (National Accessibility Leadership Award): July 6, 2005. This meeting, to be held by teleconference from 2:15 p.m. to 3 p.m. (e.d.t.), will be closed.

Literature (Access to Artistic Excellence, Panel A): August 3–5, 2005, in Room 716. A portion of this meeting, from 11:30 a.m. to 12:30 p.m. on Friday, August 5th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on August 3rd and August 4th, and from 9 a.m. to 11:30 a.m. and 12:30 p.m. to 2:30 p.m. on August 5th, will be closed.

Literature (Access to Artistic Excellence, Panel B): August 5, 2005, in Room 716. This meeting, from 2:30 p.m. to 5 p.m., will be closed.

The closed portions of 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.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman.

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, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

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: June 16, 2005.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 05–12249 Filed 6–21–05; 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 (Public Law 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on July 13–14, 2005 in Rooms 527 and M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

The Council will meet in closed session on July 13th, from 2 p.m. to 6 p.m. in Room 527 for discussion of National Medal of Arts nominations. In accordance with the determination of the Chairman of March 10, 2005, this session will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

The remainder of meeting, from 9 a.m. to 12 p.m. (ending time is approximate) on July 14th, will be held in Room M–09 at the Nancy Hanks Center and will be open to the public on a space available basis. The meeting will open with remarks by Chairman Gioia, including a profile of NEA Jazz Master Dave Brubeck and a tribute to the late NEA Literature Director, Cliff Becker. This will be followed by a presentation on the National Poetry Recitation Contest, with a poetry recitation by DC Regional winner Stephanie Opaurago and remarks by Poetry Foundation Director John Barr. A presentation on American Masterpieces will feature an introduction and summary by Chairman Gioia and Director Bob Frankel and speakers from Eastman House and the Phillips Collection. A discussion on Presenting (formerly Multidisciplinary) will include an introduction and summary by Chairman Gioia and Director Mario Garcia Durham as well as guest speakers from the Association of Performing Arts Presenters (APAP) and Walton Arts Center. This will be followed by review and voting on applications and guidelines. The meeting will conclude with general discussion.

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 attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: June 16, 2005.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 05–12250 Filed 6–21–05; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Committee on Programs and Plans (CPP)

DATE AND TIME: June 30, 2005, 11 a.m.–12 noon (e.t.).

PLACE: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Public Meeting Room 130, *http://www.nsf.gov/nsb.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Thursday, June 30, 2005—Open Session.

Open Session (11 a.m. to 12 noon).

1. Review of NSF draft Cyber Infrastructure Vision document.
2. Discussion and comments.
3. Next steps for developing a Board-approved High Performance Computing Strategy for NSF.

FOR INFORMATION CONTACT: Dr. Michael P. Crosby, Executive Officer and NSB Office Director, (703) 292–7000, *http://www.nsf.gov/nsb.*

Michael P. Crosby,

Executive Officer and NSB Office Director.

[FR Doc. 05–12407 Filed 6–20–05; 8:56 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.
2. *The title of the information collection:* Grant and Cooperative Agreement Provisions.
3. *The form number if applicable:* N/A.
4. *How often the collection is required:* On occasion, one-time.
5. *Who will be required or asked to report:* Grantees and Cooperators.
6. *An estimate of the number of annual responses:* 148.
7. *The estimated number of annual respondents:* 60.
8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,160 hours [1,055 for reporting (17.58 hours per response) and 105 for recordkeeping (.57 hours per recordkeeper)].
9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.
10. *Abstract:* The Division of Contracts uses provisions, required to obtain or retain a benefit in its awards and cooperative agreements to ensure: Adherence to Public Laws, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 22, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. John A. Asalone, Office of Information and Regulatory Affairs (3150–0107), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John A. Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 15th day of June, 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–3224 Filed 6–21–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.
2. *The title of the information collection:* 48 CFR 20, U.S. Nuclear Regulatory Commission Acquisition Regulation (NRCAR).
3. *The form number if applicable:* N/A.
4. *How often the collection is required:* On occasion; one time.
5. *Who will be required or asked to report:* Offerors responding to NRC solicitations and contractors receiving awards from NRC.
6. *An estimate of the number of annual responses:* 3837.
7. *The estimated number of annual respondents:* 355.
8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 26,265 [25,462 hours reporting (7.3 hours per response) + 632.5 hours reporting (9.7 hours per recordkeeper)].
9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.
10. *Abstract:* The mandatory requirements of the NRCAR implement and supplement the government-wide Federal Acquisition Regulation, and ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 22, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. John A. Asalone, Office of Information and Regulatory Affairs (3150–0169), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 15th day of June, 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–3225 Filed 6–21–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.
2. *The title of the information collection:* NRC Form 450, ''General Assignment''.
3. *The form number if applicable:* NRC form 450.
4. *How often the collection is required:* Once during the closeout process.
5. *Who will be required or asked to report:* Contractors, Grantees, and Cooperators.
6. *An estimate of the number of annual responses:* 100.
7. *The estimated number of annual respondents:* 100.
8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 200 hours (2 hours per response).
9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.
10. *Abstract:* During the contract closeout process, the NRC requires the contractor to execute a NRC Form 450, General Assignment. Completion of the form grants the government all rights, titles, and interest to refunds arising out of the contractor performance.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 22, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. John A. Asalone, Office of Information and Regulatory Affairs (3150–0114), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 15th day of June, 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–3226 Filed 6–21–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–8]

Notice of Issuance of Amendment to Materials License SNM–2505; Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance of license amendment.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sebrosky, Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–1132; fax number: (301) 415–8555; e-mail: *jms3@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued Amendment 6 to Materials License SNM–2505 held by Calvert Cliffs Nuclear Power Plant, Inc. (CCNPP) for the receipt, possession, transfer, and storage of spent fuel at the Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI), located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

II. Background

By application dated December 12, 2003, as supplemented on May 12, 2004, and June 7, 2005, CCNPP requested to amend its ISFSI license to add the NUHOMS–32P as an optional design to the existing NUHOMS–24P design for dry storage of spent fuel. The NUHOMS–32P design stores eight more spent fuel assemblies than the NUHOMS–24P design.

III. Finding

This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

Also in connection with this action, the Commission prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). The EA and FONSI were published in the **Federal Register** on May 24, 2005 (70 FR 29784).

FOR FURTHER INFORMATION CONTACT: The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 10th day of June, 2005.

For the Nuclear Regulatory Commission.

Joseph M. Sebrosky,

Senior Project Manager, Licensing Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–3222 Filed 6–21–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–8]

Calvert Cliffs Nuclear Power Plant, Inc.; Independent Spent Fuel Storage Installation; Notice of Docketing of Materials License SNM–2505; Amendment Application

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sebrosky, Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–1132; fax number: (301) 415–1179; e-mail: *jms3@nrc.gov.*

SUPPLEMENTARY INFORMATION: By letter dated May 16, 2005, Calvert Cliffs Nuclear Power Plant, Inc., (CCNPP or licensee) submitted an application to the U.S. Nuclear Regulatory Commission (NRC or the Commission), in accordance with Title 10 of the Code of Federal Regulations (10 CFR) 72.56, requesting the amendment of the independent spent fuel storage installation (ISFSI) license for the ISFSI located in Calvert County, Maryland. CCNPP proposes to incorporate changes to the updated safety analysis report to alter the design basis limit for the ISFSI dry shielded canister internal pressure from 50 psig to 100 psig.

This application was docketed under 10 CFR Part 72; the ISFSI Docket No. is 72–8 and will remain the same for this action. Upon approval of the Commission, the CCNPP ISFSI license, SNM–2505, would be amended to allow this action.

The Commission may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) regarding the proposed amendment or, if a determination is made that the proposed amendment does not present a genuine issue as to whether public health and safety will be significantly affected, take immediate action on the proposed amendment in accordance with 10 CFR 72.46(b)(2) and provide notice of the action taken and an opportunity for interested persons to request a hearing on whether the action should be rescinded or modified.

For further details with respect to this amendment, see the application dated May 16, 2005, which is publically available in the records component of NRC's Agencywide Documents Access and Management System (ADAMS). The NRC maintains ADAMS, which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 7th day of June, 2005.

For the Nuclear Regulatory Commission.

Joseph M. Sebrosky,

Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–3227 Filed 6–21–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; License No. DPR–28]

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated May 3, 2005, the New England Coalition (NEC or the petitioner) has requested that the Nuclear Regulatory Commission (NRC or the Commission) take action with regard to the Vermont Yankee Nuclear Power Station (Vermont Yankee). The NEC petition requested that the NRC promptly restore reasonable assurance of adequate protection of public health and safety with regard to the fire barriers in electrical cable protection systems at Vermont Yankee, or otherwise to order a derate of Vermont Yankee until such time as the operability of the fire barriers can be assured. Specifically, the petition requested that the Commission take the following actions: (1) Require Entergy Nuclear Vermont Yankee (ENVY) to promptly conduct a review at Vermont Yankee to determine the extent of condition, including a full inventory of the type, amount, application, and placement of Hemyc, and an assessment of the safety significance of each application; (2) require ENVY to promptly provide justification for operation in nonconformance with 10 CFR Part 50, Appendix R; and (3) upon finding that Vermont Yankee is operating in an unanalyzed condition and/or that assurance of public health and safety is degraded, promptly order a power reduction (derate) of Vermont Yankee until such time as it can be demonstrated that ENVY is operating in conformance with 10 CFR Part 50, Appendix R, and all other applicable regulations.

The request is being treated pursuant to Title 10 of the Code of Federal Regulations (10 CFR), Section 2.206, of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time. Mr. Raymond Shadis, in his capacity as the petitioner's Staff Technical Advisor, participated in a telephone conference call with the NRC's Petition Review Board (PRB) on May 17, 2005, to discuss the petition. The results of that discussion were considered in the PRB's determination regarding the petitioner's request for action and in establishing the schedule for the review of the petition. During the May 17, 2005, PRB conference call, the petitioner requested that the licensee review fire barriers beyond the Hemyc electric raceway fire barrier system. This request will not be accepted under the 2.206 process because the petitioner did not provide adequate information to justify expanding the scope of the review.

A copy of the petition and the transcript of the telephone conference call are available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the NRC's Agencywide Documents Access and Management System (ADAMS), Public Electronic Reading Room, on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html* (ADAMS Accession Nos. ML051370182 and ML051610042). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 15th day of June 2005.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. E5–3223 Filed 6–21–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act; Meetings

DATE: Weeks of June 20, 27, July 3, 11, 18, 25 2005.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of June 20, 2005

Monday, June 20, 2005

3 p.m. Affirmation Session (Public Meeting).

a. Yankee Atomic Electric Co. (Yankee Nuclear Power Station), Licensee's and NRC Staff's appeal of LBP–04–27 (Tentative).

b. Private Fuel Storage (Independent Spent Fuel Storage Installation) Docket No. 72–22–ISFSI.

c. U.S. Army (Jefferson Proving Ground Site) (Possession-only license for Depleted Uranium munitions).

d. Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2), Commission sua sponte review of the Licensing Board's March 10, 2005 final decision on security contention.

Week of June 27, 2005—Tentative

Tuesday, June 28, 2005

9:30 a.m. Briefing on Equal Employment Opportunity (EEO) Program (Public Meeting) (Contact: Corenthis Kelley, 301–415–7380).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Wednesday, June 29, 2005

9:30 a.m. Discussion of Security Issues (Closed—Ex.1).

Week of July 4, 2006—Tentative

There are no meetings scheduled for the week of July 4, 2005.

Week of July 11, 2006—Tentative

There are no meetings scheduled for the week of July 11, 2005.

Week of July 18, 2006—Tentative

There are no meetings scheduled for the week of July 18, 2005.

Week of July 25, 2006—Tentative

There are no meetings scheduled for the week of July 25, 2005.

*The schedule for Commission meetings is subject to change on short notice. to verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.htm/*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301–415–7080, TDD: 301–415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (341–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: June 16, 2005.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 05–12438 Filed 6–20–05; 11:36 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27983]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 15, 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 July 11, 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 July 11, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Energy, Inc., et al. (70–10270)

Allegheny Energy, Inc. (''Allegheny''), a registered holding company, its wholly-owned public-utility company subsidiary, Monongahela Power Company (''Monongahela''), and its system service company, Allegheny Energy Service Corporation (''AESC'' and, together with Allegheny and Monongahela, ''Applicants''), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, have filed an application-declaration (''Application'') under sections 12(c), 12(d), and 13 of the Act and rules 44, 46, and 54 under the Act.

The Applicants seek authority for Monongahela to sell to Mountaineer Gas Holdings Limited Partnership (''Buyer''), a West Virginia limited partnership, all of the common stock of Mountaineer Gas Company (''Mountaineer''), a gas utility company under the Act. In addition, Applicants seek authority for Monongahela to sell to the Buyer certain utility assets (''Related Assets'') [1] it currently owns directly and that are used to serve natural gas customers. The sale by Monongahela of the common stock of Mountaineer and the Related Assets are referred to as the ''Transaction.'' Monongahela also requests authority to dividend the proceeds from the Transaction to Allegheny out of unearned surplus. Finally, Allegheny requests authority for AESC [2] to perform

[1] These assets include gas distribution pipelines and appurtenant facilities and are listed in Exhibit B of the Application.

[2] AESC is a wholly owned subsidiary of Allegheny and serves as a service company for the holding company. AESC is reimbursed by Allegheny and its subsidiaries at cost for services it provides.

certain services for Mountaineer following completion of the Transaction.

Mountaineer is a natural gas distribution company that serves approximately 205,000 retail natural gas customers in West Virginia. It owns approximately 4,000 miles of natural gas distribution pipelines. Mountaineer's wholly-owned subsidiary Mountaineer Gas Services, Inc. (''MGS'') operates natural gas producing properties, gas gathering facilities, and intra-state transmission pipelines. It also engages in the sale and marketing of natural gas in the Appalachian basin. MGS owns more than 300 natural gas wells and has a net revenue interest in, but does not operate, an additional approximately 100 wells. Mountaineer is regulated by the West Virginia Public Service Commission. Allegheny contributed $162.5 million of equity into Monongahela when Monongahela purchased Mountaineer in 2000.

The Buyer is a limited partnership comprised of IGS Utilities LLC, IGS Holdings LLC (''IGS Entities'') and affiliates of ArcLight Capital Partners, LLC (''ArcLight''). The Buyer was formed for the purpose of acquiring Mountaineer's common stock and the Related Assets. The principals of the IGS Entities have been involved in the natural gas industry since the mid-1980s. ArcLight is a privately held energy infrastructure investment firm with more than $2.5 billion under management. Following completion of the Transaction, Mountaineer will become a wholly-owned subsidiary of the Buyer. It is the Applicants' understanding that the Buyer will request exemption under section 3(a)(1) under the Act and that ArcLight will seek relief under section 2(a)(7) of the Act.

On August 4, 2004, Monongahela and the Buyer executed an acquisition agreement (''Acquisition Agreement'') under which Monongahela agreed to sell to the Buyer all of Mountaineer's common stock, the Related Assets, and other assets that do not constitute utility assets under the Act but that are integral to the operation of Mountaineer and the Related Assets. The purchase price for Mountaineer's common stock and the Related Assets was the result of arm's-length bargaining and will be determined according to a formula set forth in the Acquisition Agreement. At the time the Acquisition Agreement was executed, the price was estimated to be $141 million in cash and $87 million in assumed debt, subject to certain closing adjustments. In addition, the Buyer will settle certain inter-company accounts over a three-year period. The current estimate of these amounts is approximately $5 million. Upon closing of the Transaction, Mountaineer and MGS will be wholly owned subsidiaries of the Buyer, which will operate Mountaineer as a stand-alone gas utility based in Charleston, West Virginia. Mountaineer will own the Related Assets. Monongahela proposes to dividend the proceeds from the Transaction to Allegheny out of unearned surplus. The proceeds will be used to reduce debt.

In connection with the Transaction, AESC and the Buyer propose to enter into a transition services agreement (''TSA''). Under the TSA, AESC would perform various services for the Buyer. These services fall into three broad categories: (i) Financial accounting, (ii) technology services, and (iii) call center and billing services. AESC will provide financial accounting and technology services for a period up to 12 months from the date the Transaction closes. AESC will provide call center and billing services for succeeding one year terms beginning on the date the Transaction closes and continuing until terminated by either party under the terms of the TSA. Allegheny seeks Commission authorization for AESC to provide these services.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3218 Filed 6–21–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51858; File No. SR–ISE–2005–26]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

June 16, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 19, 2005, the International Securities Exchange, Inc. (''ISE'' 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 ISE. On June 2, 2005, the ISE filed Amendment No. 1 to the proposed rule change and on June 13, 2005, the ISE filed Amendment No. 2 to the proposed rule change.[3] The ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act,[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on the Russell 1000 Index, the Russell 2000 Index, and the Mini Russell 2000 Index. The text of the proposed rule change is available on the ISE's Web site (*http://www.iseoptions.com/legal/proposed_rule_changes.asp*), at the principal office of the ISE, 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 ISE 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 ISE 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 ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on the Russell 1000 Index (''RUI''), the Russell 2000 Index (''RUT''), and the Mini Russell

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made a technical change to the text of Exhibit 5 of ISE's Form 19b–4 submission. The correction to Exhibit 5 does not affect the fees for transactions in options on the Russell 1000 Index, the Russell 2000 Index, and the Mini Russell 2000 Index, but only corrects the text of Exhibit 5 to reflect the Schedule of Fees language in effect on May 19, 2005. In Amendment No. 2, the ISE provided to the Commission a copy of the corrected version of Exhibit 5 that was modified by Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 7 CFR 240.19b–4(f)(2).

2000 Index (''RMN'').[6] Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on RUI, RUT and RMN.[7] The amount of the execution fee and comparison fee shall be the same for all order types on the Exchange—that is, orders for Public Customers, Market Makers, and Firm Proprietary—and shall be equal to the execution fee and comparison fee currently charged by the Exchange for Market Maker and Firm Proprietary transactions in equity options.[8] The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

The Exchange represents that it has entered into a license agreement with the Frank Russell Company in connection with the listing and trading of options on RUI, RUT, and RMN. As with certain other licensed options, the Exchange is adopting a surcharge fee of ten (10) cents per contract for trading in these options to defray the licensing costs. The Exchange believes that charging the participants that trade these instruments is the most equitable means of recovering the costs of the license. However, because of competitive pressures in the industry, the Exchange proposes to exclude Public Customer Orders [9] from this surcharge fee. Accordingly, this surcharge fee will only be charged to Exchange members with respect to non-Public Customer Orders (*e.g.*, Market Maker and Firm Proprietary orders) and shall apply to Linkage Orders [10] under a pilot program that is set to expire on July 31, 2005.

2. Statutory Basis

Thee Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act[11] that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change, as amended, establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[12] and Rule 19b–4(f)(2)[13] thereunder. At any time within 60 days of the filing of the amended 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.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2005–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–ISE–2005–26. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE.

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–ISE–2005–26 and should be submitted by July 13, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3238 Filed 6–21–05; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* Securities Exchange Act Release No. 51619 (Apr. 27, 2005), 70 FR 22947 (May 3, 2005) (File No. SR–ISE–2005–09) (order approving the trading of options on various Russell Indexes). The Commission notes that the term ''Mini'' Russell 2000 Index refers to options based upon one-tenth values of the Russell 2000 Index.

[7] The Exchange represents that these fees will be charged only to Exchange members.

[8] The execution fee is currently between $.21 and $.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently $.03 per contract side.

[9] Public Customer Order is defined in ISE Rule 100(a)(33) as an order for the account of a Public Customer. Public Customer is defined in ISE Rule 100(a)(32) as a person that is not a broker or dealer in securities.

[10] *See* ISE Rule 1900 (defining Linkage Orders). The Commission notes tha the surcharge fee will apply to the following Linkage Orders: Principal Acting as Agent (''P/A'') Orders and Principal Orders, for a pilot period currently set to expire on July 31, 2005.

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 19b–4(f)(2).

[14] The effective date of the original proposed rule change is May 19, 2005. The effective date of Amendment No. 1 is June 2, 2005 and the effective date of Amendment No. 2 is June 13, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on June 13, 2005, the date on which the ISE submitted Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

[15] 17 CFR 200.30–a(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51854; File No. SR–NASD–2005–065]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Nasdaq Market Center Rules for Trade Reporting of Exchange-Listed Securities

June 15, 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 May 20, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated the proposed rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is filing a proposed rule change to modify NASD Rule 6420(a)(3)(A) to open the Nasdaq Market Center for exchange-listed securities trade reporting at 8 a.m. (eastern time). The text of the proposed rule change is set forth below. Proposed new language is in *italics;* proposed deletions are in [brackets].[5]

* * * * *

6420. Transaction Reporting

(a) When and How Transactions are Reported.

(1) No Change.

(2) No Change.

(3)(A) All members shall report transactions in eligible securities executed outside the hours of 9:30 a.m. and 6:30 p.m. Eastern Time as follows:

[(i) by transmitting the individual trade reports to the Nasdaq Market Center on the next business day (T+1) between 8 a.m. and 6:30 p.m. Eastern Time;

(ii) by designating the entries ''as/of'' trades to denote their execution on a prior day; and]

(i) *Last sale reports of transactions in eligible securities executed between 8 a.m. and 9:30 a.m. Eastern Time shall be reported within 90 seconds after execution and shall be designated as ''.T'' trades to denote their execution outside normal market hours. Transactions not reported within 90 seconds shall also be designated as .T trades. Transactions not reported before 9:30 a.m. shall be reported after 4 p.m. and before 6:30 p.m. as .T trades.*

(ii) *Last sale reports of transactions executed between midnight and 8:00 a.m. Eastern Time shall be reported between 8 a.m. and 9:30 a.m. Eastern Time on trade date as ''.T'' trades. Transactions not reported before 9:30 a.m. shall be reported after 4 p.m. and before 6:30 p.m. as .T trades.*

(iii) *Last sale reports of transactions executed between 6:30 p.m. and midnight Eastern Time shall be reported on the next business day (T+1) between 8 a.m. and 6:30 p.m. Eastern Time and be designated ''as/of'' trades.*

([iii]*iv*) [by including the time of execution.] The party responsible for reporting on T+1, the trade details to be reported, and the applicable procedures shall be governed, respectively by paragraphs (b), (c), and (d) below.

(B) No Change.

(4)–(10) No Change.

(b)–(f) 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, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to modify NASD Rule 6420(a)(3) which governs reporting of transactions in exchange-listed securities that occur outside the hours of 9:30 a.m. and 6:30 p.m. Eastern Standard Time. Rule 6420(a)(3) currently provides that such trades shall be reported the next business day (T+1) on an ''as/of'' basis between the hours of 8 a.m. and 6:30 p.m. This delayed trade reporting deprives investors of relevant market information that is useful in making informed investment decisions.

Nasdaq is proposing that:

(1) Trades executed between 8 a.m. and 9:30 a.m. be reported within 90 seconds of execution;

(2) trades executed between midnight and 8 a.m. be reported that trade day between 8 a.m. and 9:30 a.m.; and

(3) trades executed between 6:30 p.m. and midnight be reported the next trade day (T+1) between 8 a.m. and 6:30 p.m. on an ''as/of'' basis.

This proposal would be beneficial to investors and market participants alike for several reasons. First, requiring that the trades be reported closer to the time of execution and that they be reported along with the time of execution would further the goals of the Act. Specifically, the current proposal would improve transparency by reporting trades executed between 8 a.m. and 9:30 a.m. and hastening the reporting of trades and thereby increasing the likelihood that trades executed pre-market and after-hours will be closer to the prevailing market prices at the time they are reported. Such trades that are away from the prevailing market due to a delay in their reporting would be appropriately modified to alert the public to that delay.

The proposed rule change would eliminate the confusion and burden created by having different trade reporting obligations for different securities. The proposal would impose the same reporting obligations for transactions in exchange-listed securities that currently exist for transactions in Nasdaq-listed securities reported to the Nasdaq Stock Market and the NASD Alternative Display Facility, and for transactions in non-Nasdaq over-the counter securities.[6] By bringing NASD Rule 6420(a) into line with other existing obligations, Nasdaq would eliminate confusion that currently exists without imposing any additional burden on NASD members.

In fact, Nasdaq planned to make this precise change to exchange-listed transaction reporting in 2003 but inadvertently failed to include it in a rule proposal.[7] The 2003 Proposal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The proposed rule change is marked to show changes from the rule text appearing in the NASD Manual available at *http://www.nasd.com.*

[6] *See* NASD Rules 5430(a) and 6620(a).

[7] *See* Securities Exchange Act Release No. 49581 (April 19, 2004); 69 FR 22578 (April 26, 2004) (SR–NASD–2003–159) (''2003 Proposal'').

amended NASD Rules 5430, 6420, and 6620 to, among other things, change the reporting obligations for trades executed outside the hours of 8 a.m. and 6:30 p.m. The 2003 Proposal specifically amended the after-hours trade reporting obligations with respect to Nasdaq-listed and non-Nasdaq over-the-counter securities and should have similarly amended the obligations with respect to exchange-listed securities. The 2003 Proposal did accomplish part of that goal, amending the obligations with respect to trades executed between 4 p.m. and 6:30 p.m., but inexplicably failed to do so for the period between 6:30 p.m. and 9:30 a.m.

Implementation of the changes set forth in the 2003 Proposal was delayed pending further action by the Operating Committee of the Consolidated Tape Association which was recently completed. When Nasdaq announced the implementation of those changes set forth in the 2003 Proposal,[8] questions arose regarding market participants' obligations with respect to trades executed between 6:30 p.m. and 9:30 a.m. of the next day. Nasdaq has determined that modifying NASD Rule 6420(a) to conform to NASD Rules 5430 and 6620 would address those questions and alleviate any confusion that exists.

To ensure that market participants have adequate opportunity to prepare for this rule change, Nasdaq would make the proposed change effective on June 27, 2005. In addition, firms would have until September 1, 2005, before compliance with the rule would be mandatory. In the interim, firms would be permitted to report trades under the current rule or under the rule as modified in this proposal.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[9] in general, and with Section 15A(b)(6) of the Act,[10] in particular, in that Section 15A(b)(6) requires that the NASD's rules to be designed, among other things, to protect investors and the public interest. Nasdaq believes that its current proposal is consistent with the NASD's obligations under these provisions of the Act because it would improve transparency and price discovery by providing additional, timely last sale information. Nasdaq believes that the proposed rule change also would enhance competition with other markets that are open for pre-market trading at this time.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2005–065 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9309.

All submissions should refer to File Number SR–NASD–2005–065. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–065 and should be submitted on or before July 13, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3220 Filed 6–21–05; 8:45 am]

BILLING CODE 8010–01–P

[8] *See* Nasdaq Head Trader Alert #2005–042, dated April 22, 2005.

[9] 15 U.S.C. 78*o*–3.

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). The Commission notes that Nasdaq provided written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51853; File No. SR–Phlx–2005–41]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Providing an Electronic, Auditable Means of Receiving Orders and Cancels to Those Orders

June 15, 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 June 9, 2005, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. The Exchange filed the proposed rule change as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act,[3] 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 Phlx proposes to create a new system to accept and route orders in System Eligible Securities (defined below) to a receiving member organization (*i.e.,* a floor broker) on the Equity Floor (and in the case of Remote Specialists, only orders in their specialty securities) from sending member organizations (*i.e.,* an order flow provider) who utilize an electronic, commercial order routing system.[4] In addition, the new system would allow the receiving member organization to send execution or cancel reports for those orders back to the sending member organization.

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 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 Phlx 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, Proposed Rule Change

1. Purpose

The Exchange represents that the purpose of the proposed rule change is to assist receiving member organizations (*i.e.,* floor brokers) on the Exchange's Equity Floor by providing an electronic, auditable means of receiving orders and cancels to those orders from sending member organizations (*i.e.,* order flow providers).[5] To accomplish this, the Phlx proposes to create a new system for receiving member organizations to receive orders from sending member organizations through an electronic, commercial order routing system (the Exchange's system hereinafter called the ''Order Routing System'' or ''ORS''). The Phlx intends that this Order Routing System will provide an opportunity for receiving member organizations and sending member organizations to accomplish order delivery by means of this new electronic system as an alternative to using the telephone.[6] The Exchange proposes that the ORS would receive orders and present them to the receiving member organization to which they were directed, but would perform no execution of the orders, nor would it interface with PACE, the Exchange's automated order routing, delivery, execution and reporting system for equities.

The ORS would allow a sending member organization to route orders to the receiving member organization in any equity security listed or traded pursuant to unlisted trading privileges[7] on the Exchange[8] (''System Eligible Security''). The orders delivered to the receiving member organization would be available for handling by such receiving member organization. Once in receipt of the order, the receiving member organization could either seek execution for the order on the Phlx or in another venue. The ORS itself would not provide any execution, tape reporting, or clearing[9] functionality. If the receiving member organization would seek to execute an ORS-delivered order on the Phlx, that receiving member organization would need to follow all applicable rules on the Phlx to seek an execution, including the rules of priority, parity and precedence and the creation of an order ticket representing that order.

The ORS would receive the following order types: Market, limit, stop, stop limit and market on close. The ORS would provide the receiving member organization the capacity to report the execution of an order received by the ORS back to the sending member organization that sent the order. In addition, when a receiving member organization receives a cancel to a previously received order, the receiving member organization would need to respond to that cancel with an acknowledgement of the cancel or with a message that it is too late to cancel and an execution report or some combination thereof.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(5) of the Act[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the ORS would provide receiving member organizations that use the system with an electronic record of order receipts and execution or cancel reports sent to sending member organizations relating to those orders or reports. Therefore, the Phlx believes that the ORS could serve as an

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Examples of electronic, commercial order routing system include Lava, BRASS and Macgregor.

[5] Receiving member organizations that are Remote Specialists pursuant to Phlx Rule 461 may receive orders only in securities in which the Remote Specialist is a specialist because of the prohibition in Phlx Rule 461 against remote floor brokerage.

[6] The Exchange notes that receiving member organizations may continue to receive orders from sending member organizations by telephone. This proposed rule change is intended to provide an additional method for receiving member organizations to receive orders.

[7] Unlisted trading privileges are granted to the Exchange under Section 12(f) of the Act. 15 U.S.C. 78l(f).

[8] This is subject to the limitation on Remote Specialists described in note 5, *supra.*

[9] While the ORS would not provide any clearing functionality itself, receiving member organizations may indicate on the electronic form used to report executions to sending member organizations that a copy of this information be sent to the appropriate accounts at the Stock Clearing Corporation of Philadelphia for clearing purposes. Receiving member organization using this copy of the electronic form would have an opportunity to experience more efficient operations and reduce the risk of error by eliminating the need to enter the same information more than once.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

audit trail and would assist the receiving member organizations in maintaining their required books and records for regulatory purposes and for their own internal management and billing purposes.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[14] However, Rule 19b–4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has satisfied the five-day filing requirement. In addition, the Exchange has requested that the Commission waive the 30-day pre-operative delay and designate the proposed rule change to become operative on June 30, 2005. The Commission believes that waiving the 30-day pre-operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange and its member organizations to realize the regulatory and operational benefits of this functionality more expeditiously. For the reasons stated above, the Commission designates the proposal to become effective immediately and operative on June 30, 2005.[16]

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 the 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–Phlx–2005–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9309.

All submissions should refer to File Number SR–Phlx–2005–41. 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, 100 F Street, NE., Washington, DC 20549. 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–2005–41 and should be submitted on or before July 13, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3219 Filed 6–21–05; 8:45 am]

BILLING CODE 8010–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *Id.*

[16] For purposes of accelerating the operative date of this proposal only, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10129]

Massachusetts Disaster # MA–00002 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Massachusetts, dated 6/14/2005.

Incident: Outbreak of Red Tide.

Incident Period: 4/01/2005 and continuing.

DATES: *Effective Date:* 6/14/2005.

EIDL Loan Application Deadline Date: 3/14/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration on 6/14/2005, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Barnstable, Essex, Nantucket, Plymouth

Contiguous Counties: Massachusetts, Bristol, Dukes, Middlesex, Norfolk, Suffolk

New Hampshire

Hillsborough, Rockingham

The Interest Rate is: 4.000

The number assigned to this disaster for economic injury is 101290.

The States which received EIDL Decl # are Massachusetts and New Hampshire.

(Catalog of Federal Domestic Assistance Numbers 59002.)

Dated: June 14, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–12252 Filed 6–21–05; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; as Amended; New System of Records and New Routine Use Disclosures

AGENCY: Social Security Administration (SSA).

ACTION: Proposed new system of records and proposed routine uses; Correction.

SUMMARY: The Social Security Administration published a document in the **Federal Register** on June 14, 2005, establishing a new system of records, the National Docketing Management Information System. The document contained an error in the system number.

FOR FURTHER INFORMATION CONTACT: Ms. Joyce Schaul, Social Insurance Specialist, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, email address at *joyce.schaul@ssa.gov*, or by telephone at (410) 965–5662.

Correction: In the **Federal Register** of Tuesday, June 14, 2005, in FR Doc. 05–11745, on page 34517, in the second column, ''SYSTEM NUMBER: 60–0318'' should read ''SYSTEM NUMBER: 60–328''.

Dated: June 15, 2005.

Vincent A. Dormarrund,

Deputy Executive Director, Office of Public Disclosure, Office of the General Counsel, Social Security Administration.

[FR Doc. 05–12243 Filed 6–21–05; 8:45 am]

BILLING CODE 4191–02–M

DEPARTMENT OF STATE

[Public Notice 5069]

Announcement of Meetings of the International Telecommunication Advisory Committee

Summary: The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on policy and technical issues with respect to the International Telecommunication Union (ITU). The purpose of these meetings is to prepare for the Americas Regional Preparatory Meeting for the World Telecommunication Development Conference (WTDC–06), which will take place in Lima, Peru from August 9–11, 2005.

An ITAC meeting will be held on Thursday, July 7, 2005, at the State Department from 10 am to 12 pm to begin preparations for the meeting of the Americas Regional Preparatory Meeting for the ITU World Telecommunication Development Conference. Four additional meetings are scheduled to prepare for this Regional Preparatory Meeting on July 14, July 21, July 28 and August 4; all will be held from 10 am to 12 pm at the Department of State in Room 2533A.

Members of the public may attend these meetings and are welcome to participate in the discussions, subject to the discretion of the Chair. Directions to meeting location may be determined by calling the ITAC Secretariat at (202) 647–2592. Entrance to the State Department is controlled; in order to get precleared for each meeting, people planning to attend should send an email to Nettie McCorkle at *mccorklend@state.gov* no later than 48 hours before the meeting. This email should include the name of the meeting and date of meeting, your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission to the State Department : U.S. driver's license, passport, U. S. Government identification card. Enter the Department of State from the C Street lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Dated: June 16, 2005.

Anne Jillson,

Foreign Affairs Officer, International Communications and Information Policy, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 05–12338 Filed 6–21–05; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 5116]

Notice of Receipt of Application for a Presidential Permit for Pipeline Facilities to be Constructed, Operated and Maintained on the Border of the United States

AGENCY: Department of State, Office of International Energy and Commodities Policy.

ACTION: Notice.

Notice is hereby given that the Department of State has received an application from Valero Logistics Operations, L.P. (Valero) for a Presidential permit, pursuant to Executive Order 13337 of April 30, 2004, authorizing the construction, connection, operation, and maintenance at the U.S.-Mexican border in the vicinity of Hidalgo, Texas of a liquid pipeline capable of carrying naphtha, and related pipeline facilities.

Valero is a corporation organized and existing under the laws of the State of Texas and with its principal office located in San Antonio, Texas. The proposed new 8-inch diameter pipeline would originate at an existing Valero pipeline system in Edinburg, Texas and cover approximately 34 miles, crossing under the Rio Grande River and terminating at a new pipeline that will be constructed, owned and operated by Petroleos Mexicanos (PEMEX), the Mexican national oil company. It is anticipated that initial contract deliveries of naphtha to Edinburg will be 24,000 barrels (one million gallons) per month.

As required by E.O. 13337, the Department of State is circulating this application to concerned federal agencies for comment.

DATES: Interested parties are invited to submit, in duplicate, comments relative to this proposal on or before July 22, 2005 to Pedro Erviti, Office of International Energy and Commodities Policy, Department of State, Washington, DC 20520. The application and related documents that are part of the record to be considered by the Department of State in connection with this application are available for inspection in the Office of International Energy and Commodities Policy during normal business hours.

FOR FURTHER INFORMATION CONTACT: Pedro Erviti, Office of International Energy and Commodities Policy (EB/ESC/IEC/EPC), Department of State, Washington, DC 20520; by telephone at (202) 647–1291; by fax at (202) 647–4037; or by e-mail at *ervitipg@state.gov*.

Dated: June 15, 2005.

Stephen J. Gallogly,

Director, Office of International Energy and Commodities Policy, Department of State.

[FR Doc. 05–12339 Filed 6–21–05; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 23.1311–1B, Installation of Electronic Display in Part 23 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23.1311–1B, Installation of Electronic Display in Part 23 Airplanes. This AC sets forth acceptable methods of compliance with the provisions of 14 CFR part 23 applicable to installing electronic displays in part 23 airplanes. This notice is necessary to advise the public of the availability of the AC.

DATES: Advisory Circular 23.1311–1B was issued by the Acting Manager of the Small Airplane Directorate on June 14, 2005.

How to Obtain Copies: A paper copy of AC 23.1311–1B 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 Ave., 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.faa.gov/aircraft/* under the ''Regulations & Policies'' tab.

Issued in Kansas City, Missouri on June 14, 2005.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12373 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Gerald R. Ford International Airport; Grand Rapids, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of a parcel of land totaling approximately 5.76 acres. Current use and present condition is vacant grassland. The parcel is hilly and partially wooded. The land was acquired under FAA Project No. 9–20–072–6001. There are no impacts to the airport by allowing the airport to dispose of the property. The proposal concerns selling the land to the Michigan Department of Transportation to provide a right-of-way for the proposed Interstate-96 interchange with 36th Street. The project will improve traffic flow to areas along the northern boundary of the airport. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence C. King, Project Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO 607, 11677 South Wayne Road, Romulus, Michigan 48174. Telephone Number (734) 229–2933/ FAX Number (734) 229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Gerald R. Ford International Airport, Grand Rapids, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Grand Rapids, Kent County, Michigan, and described as follows:

Parcel 34B1

Land located in Cascade Township, Kent County, described as: Commencing at the South ¼ corner of Section 17, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan; thence North 0° 54′ 01″ West, along the North-South ¼ line of said Section, 408.58 feet to a point on the existing Southwesterly limited access right of way line of Highway I–96 (said right of way line located 150 feet Southwesterly of and parallel with the survey centerline of Eastbound Highway I–96); thence Northwesterly along said Southwesterly right of way line of Highway I–96 along the arc of a 3969.74 foot radius curve to the right, 81.61 feet (chord bearing North 55° 52′ 34″ West, chord distance 81.61 feet) to the POINT OF BEGINNING; thence South 75° 53′ 30″ West, 129.74 feet; thence Southerly along the arc of a 1240.00 foot radius curve to the left, 253.00 feet (chord bearing South 18° 10′ 46″ West, chord distance 252.56 feet) to the point of tangency of said curve; thence South 12° 20′ 04″ West, 353.50 feet to a point on the Northerly right of way lien of 36th Street (120′ wide); thence North 77° 39′ 56″ West along said Northerly right of way line of 36th Street, 320.00 feet; thence North 12° 20′ 04″ East, 353.50 feet to the point of curvature of a 1560.00 foot radius curve to the right; thence Northerly along the arc of said curve, 436.97 feet (chord bearing North 20° 21′ 32″ East, chord distance 435.55 feet) to a point on the South line of the plat of Kraft Industrial Park, as recorded in Liber 83 of plats, Page 30, Kent County Register of Deeds; thence in an Easterly direction along said South line of the plat of Kraft Industrial Park 95.17 feet to a point on said existing Southwesterly limited access right-of-way line of Highway I–96, thence Southeasterly along said Southwesterly limited access right-of-way line to the point of beginning.

Total acres to be released are 5.76, more or less.

Issued in Romulus, Michigan on May 24, 2005.

Irene R. Porter,

Manager, Detroit Airports District Office FAA, Great Lakes Region.

[FR Doc. 05–12374 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Request to Release Airport Property at the Snohomish County Airport/Paine Field, Everett, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Request to Release Airport Property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at Snohomish County Airport/Paine Field under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before July 25, 2005.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. J. Wade Bryant, Manger; Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office; 1601 Lind Avenue, SW., Suite 250; Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dave Waggoner, Airport Director: Snohomish County Airport (Paine Field), 3220–100th Street, SW., Everett, Washington 98204–1390.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Winter, Project Manager, Federal Aviation Administration; Northwest Mountain Region; Airports Division; Seattle Airports District Office; 1601 Lind Avenue, SW., Suite 250; Renton, Washington 98055–4056. The request to release property may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Snohomish County Airport/Paine Field under the provisions of the AIR 21.

One June 6, 2005, the FAA determined that the request to release property at Snohomish County Airport/Paine Field submitted by the county met the procedural requirements of the Federal Aviation Regulations, Part 155. The FAA may approve the request, in whole or in part, no later than July 31, 2005.

The following is a brief overview of the request:

The Snohomish County Airport/Paine Field requests the release of 0.99 acres of non-aeronautical airport property to the Snohomish County Public Works Department. The purpose of this release is to transfer ownership to the Public Works Department for expansion of the existing Beverly Park Road, the major arterial on the southeasterly side of the airport running from Airport Road to State Route 525. Snohomish County, a political subdivision of the State of Washington, on behalf of the Snohomish County Airport at Paine Field requests the release from the terms, conditions, reservations, and restrictions imposed upon the property deeded to the Airport by the United State or America, and the release of the subject property from any assurances of the County as sponsor as contained in the Surplus Property Act of 1944 and any FAAP, ADAP, or AIP grant agreement. The release of the property will benefit the users of the airport as it will reduce traffic congestion in the immediate vicinity of the airport. In addition, revenue generated from the sale will be applied to offset the costs incurred by the airport for the General Aviation Corporate Terminal Apron Project.

Any person may, upon request, inspect the request in person at the Federal Aviation Administration; Northwest Mountain Region; Airports Division; Seattle Airports District Office; 1601 Lind Avenue, SW., Suite 250; Renton, Washington 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Snohomish County Airport, 3220–100th Street, SW., Everett, Washington 98204–1390.

Issued in Renton, Washington on June 15, 2005.

Carol A. Key,

Acting Manger, Seattle Airports District Office.

[FR Doc. 05–12372 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Two Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on two currently approved public information collections which will be submitted to OMB for renewal.

DATES: Comments must be received on or before August 22, 2005.

ADDRESSES: Comments may be mailed or delivered to the FAA at the following address: Ms. Judy Street, Room 613, Federal Aviation Administration, Information Systems and Technology Services Staff, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, 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. Therefore, the FAA solicits comments on the following current collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of the burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of the collection in preparation for submission to renew the clearances of the following information collections.

1. 2120–0648: Certification: Airmen Other Than Flight Crewmembers—Part 65; Aircraft Dispatches—Subpart C; and Aircraft Dispatcher Courses—Appendix A. The respondents to this information collection will be FAR Part 135 and Part 121 operators. The FAA will use the information to ensure compliance and adherence to the regulations. The current estimated annual reporting burden is 4,679 hours.

2. 2120–0649: Financial Responsibility Requirements for Licensed Reentry Activities. Information to be collected supports FAA in determining the amount of required liability insurance for a reentry operator after examining the risk associated with a reentry vehicle, its operational capabilities, and its designated reentry site. The current estimated annual reporting burden is 1,305 hours.

Issued in Washington, DC, on June 9, 2005.

Judith D. Street,

FAA Information Systems & Technology Services Staff, ABA–20.

[FR Doc. 05–12124 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), 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 extension of the currently approved collection. The ICR describes the nature of the information collection and the

expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 9, 2005, pages 11725–11726.

DATES: Comments must be submitted on or before July 22, 2005. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Protection of Voluntarily Submitted Information.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0646.

Form(s) NA.

Affected Public: A total of 10 respondents.

Abstract: The rule regarding the protection of voluntarily submitted information acts to ensure that certain non-required information offered by air carriers will not be disclosed. The respondents apply to be covered by this program by submitting an application letter notifying the Administrator that they wish to participate.

Estimated Annual Burden Hours: An estimated 5 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates 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.

Issued in Washington, DC on June 16, 2005.

Judith D. Street,

FAA Information Systems and Technology Services, ABA–20.

[FR Doc. 05–12364 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Federal Aviation Administration Policy for Certification of New-Production Military-Derived Aircraft in Restricted Category

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of policy and request for public comment.

SUMMARY: This notice announces the Federal Aviation Administration (FAA) policy for the type certification of new-production military-derived aircraft in restricted category as allowed by Title 14 of the Code of Federal Regulations (14 CFR) 21.25(a)(2) and 21.185(a).

DATES: Comments must be received on or before July 22, 2005.

ADDRESSES: Send all comments on this policy to: Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Certification Procedures Branch, AIR–110, Room 815, 800 Independence Avenue, SW., Washington, DC 20591, ATTN: Mr. Graham Long. You may also deliver comments to the address above, or via e-mail to: *9-AWA-AIR110-GNL2@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Graham Long, AIR–110, Room 815, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, AIR–110, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–3715, FAX: (202) 237–5340, or e-mail: *9-AWA-AIR110-GNL2@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the policy by submitting written data, views, or arguments to the above address. Comments received on the policy may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all communications received on or before the closing date before issuing the final Notice.

Background

Interested parties have approached us requesting approval of new-production, military-derived aircraft for use in restricted category special purpose operations. Those interested parties are seeking to have these new-production, military-derived aircraft eligible for U.S. civil airworthiness certification without passing through the military acquisition system. Note, under current regulations, new-production military-derived aircraft are eligible for an airworthiness certificate in restricted category (See 14 CFR 21.185(a)) provided:

(1) They are of a type having met the requirements of 14 CFR 21.25(a)(2);

(2) Are manufactured by the original manufacturer of the type for the U.S. Armed Forces (or its licensee); and

(3) Are manufactured under a Federal Aviation Administration (FAA) production approval (see generally 14 CFR part 21, Subpart G-Production Certificates).

The availability of new-production military-derived aircraft enables newer military-derived aircraft, with the original equipment manufacturers' (OEM) technical support, to operate in place of older military surplus aircraft currently being used.

How To Obtain Copies

You may get a copy of the proposed policy statement from the Internet at: *http://www.faa.gov/Certification/Aircraft/DraftDoc/Comments.htm,* by selecting Draft Policy Memos. You may also request a copy from Mr. Graham Long. See the section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address.

Issued in Washington, DC, on June 15, 2005.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–12377 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Compatibility Program Notice; Georgetown Municipal Airport, Georgetown, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the city of Georgetown under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On January 26,

2004, the FAA determined that the noise exposure maps submitted by the city of Georgetown under Part 150 were in compliance with applicable requirements. On May 27, 2005, the FAA approved the Georgetown Municipal Airport noise compatibility program. Most of the recommendations of the program were approved.

DATES: *Effective Date:* The effective date of the FAA's approval of the Georgetown Municipal Airport noise compatibility program is May 27, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Blackford, Environmental Specialist, Federal Aviation Administration, Texas Airports Development Office, ASW–650, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0650. Telephone (817) 222–5607. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the Georgetown Municipal Airport, effective May 27, 2005.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use an management of the navigable airspace and air traffic control system, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA regional office in Fort Worth, Texas.

The city of Georgetown submitted to FAA on December 19, 2003, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from May 30, 2001, through June 3, 2004. The Georgetown Municipal Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on January 26, 2004. Notice of this determination was published in the **Federal Register** on February 19, 2004.

The Georgetown Municipal Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from June 3, 2004, to the year 2013. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on November 20, 2004, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

This submitted program contained twenty (20) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA, effective May 27, 2005.

Outright approval was granted for twelve (12) of the specific program elements. Six (6) elements were disapproved, one (1) element was partially approved and one (1) required no action. Disapproved elements included: Encourage Departing Aircraft To Use Best Rate of Climb; Encourage Aircraft to Begin Departure From the Runway; Avoid Prolonged Run-Ups and Perform As Near the Center of The Airport As Possible; Continue Use of NBAA Standard Noise Abatement Departure Procedures; and, Maintain Right-hand Traffic Pattern on Runway 36.

Analysis did not demonstrate the preceding measures noise benefits and thus were disapproved for purposes of Part 150. Disapproval does not prohibit the airport sponsor from continuing the actions or alternatively resubmission of the measures with supplemental information for FAA approval. Additionally, the measure to Designate Runway 11 as the Preferential Nighttime Runway for Departures was disapproved because it was inconsistent with efforts to reduce runway incursions and did not satisfy approval criteria under 14 CFR Part 150. Approved measures included sound insulation of twenty-seven (27) homes within the 2008 65 DNL Noise contour as well as those measures contained in the Land Use Planning Element (four (4) measures, one (1) approved in part) and the Program Management Element (four (4) measures).

These determinations are set forth-in detail in a Record of Approval signed by the Associate Administrator for Airports, ARP–1, on May 27, 2005. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Georgetown Municipal Airport. The Record of Approval also will be available on-line at: *http://www.faa.gov/*

arp/environmental/14cfr150/index14.cfm.

Issued in Fort Worth, Texas, June 14, 2005.

Kelvin L. Solco,

Manager, Airports Division.

[FR Doc. 05–12376 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Determination of Compliance of the Noise Exposure Maps and Receipt and Request for Review of Noise Compatibility Program at Northwest Arkansas Regional Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Northwest Arkansas Regional Airport Authority for Northwest Arkansas Regional Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Northwest Arkansas Regional Airport under part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before December 4, 2005.

DATES: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is June 7, 2005. The public comment period ends August 6, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Tandy, Federal Aviation Administration, ASW–630, Fort Worth, TX 76193–0630; telephone number 817–222–5635. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces the FAA finds the noise exposure maps submitted for Northwest Arkansas Regional Airport are in compliance with applicable requirements of part 150, effective June 7, 2005. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before December 4, 2005. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C. 47503 (the Aviation Safety and Noise Abatement Act, hereinafter referred to as the ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interest and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

Northwest Arkansas Regional Airport Authority submitted to the FAA on May 25, 2005, noise exposure maps, descriptions and other documentation that were produced during Northwest Arkansas Regional Airport Part 150 Study, May 2005. It was requested the FAA review this material as the noise exposure maps, as described in section 46503 of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Northwest Arkansas Regional Airport Authority. The specific documentation determined to constitute the noise exposure maps includes the following from the May 2005 14 CFR part 150 Noise Study: Figure A2, Existing Airport Layout; Figure A3, Generalized Existing Land Use; Figure C10, Noise Monitoring Locations with Existing Land Use; Figure C18, Arrival/Departure Flight Tracks with Existing Land Use; Figure C24, Existing (2002) Noise Exposure Map; Figure C25, Future Base Case Noise Contours (2008) with Existing Land Use; Figure F1, Future (2008) DNL Noise Contours with Existing Land Use; Figure F2, Future (2020) DNL Noise Contours with Existing Land Use; Figure G1, Future (2008) Noise Exposure Map; Figure G2, Future (2020) DNL Noise Contours with Existing Land Use; Table A1, Summary of Historical Operations, 1990–2001; Table A2, Instrument Approach Procedures; Table B1, Historical Aviation Activity, 1990–2000; Table B2, Existing Operations by Aircraft Type, 2000; Table B4, Commercial Service Operations Forecast, 2000–2020; Table B5, General Aviation Operations Forecast Scenarios, 2000–2020; Table B6, Military Operations Forecast, 2000–2020; Table B7, Summary of Operations Forecast by Aircraft Type, 2000–2020; Table B8, Summary of Local and Itinerant Operations, 2000–2020; Table B9, Peak, Period Aircraft Operations, 2000–2020; Table B10, Based Aircraft Forecast Scenarios, 2000–2020; Table B11, Based Aircraft Forecast by Type, 2000–2020; Table B12, Summary of Aviation Activity Forecasts, 2000–2020; Table C2, Summary of Noise Measurement Survey; Table C3, Ambient Noise Levels in dB (A) by Monitoring Site; Table C4, Average Daily Departures by Aircraft Type; Table C6, ATC Tower Counts by Aircraft Class and Month; Table C7, Commercial Aircraft Types by Airline and Origin/Destination; Table C8, Existing Annual Operations by Aircraft Type and Time of Day; Table C9, Forecast of Operations, 2008; Table F1, Contour Comparison for Each Modeled Alternative; Chapter I, Consultation; Appendix One, Additional Noise Information.

The FAA has determined these maps for Northwest Arkansas Regional Airport are in compliance with applicable requirements. This determination is effective on June 7, 2005. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or constitute a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to a noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resole questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities

are not changed in any way under Part 150 or through the FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Northwest Arkansas Regional Airport, also effective on June 7, 2005. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before December 4, 2005.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure map, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Arkansas/Oklahoma Airports Development Office, Room 695, 2601 Meacham Boulevard, Fort Worth, TX 76137–4298; Kelly L. Johnson, Airport Director, Northwest Arkansas Regional Airport, Alice L. Walton Terminal Building, One Airport Boulevard, Suite 100, Bentonville, AR 72712.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Forth Worth, Texas, June 7, 2005.

Kelvin L. Solco,

Manager, Airports Division.

[FR Doc. 05–12375 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Monday, July 11, 2005 through Thursday, July 14, 2005, from 9 a.m. to 4:30 p.m. each day.

ADDRESSES: The meeting will be held at the University of Alaska Anchorage, Aviation Technology Center, 2811 Merrill Field Drive, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen P. Creamer, Executive Director, ATPAC, System Operations and Safety, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9205.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held Monday, July 11, 2005 through Thursday, July 14, 2005, from 9 a.m. to 4:30 p.m. each day.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify the person listed above not later than July 1, 2005. The next quarterly meeting of the FAA ATPAC is planned to be held from October 3–5, 2005, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Dated: June 13, 2005.

Stephen Creamer,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 05–12379 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Revision: Technical Standard Order (TSO)—C128a, Equipment That Prevent Blocked Channels Used in Two-Way Radio Communications Due to Unintentional Transmission; Correction

AGENCY: Federal Aviation Administration DOT.

ACTION: Notice of availability and request for public comment; correction

SUMMARY: The Federal Aviation Administration published a document in the **Federal Register** on June 3, 2005, concerning Technical Standard Order (TSO) C–128a, Equipment That Prevent Blocked Channels Used in Two-way Radio Communications Due to Unintentional Transmissions. The document contains an incorrect Internet address for the retrieval of the TSO.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Mustach, AIR–130, Room 815, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (425) 227–1935, FAX: (425) 227–1181. Or, via e-mail at: *thomas.mustach@faa.gov.*

Correction

In the **Federal Register** of June 3, 2005, in FR Doc. 05–11115, on page 32699, in the third column, correct the Internet address listed under ''How To Obtain Copies'' to read:

How To Obtain Copies

You may get a copy of the proposed TSO from the Internet at: *http://www.airweb.gov/rgl.* See section entitled **FOR FURTHER INFORMATION CONTACT** for

the complete address if requesting a copy by mail. You may inspect the RTCA document at the FAA office location listed under **ADDRESSES.** Note however, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc. You may purchase copies of RTCA, Inc. documents from: RTCA, Inc. 1828 L Street, NW., Suite 815, Washington, DC 20036, or directly from their Web site: *http://www.rtca.org/.*

DATES: Submit comments on or before July 22, 2005.

Issued in Washington, DC, on June 13, 2005.

Susan J. M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–12123 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Revision: Technical Standard Order (TSO)—C122a, Equipment that Prevent Blocked Channels Used in Two-Way Radio Communications Due to Simultaneous Transmissions; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability and request for public comment; correction.

SUMMARY: The Federal Aviation Administration published a document in the **Federal Register** on June 3, 2005, concerning Technical Standard Order (TSO) C–122a, Equipment That Prevent Blocked Channels Used in Two-Way Radio Communications Due to Simultaneous Transmissions. The document contains an incorrect Internet address for the retrieval of the TSO.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Mustach, AIR–130, Room 815, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (425) 227–1935, FAX: (425) 227–1181. Or, via e-mail at: *thomas.mustach@faa.gov*.

Correction

In the **Federal Register** of June 3, 2005, in FR Doc. 05–11114, on page 32699, first column, correct the Internet address listed under ''How To Obtain Copies'' to read:

How To Obtain Copies

You may get a copy of the proposed TSO from the Internet at: *http://www.airweb.gov/rgl.* See section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address if requesting a copy by mail. You may inspect the RTCA document at the FAA office location listed under **ADDRESS**. Note however, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc. You may purchase copies of RTCA, Inc. documents from: RTCA, Inc., 1828 L Street, NW., Suite 815, Washington, DC 20036, or directly from their Web site: *http://www.rtca. org/.*

Issued in Washington, DC, on June 13, 2005.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–12125 Filed 6–21–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34712]

The Kansas City Southern Railway Company—Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant non-exclusive, temporary overhead trackage rights to The Kansas City Southern Railway Company (KCS) over BNSF's line of railroad between milepost 307.5, in Neosho, MO, and milepost 3.5X, at Murray Yard, in Kansas City, MO, a distance of approximately 229.1 miles.

The transaction was scheduled to be consummated on June 14, 2005, and the temporary rights will expire on July 21, 2005. The purpose of the temporary rights is to allow KCS to bridge its train service while KCS's main lines are out of service due to certain programmed track, roadbed and structural maintenance.

As a condition to this exemption, any employees affected by the acquisition of the temporary rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34712, 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 William A. Mullins, Baker and Miller, PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: June 15, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–12193 Filed 6–21–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 8, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW. Washington, DC 20220.

Dates: Written comments should be received on or before July 22, 2005 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1919.

Form Number: IRS Form 12854.

Type of Review: Extension.

Title: Prior Government Service Information.

Description: Form 12854 is used to record prior government service, annuitant information and to advice on probationary periods.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 24,813.

Estimated Burden Hours Respondent/Recordkeeper: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 6,203 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428.Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–12324 Filed 6–21–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 14, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 22, 2005 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0173.

Form Number: IRS Form 4563.

Type of Review: Extension.

Title: Exclusion of Income for Bona Fide Residents of American Samoa.

Description: Form 4563 is used by bona fide residents of American Samoa whose income is from sources within American Samoa, Guam, and the Northern Mariana Islands to the extent specified in Internal Revenue Code (IRC) section 931. This information is used by the IRS to determine if an individual is eligible to exclude possession source income.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 100.

Estimated Burden Hours Respondent/ Recordkeeper:

Recordkeeping—33 min.

Learning about the law or the form—7 min.

Preparing the form—25 min.

Copying, assembling, and sending the form to the IRS—17 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 174 hours.

OMB Number: 1545–0256.

Form Number: IRS Forms 941c and 941cPR.

Type of Review: Extension.

Title: Form 941c: Supporting Statement to Correct Information.

Form 941cPR: Planilla Para La Correccion de Informacion.

Description: Used by employers to correct previously reported FICA or income tax data. It may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund, credit, or adjustment of FICA or income tax.

Respondents: Business or other for-profit, not-for-profit institutions, State, local or tribal government.

Estimated Number of Respondents/ Recordkeepers: 958,050.

Estimated Burden Hours Respondent/ Recordkeeper:

	Form 941c	Form 941cPR
Recordkeeping	8 hr., 51 min..	7 hr., 24 min.
Learning about the law or the form.	6 min.	6 min.
Preparing the form	15 min. ...	15 min

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 8,729,307 hours.

OMB Number: 1545–1204.

Form Number: IRS Form 8823.

Type of Review: Extension.

Title: Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition.

Description: Form 8823 is used by housing agencies to report noncompliance with the low-income housing provisions of Code section 42.

Respondents: State, local or tribal government.

Estimated Number of Respondents/ Recordkeepers: 20,000.

Estimated Burden Hours Respondent/ Recordkeeper:

Recordkeeping—7 hr., 39 min.

Learning about the law or the form—2 hr., 52 min.

Preparing and sending the form to the IRS—3 hr., 7 min,

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 273,200 hours.

OMB Number: 1545–1435.

Regulation Project Number: EE–45–93 Final.

Type of Review: Extension.

Title: Electronic Filing of Form W–4.

Description: Information is required by the Internal Revenue Service to verify compliance with section 31.3402(f)(2)–1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Respondents: Business or other for-profit, not-for-profit institutions, Federal Government, State, local or tribal government.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Respondent: 20 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 40,000 hours.

OMB Number: 1545–1485.

Regulation Project Number: PS–4–96 Final.

Type of Review: Extension.

Title: Sale of Residence from Qualified Personal Residence Trust.

Description: Internal Revenue Code section 2702(a)(3) provides special favorable valuation rules for valuing the gift of a personal residence trust. Regulation section 25.2702–5(a)(2) provides that if the trust fails to comply with the requirements contained in the regulations, the trust will be treated as complying if a statement is attached to the gift tax return reporting the gift stating that a proceeding has been commenced to reform the instrument to comply with the requirements of the regulations.

Respondents: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Respondent: 3 hours, 7 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 625 hours.

OMB Number: 1545–1493.

Regulation Project Number: PS–7–89 Final.

Type of Review: Extension.

Title: Treatment of Gain from the Disposition of Interest in Certain Natural Resource Recapture Property by S Corporations and Their Shareholders.

Description: The regulation prescribes rules under section 1254 relating to the treatment by S corporations and their shareholders of gain from the disposition of natural resource recapture property and from the sale or exchange of S corporation stock. Shareholders

that sell or exchange stock may submit a statement to rebut presumption of gain treatment.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,000 hours.

OMB Number: 1545–1496.

Regulation Project Number: REG–209673–93 Final.

Type of Review: Extension.

Title: Mark to Market for Dealers in Securities.

Description: Under section 1,475(b)–4, the information required to be recorded is required by the IRS to determine whether exemption from mark-to-market treatment is properly claimed, and will be used to make that determination upon audit of taxpayer's books and records. Also, under section 1.475(c)–1(a)(3)(iii), the information is necessary for the Service to determine whether a consolidated group has elected to disregard inter-member transactions in determining a member's status as a dealer in securities.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 3,400.

Estimated Burden Hours Respondent/Recordkeeper: 52 minutes.

Frequency of Response: Other (once).

Estimated Total Reporting/Recordkeeping Burden: 2,950 hours.

OMB Number: 1545–1638.

Form Number: IRS Form 12196 (formerly Form 7130–A).

Type of Review: Reinstatement.

Title: Small Business Office Order Blank.

Description: Form 12196 is to be used by small business outlets to order IRS tax forms and publications. The form can be faxed directly to the IRS Area Distribution Center for order fulfillment, packaging and mailing.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 500.

Estimated Burden Hours Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 42 hours.

OMB Number: 1545–1649.

Revenue Procedure Number: Revenue Procedure 99–21.

Type of Review: Extension.

Title: Disability Suspension.

Description: The information is needed to establish a claim that a taxpayer was financially disabled for purposes of section 6511(h) of the Internal Revenue Code (which was added by section 3203 of the Internal Revenue Service Restructuring and Reform Act of 1998). Under section 6511(h), the statute of limitations on claims for credit or refund is suspended for any period of an individual taxpayer's life during which the taxpayer is unable to manage his or her financial affairs because of a medically determinable mental or physical impairment, if the impairment can be expected to result in death, or has lasted (or can be expected to last) for a continuous period of not less than 12 months. Section 6511(h)(2)(A) requires that proof of the taxpayer's financial disability be furnished to the Internal Revenue Service.

Respondents: Individuals or households.

Estimated Number of Respondents: 48,200.

Estimated Burden Hours Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 24,100 hours.

OMB Number: 1545–1655.

Regulation Project Number: REG–121946–98 Final.

Type of Review: Extension.

Title: Private Foundation Disclosure Rules.

Description: The collections of information in sections 301.6104(d)–1, 301.6104(d)–2 and 301.6104(d)–3 are necessary so that private foundations can make copies of their applications for tax-exemption and annual information returns available to the public.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 65,065.

Estimated Burden Hours Respondent/Recordkeeper: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 32,596 hours.

OMB Number: 1545–1765.

Regulation Project Number: REG–119436 (TD 9171).

Type of Review: Extension.

Title: New Markets Tax Credit.

Description: The regulations provide guidance for taxpayers claiming the new markets tax credit under section 45D of the Internal Revenue Code. The reporting requirements in the regulations require a qualified community development entity (CDE) to provide written notice to: (1) Any taxpayer who acquires an equity investment in the CDE at its original issue that the equity investment is a qualified equity investment entitling the taxpayer to claim the new markets tax credit; and (2) each holder of a qualified equity investment, including all prior holders of that investment, that a recapture event has occurred. CDEs must comply with such reporting requirements to the Secretary as the Secretary may prescribe.

Respondents: Business or other for-profit, not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 47.

Estimated Burden Hours Respondent/Recordkeeper: 2 hours, 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 210 hours.

OMB Number: 1545–1773.

Revenue Procedure Number: Revenue Procedure 2002–23.

Type of Review: Extension.

Title: Taxation of Canadian Retirement Plans under U.S.-Canada Income Tax Treaty.

Description: This Revenue Procedure provides guidance for the application by U.S. citizens and residents of the U.S.-Canada Income Tax Treaty, as amended by the 1995 protocol, order to defer U.S. income taxes on income accrued in certain Canadian retirement plans.

Respondents: Individuals or households.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Respondent: 30 minutes.

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 10,000 hours.

OMB Number: 1545–1792.

Regulation Project Number: REG–164754–01 NPRM.

Type of Review: Extension.

Title: Split-Dollar Life Insurance Arrangements.

Description: The proposed regulations provide guidance for loans made pursuant to a split-dollar life insurance arrangement. To obtain a particular treatment under the regulations for certain split-dollar loans, the parties to the loan must make a written representation, which must be kept as part of their books and records and a copy filed with their federal income tax returns. In addition, if a split-dollar loan provides for contingent payments, the lender must produce a projected payment schedule for the loan and give the borrower a copy of the schedule. This schedule is used by the parties to compute their interest accruals and any imputed transfers for tax purposes.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 115,000.

Estimated Burden Hours Respondent/ Recordkeeper: 45 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 32,500 hours.

OMB Number: 1545–1922.

Form Number: IRS Form 12884.

Type of Review: Extension.

Title: Survey Questionnaire.

Description: Form 12884 is used to collect statistical information regarding advertising sources and RNO data.

Respondents: Individuals or households, Federal Government.

Estimated Number of Respondents: 33,085.

Estimated Burden Hours Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,757 hours.

OMB Number: 1545–1924.

Form Number: IRS Form 8864.

Type of Review: Extension.

Title: Biodiesel Fuels Credit.

Description: New Internal Revenue Code (IRC) section 40A provides a credit for biodiesel or qualified mixtures. IRC section 38(b)(17) allows a nonrefundable income tax credit for businesses that sell or use biodiesel. Form 8864 is used to figure the credits.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 40.

Estimated Burden Hours Respondent/ Recordkeeper:

Recordkeeping—7 hr., 24 min.

Learning about the law or the form—45 min.

Preparing and sending the form to the IRS—2 hr., 7 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 412 hours.

Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–12325 Filed 6–21–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0620]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine a claimant's eligibility for reimbursement or payment for emergency medical treatment at a non-VA facility.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 22, 2005.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *ann.bickoff@hq.med.va.gov*. Please refer to ''OMB Control No. 2900–0620'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (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 through the use of automated collection techniques or the use of other forms of information technology.

Title: Payment and Reimbursement for Emergency Services for Non Service–Connected Conditions in Non–VA Facilities.

OMB Control Number: 2900–0620.

Type of Review: Extension of a currently approved collection.

Abstract: VA uses the data collected to determine a claimant's eligibility for reimbursement or payment for emergency medical treatment at a non-VA facility.

Affected Public: Business or other for-profit, individuals or households, and not-for-profit institutions.

Estimated Total Annual Burden: 147,187 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 294,373.

Dated: June 13, 2005.

By direction of the Secretary:

Loise Russell,

Director, Records Management Service.

[FR Doc. 05–12340 Filed 6–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0635]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information used by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to request a beneficiary's current mailing address.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 22, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *nancy.kessinger.mail.va.gov*. Please refer to ''OMB Control No. 2900–0635'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 through the use of automated collection techniques or the use of other forms of information technology.

Title: Suspension of Monthly Check, VA Form 29–0759.

OMB Control Number: 2900–0635.

Type of Review: Extension of currently approved collection.

Abstract: When a beneficiary's monthly insurance check is not cashed within one year from the issued date, the Department of Treasury returns the funds to VA. VA Form 29–0759 is used to advise the beneficiary that his or her monthly insurance checks have been suspended and to request the beneficiary and to provide a current address or if desired banking institution for direct deposit for monthly checks.

Affected Public: Individuals or households.

Estimated Annual Burden: 200 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: June 13, 2005.

By direction of the Secretary

Loise Russell,

Director, Records Management Service.

[FR Doc. 05–12343 Filed 6–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0052]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0052.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0052'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Report of Medical Examination for Disability Evaluation, VA Form 21–2545.

OMB Control Number: 2900–0052.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 21–2545 prior to undergoing a VA examination for disability benefits. The examining physician also completes the form to record the findings of such examination. A VA examination is required where the reasonable probability of a valid claim is indicated in claims for disability compensation or pension, including claims for benefits based on the need of a veteran, surviving spouse, or parent for regular aid and attendance, and for benefits based on a child's' incapacity of self-support. VA uses the data to determine the level of disability.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on January 31, 2005, at pages 4918–4919.

Affected Public: Individuals or households.

Estimated Annual Burden: 45,000 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 180,000.

Dated: June 13, 2005.

By direction of the Secretary

Loise Russell,

Director, Records Management Service.

[FR Doc. 05–12344 Filed 6–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0463]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 22, 2005.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0463.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0463'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances, VA Form 21–8951 and VA Form 21–8951–2.

OMB Control Number: 2900–0463.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants who wish to waive VA disability benefits in order to receive active or inactive duty training pay are required to complete VA Forms 21–8951 and 21–8951–2. Active and inactive duty training pay cannot be paid concurrently with VA disability compensation or pension benefits. Claimants who elect to keep training pay must waive VA benefits for the number of days equal to the number of days in which they received training pay.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on January 31, 2005, at pages 4920–4921.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,500 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 21,000.

Dated: June 13, 2005.

By direction of the Secretary

Loise Russell,

Director, Records Management Service.

[FR Doc. 05–12345 Filed 6–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0503]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521) this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0503.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0503'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veterans Mortgage Life Insurance—Change of Address Statement, VA Form 29–0563.

OMB Control Number: 2900–0503.

Type of Review: Extension of a currently approved collection.

Abstract: VA use VA Form 29–0563 to inquire about a veteran's continued ownership of property issued under Veterans Mortgage Life Insurance when an address change for the veteran is received. VA uses the data collected to determine whether continued Veterans Mortgage Life Insurance coverage is applicable since the law granting this insurance provides that coverage terminates if the veteran no longer owns the property.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on January 31, 2005, at page 4921.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 240.

Dated: June 13, 2005.

By direction of the Secretary

Loise Russell,

Director, Records Management Service.

[FR Doc. 05–12346 Filed 6–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 22, 2005.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 8l0 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0115.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0115'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Supporting Statement Regarding Marriage, VA Form 21–4171.

OMB Control Number: 2900–0115.

Type of Review: Revision of a currently approved collection.

Abstract: The data collected on VA Form 21–4172 is used to determine a claimant's eligibility for benefits based on a common law marital relationship. Benefits cannot be pay unless the marital relationship between the claimant and the veteran is established.

An agency may not conduct or sponsor, and a person is not required to

respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 4, 2005, at page 6077.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,400.

Dated: June 13, 2005.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. E5–3254 Filed 6–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0510]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 22, 2005.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0510.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0510'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Exclusion of Children's Income, VA Form 21–0571.

OMB Control Number: 2900–0510.

Type of Review: Extension of a currently approved collection.

Abstract: The information collected on VA Form 21–0571 is used to determine whether children's income can be excluded from consideration in determining a parent's eligibility for non-service connected pension. A veteran's or surviving spouse's rate of Improved Pension is determined by family income. Normally, income of children who are members of the household is included in this determination. However, children's income may be excluded if it is unavailable or if including that income would cause a hardship.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 19, 2005, at pages 3105–3106.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,025 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,700.

Dated June 13, 2005.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. E5–3255 Filed 6–21–05; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
June 22, 2005

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 600

Magnuson-Stevens Act Provisions; National Standard Guidelines; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 030128024–5027–02; I.D. 121002A]

RIN 0648–AQ63

Magnuson-Stevens Act Provisions; National Standard Guidelines

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revisions to the guidelines for National Standard 1 (NS1) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action is necessary to clarify, amplify, and simplify the guidelines so that the Regional Fishery Management Councils (Councils) and the public can have a better understanding of how to establish status determination criteria (SDC) for stocks that vary in quality of available data, and how to construct and revise rebuilding plans. The intent of this action is to facilitate compliance with requirements of the Magnuson-Stevens Act.

DATES: Comments will be accepted through August 22, 2005.

ADDRESSES: You may submit comments by any of the following methods: E-mail comments should be sent to *nationalstandard1@noaa.gov;* or to Mark R. Millikin, National Marine Fisheries Service, NOAA, Office of Sustainable Fisheries, 1315 East-West Highway, Room 13357, Silver Spring, MD 20910 (Mark the outside of the envelope ''Comments on National Standard 1 proposed rule''); or to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Include in the subject line the following: ''Comments on proposed rule for National Standard 1.'' Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this proposed rule are available from Mark R. Millikin, at the address listed above. The EA/RIR document is also available via the Internet at: *http://www.nmfs.noaa.gov/sfa/sfweb/index.htm.*

FOR FURTHER INFORMATION CONTACT: Mark R. Millikin, Senior Fishery Management Specialist, 301–713–2341, e-mail *mark.millikin@noaa.gov.*

SUPPLEMENTARY INFORMATION: Proposed revisions in this rule include: (1) Rename ''minimum stock size threshold (MSST)'' as ''minimum biomass limit (B_{lim}),'' ''maximum fishing mortality threshold (MFMT)'' as ''maximum fishing mortality limit (F_{lim}),'' and ''overfished'' as ''depleted''; (2) specify that fishery management plans (FMPs) may be revised so that species/stocks may be classified as ''core'' stocks or stocks falling within a ''stock assemblage'' for each FMP; (3) reinforce the requirement that the annual fishing mortality rate (F) for a given fishery must prevent overfishing, by (a) requiring optimum yield (OY) control rules for core stocks to set F_{target} below F_{lim} if adequate data are available, and (b) that any new or revised rebuilding plans specify that the target level of fishing mortality (F_{target}) must be less than F_{lim}, beginning in the first year of the rebuilding plan, except in certain circumstances; (4) specify that B_{lim} should equal one half of the biomass that produces maximum sustainable yield (B_{msy}) as a default value, and clarify when exceptions greater than or less than the $\frac{1}{2}B_{msy}$ amount are appropriate; (5) revise the maximum rebuilding time horizon formula to remove the discontinuity that results from the formula in the current NS1 guidelines; (6) establish a default value for target time to rebuild (T_{target}); (7) clarify how to use the fishing mortality rate that produces maximum sustainable yield (F_{msy}) to determine when a fish stock is rebuilt, when and only when it is not possible to calculate B_{msy} or other necessary factors; (8) clarify what aspects of rebuilding plans should be changed when such plans need to be revised; (9) specify appropriate limitations for F when a stock is not rebuilt at the end of its rebuilding plan; and (10) elaborate on how to manage ''straddling stocks'' and international highly migratory stocks (HMS).

Background

The Magnuson-Stevens Act serves as the chief authority for fisheries management in the U.S. Exclusive Economic Zone. Section 301(a) of the Magnuson-Stevens Act contains 10 national standards with which all FMPs and their amendments must be consistent. Section 301(b) of the Magnuson-Stevens Act requires that ''the Secretary establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.'' Guidelines for the national standards are codified in subpart D of 50 CFR part 600. The guidelines for the national standards were last revised through a final rule published in the **Federal Register** on May 1, 1998 (63 FR 24212), by adding revisions to the guidelines for National Standards 1 (OY), 2 (scientific information), 4 (allocations), 5 (efficiency), and 7 (costs and benefits), and adding new guidelines for National Standards 8 (communities), 9 (bycatch), and 10 (safety of life at sea).

The guidelines for NS1 were revised extensively in the final rule published on May 1, 1998, to bring them into conformance to revisions to the Magnuson-Stevens Act, as amended in 1996 by the Sustainable Fisheries Act (SFA). In particular, the 1998 revisions to the NS1 guidelines addressed new requirements for FMPs brought about by SFA amendments to section 304(e) (rebuilding overfished fisheries).

NMFS's Advance Notice of Proposed Rulemaking (ANPR) for NS1 Guidelines

NMFS published an ANPR in the **Federal Register** on February 14, 2003 (68 FR 7492), to announce that it was considering revisions to the NS1 guidelines. Having worked with the current version of the NS1 guidelines since June 1, 1998 (the effective date of the May 1, 1998, final rule), NMFS has become aware of issues and problems regarding the application of the guidelines that were not apparent when the existing guidelines were prepared. The ANPR identified several areas being considered for revision, as follows:

1. The definition and use of MSST for determining when a stock is overfished;
2. Calculation of the rebuilding targets appropriate to the environmental regime;
3. Calculation of the maximum permissible rebuilding times for overfished fisheries;
4. The definitions of overfishing as they relate to a fishery as a whole, or a stock of fish within that fishery; and
5. Procedures to follow when rebuilding plans require revision after initiation, especially with regard to modification of a rebuilding schedule.

In the ANPR, NMFS also solicited comments from the public related to: (1) Whether or not the NS1 guidelines should be revised; (2) if revisions are desired, what part(s) of the NS1 guidelines should be revised; and (3) how should they be revised, and why. The comment period for the ANPR was extended through April 16, 2003 (March 3, 2003, 68 FR 9967).

Public Comments Received on the ANPR

NMFS received extensive public comments on the ANPR. NMFS received 46 letters that had unique content. Also,

NMFS received more than 6,900 similar letters, in several different formats.

The 6,900 similar letters contained one or more of following recommendations:

1. The NS1 guidelines should not be weakened; rather, they should be made more effective in carrying out the mandate of the Magnuson-Stevens Act to end overfishing and rebuild stocks.

2. The issues in the ANPR are troubling because they suggest NMFS is considering weakening the definition of when a stock is overfished, extending the time frames for rebuilding overfished populations, and allowing environmental degradation to be used as an excuse not to rebuild depleted fish stocks to previous levels.

3. The definition of overfished populations should be maintained or even strengthened, and strict, enforceable deadlines of plans to rebuild these overfished populations should be established.

4. Changing environmental conditions should not be used as an excuse to continue overfishing. NMFS should not allow fishermen to exceed target fishing levels, including in New England, where cod catches have exceeded target fishing levels by two to four times the amount of the target total allowable catch (TAC).

A brief summary of recommendations in the 46 unique letters follows:

B_{lim} (Currently Known as MSST)

1. MSST (B_{lim}) should be retained because it is an essential parameter for fishery management, being the only biological portion of the criteria used to determine when a stock is overfished.

2. Better guidance is needed for designation of MSST in inadequate data situations. For some fisheries where there are little or no data, the guidelines should allow the use of controls on fishing effort, and landings and data collection, without the requirement to designate SDC.

3. Current MSST guidance should be implemented to see whether or not that guidance is effective before revising guidance related to MSST.

4. A better and broader range of advice is needed as to what would be a reasonable proxy for MSST in the absence of an available estimate of biomass.

5. Better guidance is needed on how to address population characteristics of crustaceans, mollusks, and plants, compared with those of bony and cartilaginous fishes.

6. Better guidance is needed on how MSY and OY should be addressed for short-lived species (e.g., should MSSTs and other criteria be point estimates or a range of estimates?).

7. MSST calculations should take into account that, for long-lived species, recruitment varies considerably under changing environmental conditions.

8. The requirement that a stock be considered overfished when it falls below MSST in a single year should be changed (e.g., when a stock falls below MSST due to high variability in recruitment).

9. Sometimes a Council prohibits possession of a fish stock having an unknown status that is believed to be overfished. What else should the Council do to comply with NS1?

10. For stocks having an unknown status in terms of MSST, spawning potential ratio-based values for the currently required biomass-based SDC should be recognized, until data are sufficient to specify the biomass-based criteria. This would apply to most of the South Atlantic Council's fisheries other than the Coral, Shrimp, Calico Scallop, and Sargassum FMPs.

11. MSSTs should be made on a more precautionary basis. MSST should equal B_{msy}.

12. MSST requirement could be removed for some or all stocks. Consider the utility of the North Pacific Council's automatic rebuilding algorithm (harvest control rule (HCR) tiers 1 through 3) as a family of HCRs for managing vulnerable species. F is increasingly reduced as population size decreases; this is a viable management alternative to a MSST control rule. Guidelines should allow development of an FMP without reference points, if landings are capped and a data collection program is instituted.

13. Specification of MSST should be optional. For some stocks, there is no information on MSST.

14. Councils need criteria to determine the minimum level of data needed to define biological reference points.

15. The Magnuson-Stevens Act does not provide a mechanism for resolving differences that result when a stock is incorrectly declared overfished, but is later found not to be overfished. A process is needed to reconcile such differences.

16. The guidelines fall short of defining or providing advice on a reasonable proxy for MSST.

17. The guidelines do not address how to determine MSST for a stock complex.

18. The term, ''overfished'' is a misnomer, implying an unproven link between fishing and depleted status.

19. Uncertainty, risk, and precaution have to be built into estimates of SDC.

20. How are highly variable species that can become overfished due to oceanographic shifts (e.g., Pacific whiting, northern anchovy, Pacific sardine, and market squid) to be treated?

Environmental Regime Change

1. Environmental regime changes must be considered when adjusting rebuilding targets.

A. Environmental regimes must be built into the calculation of reasonable rebuilding periods.

B. The NS1 guidelines need to take into account a continuously changing environment.

C. Because of the paucity of specific knowledge about environmental conditions and their effects on fish population abundance, rebuilding targets and MSY control rules should be specified in terms of ranges rather than a peak value.

D. The guidelines need to better describe when a shift in environmental conditions indicates that a rebuilding target should be revised.

2. Environmental regime shifts must not be used to adjust rebuilding targets.

A. It is premature and inappropriate to address environmental changes in the NS1 guidelines.

B. No well-known or well-supported case appears to exist of a currently exploited and depleted fish population whose productivity has been reduced because of environmental change unrelated to the adverse effects of fishing on the ecosystem.

C. A policy should be adopted that no adjustments be based on an environmental regime change when setting overfished stock rebuilding plans.

D. A reduction in F is appropriate whether or not a reduction in abundance occurred from fishing or from an environmental regime shift. Management still has to take what action it can to protect the fish stock and provide an opportunity for rebuilding.

Maximum Rebuilding Time and Target Rebuilding Time Horizons

1. A minimum amount of time should be taken to rebuild a fishery (as short a time as possible).

A. The one-generation time exception should be removed from the guidelines; leave the guidelines to say, ''rebuild in as short a time as possible.''

B. The guidelines should be revised to provide that rebuilding be completed as soon as possible, even if it cannot be accomplished in 10 years.

C. The guidelines should be revised to avoid balloon payments in rebuilding plans (greater restrictions in the final years of the rebuilding plan).

2. The maximum permissible time should be taken to rebuild a fish stock.

A. Overzealous rebuilding strategies are likely to violate all the other provisions of OY relating to preservation of the industry, supply of food, maximum benefit to the environment, and preservation of cultural and economic aspects of commercial fishing.

B. There should be maximum flexibility in calculating maximum rebuilding times. Goals should not be set too high, which results in unnecessary hardship and losses to consumers, communities, and industry.

C. Time limits for rebuilding fisheries should be removed. Time limits for rebuilding should be replaced with a requirement to fish consistently at a rate that allows for stock growth in ''normal'' environmental conditions.

3. More flexibility is needed in the NS1 guidelines to accommodate variations and contingencies in overfishing definitions to comply with National Standard 6.

4. Under existing guidelines (that contain a discontinuity in rebuilding time horizon formula), a fishery is less restricted if the condition of a fish stock is so poor in abundance that it takes more than 10 years to rebuild than if the stock is in better condition and must be rebuilt in less than 10 years. This is the opposite of normal fishery management practices, which are the more restrictive when the condition of the stock is worse.

Definition of Overfishing Relating to the Fishery as a Whole

1. The existing definitions of overfishing relating to the fishery as a whole should remain unchanged.

A. Until now, NMFS has developed a clear, implementable vision as to how to manage ecosystems; it is premature to visit its overfishing definitions concerning a ''fishery as a whole.''

B. Combining assessments and SDC for assemblages of minor stocks is problematic because that approach risks overfishing, extirpation, and extinction for some stocks. A stronger stock of a mix might be managed to the detriment of a weaker stock of a mix.

C. Individual species should not be combined into complexes for the purpose of management aimed at achieving NS1. There is too much risk associated with choosing indicator species among stocks that are unknown status.

2. Guidelines on management of interrelated stocks should be revised.

A. Guidelines should mandate an assessment of aggregated stocks. When stocks are harvested as part of a fishery in conjunction with one another, overfishing of a single stock is permissible by law.

B. Guidelines should allow for bycatch when multiple stocks are harvested together to avoid wasteful discarding.

C. There is no basis in the Magnuson-Stevens Act for any exception to the prohibition of overfishing in NS1. The guideline for generating that exception should be eliminated.

D. NMFS should not allow overfishing of individual stocks in a mixed-stock fishery.

E. Guidelines should be revised to rely upon vulnerable stock criteria prepared by the American Fisheries Society to identify weak stocks.

F. Both a ''representative species'' and a ''weakest species'' should be used as indicator stocks to determine status of assemblages that contain unknown status stocks.

G. Better guidance on flexibility under NS1 is needed. For example, the New England Council should have the flexibility to rebuild to B_{msy} for groundfish and ½B_{msy} for spiny dogfish, based on ecosystem function and common sense.

H. Guidelines should be revised so that Councils do not have to rebuild each stock to B_{msy}, rather they can rebuild their stocks to a biomass that produces OY. B_{msy} cannot be attained for an entire complex of stocks at once.

Rebuilding Plans and Rebuilding Targets Requiring Revision

1. Revisions to rebuilding plans should be the exception, and should only be developed under certain circumstances.

A. Only in limited and well-defined circumstances should a rebuilding plan be allowed to exceed the original time limit.

B. The Magnuson-Stevens Act clearly provides that NMFS shall review rebuilding plans at ''routine intervals not to exceed two years.''

C. Rebuilding plans can be adjusted as long as (1) no plan is less protective as a result of overfishing, and (2) measures do not allow overfishing on stocks being rebuilt.

D. It may be reasonable to shorten or lengthen a rebuilding period (due to scientific information showing that a biomass target should be changed), as long as: (1) Specific limits for how much the rebuilding period is adjusted are addressed, (2) there is no additional risk to a stock, and (3) rebuilding is maintained at least to the original trajectory. Overages in a given year would have to be subtracted in the subsequent year.

E. Rebuilding plans should be extended only when the biomass targets are increased by more than 100 percent.

2. There should be maximum flexibility for making revisions to rebuilding plans.

A. Many current rebuilding targets are too draconian and virtually guarantee the permanent non-participation of some fishing communities.

B. Changes in targets should necessitate minor adjustments in F to ensure that progress is always made in rebuilding the stock.

C. Guidelines need to clarify when the precautionary approach is appropriate. Is it appropriate to use the precautionary approach for conservative assumptions for model inputs, or for policies regarding conservative harvest outputs? Or for both?

D. Small adjustments in F would require immediate action; larger adjustments would be phased in over a multi-year schedule.

E. The guidelines need to be revised to better explain whether rebuilding periods should be lengthened/shortened in reaction to unusually high or low recruitment.

F. The guidelines need to consider how to give fishery managers more flexible options when stocks rebuild more quickly than forecast.

3. The guidelines need to be revised to describe when revisions to rebuilding targets are necessary and appropriate.

4. The guidelines need to provide explicit advice about the level of management action required for a stock that is not overfished (but not rebuilt), that is not in a required rebuilding program, and for which F is less than the F_{lim}. In such a case, the guidelines should state that such a stock may be managed under the appropriate F that will result in the stock achieving the B_{msy} on a long-term average basis without a rebuilding period.

F_{lim} (Currently Known as MFMT)

1. Alternative approaches to establishing allowable threshold levels and guidance encouraging the use of other indicators of overfishing (*e.g.*, declining fish catch size or skewed sex ratios) must be provided.

2. Guidance for NS1 should allow for a number of years (rather than immediately) for fishing effort (*i.e.*, fishing mortality) to be brought down to required levels.

3. Better and more specific guidance is needed as to when overfishing of reef fish species occurs.

4. Guidance is needed for addressing MFMT when estimates for that value are not available.

5. Current guidelines should be revised such that management can evaluate rebuilding with regard to a target F, rather than MFMT (*i.e.*, F_{lim}).

OY and OY Control Rules

1. Further guidance is needed on the definition of OY and its definition in a mixed-stock fishery.

2. Further guidance is needed on the difference between a single-year OY and long-term OY.

3. Fishery management should be based on OY control rules, rather than MSY control rules.

4. The use of control rules must be defined in the context of broad biological, social, and economic goals of a fishery.

5. The aim of NS1 should be to operate a fishery around an MSY stock size and an F value similarly fluctuating around the fishing mortality rate that produces OY (F_{OY}), not a biomass above B_{msy} and an F value below F_{OY}.

6. Guidelines need to make very clear what is required for management when biomass is greater than MSST but less than B_{msy} and when F is less than $F_{threshold}$.

7. Guidance is needed to address MSY and OY when estimates of those parameters are not available.

International Fisheries

1. Guidance is needed to explain what kinds of responses are required for U.S. fisheries that comprise a small portion of a larger, basin-scale pelagic fishery for HMS such as tuna and billfish. For example, the U.S. Hawaiian longline fishery accounts for only 1.4 percent of the total Pacific-wide catch of bigeye tuna, thus any response by the Hawaii fishery should be weighted by its contribution to the total fishing mortality on the stock or by some other relevant factor.

2. How would a recovery plan be developed for a longline fishery or any of the pelagic fisheries managed by a Council where any action, no matter how conservative, will have little or no effect on stock recovery? NMFS needs to develop policies and guidelines for rebuilding plans that reflect the U.S. contribution to total fishing mortality, rather than exacting punitive measures on fisheries that have negligible effects on the entire stock.

3. NS1 guidelines should take into account the management measures of neighboring countries for management of transboundary stocks. A Council's share in the stock and U.S. fishermen's share in total landings might be quite small, so what would be the U.S. role in management?

Miscellaneous

1. Guidelines need to describe how and when to incorporate uncertainty, risk, and precaution.

2. MSY, MSST, and MFMT are not targets, rather they are limits—they are upper limits of a range of safe fishing. Targets should remain in a safe zone above the B_{msy} and below the F_{msy}.

3. National standards should be applied equally during the development of an FMP. No one standard should override ''supplementary standards'' that are of the same importance.

4. Fishery management actions taken in state waters should not impair compliance with NS1.

5. When annual TACs are used, confidence intervals (greater than 50-percent chance of success) need to be set to better ensure that the limit (TAC) chosen will not be exceeded.

6. A new term should be established for the state of resource abundance when it is too low (other than overfished).

7. Is OY the optimum for a given year, or an average over many years?

8. Is MSY dynamic, or a maximum average yield?

9. In the calculation of rebuilding targets, such factors as predator/prey relationships, competition for habitat, and carrying capacity need to be examined. These factors can affect the time to rebuilding and the level to which a stock can be rebuilt.

10. How can multispecies biological reference points for substantially interdependent stocks be determined?

11. Is MSY a cap, or not? NMFS has advised the Councils that MSY can be exceeded for several years before the Council takes action. Are we required to have measures in place to prevent the harvest from exceeding MSY?

12. Given limited scientific and economic information, how should precautionary management be balanced against economic impacts? In unknown status situations, current guidance for determining stock status can result in very constraining management, which causes significant economic impacts to the fishery.

13. If the NS1 guidelines are revised, will the Councils be asked to revise all rebuilding plans at once? Will the current rebuilding plans be valid during the conversion period?

NMFS NS1 Guidelines Working Group

A NMFS NS1 Guidelines Working Group (Working Group) consisting of NMFS fishery scientists and fishery managers and a NOAA General Counsel attorney advisor was formed in April 2003, to develop recommendations to the Assistant Administrator for Fisheries, NOAA (AA), as to the following: (1) Whether or not the NS1 guidelines should be revised at all; (2) if revisions are recommended, what parts of the NS1 guidelines should have priority for revision; and (3) whether all suggested revisions are consistent with the objectives that they be technically sound, increase comprehensiveness (*i.e.*, provide guidance for a broader range of situations), add specificity (*i.e.*, provide more guidance on how to handle particular situations), improve clarity (*i.e.*, are easier for non-scientists to understand), and recognize scientific and biological constraints.

Working Group's Recommendations

The Working Group recommended revisions to the NS1 guidelines to the AA, following: (1) Review of public comments that NMFS received on the ANPR regarding the usefulness of the existing NS1 guidelines, (2) an agency workshop in April 2003, and (3) further discussions by the Working Group. The Working Group believes that the proposed revisions contained in this proposed rule and described herein will improve the ability of Councils to develop meaningful SDC for definitions of ''depleted'' and ''overfishing'' and for rebuilding plans that facilitate compliance with the Magnuson-Stevens Act. Several of the proposed revisions would also provide flexibility in rebuilding programs, to the extent possible, to take into account the needs of fishing communities and fishing industry infrastructure.

The most substantive proposed changes to the NS1 guidelines, in terms of changes to fishery management practices, would be more emphasis on the requirements for quickly ending overfishing and for the need to manage using OY control rules when data are sufficient to do so, but, at the same time, to simplify and, within limits, to relax requirements for rebuilding time horizons. However, relaxed constraints on requirements for rebuilding time horizons could not be used to justify continued overfishing. NMFS proposes to emphasize better control of current F (thus preventing overfishing) because F is more within the control of fishery managers than the rate of rebuilding, which is much more subject to variable environmental conditions, especially over the long term. Elimination of overfishing is a precursor to rebuilding overfished stocks.

Proposed Revisions to the NS1 Guidelines

NMFS proposes the following changes to the NS1 guidelines:

Terminology

In the NS1 guidelines, the term ''depleted'' would replace the term ''overfished,'' the term ''biomass limit (B_{lim})'' would replace the term ''minimum stock size threshold,'' and the term ''maximum fishing mortality limit (F_{lim})'' would replace the term ''maximum fishing mortality threshold.''

The NS1 guidelines currently use the term ''threshold'' to indicate a property of control rules that is usually defined as a ''limit'' in much of the published scientific literature and in other fisheries fora, including international fisheries organizations. To bring the NS1 guidelines into conformance with common usage, ''threshold,'' if used at all, should denote a ''red flag'' or ''warning zone'' that is reached before a ''limit.'' In this context, a biomass threshold would be a larger biomass value than its corresponding biomass limit, and a fishing mortality threshold would be a lower value than its corresponding fishing mortality limit.

The term ''overfished'' is used in both the Magnuson-Stevens Act and NS1 guidelines to denote a stock in need of rebuilding. ''Overfished'' is also used in the Magnuson-Stevens Act in the context of any stock or stock complex that is subjected to a rate or level of fishing mortality that constitutes ''overfishing.'' However, stocks can become depleted for reasons other than, or in addition to, overfishing, such as environmental changes, pollution, and habitat destruction. The best available scientific information typically does not enable NMFS to distinguish among these factors, or between fishing and these factors. NMFS believes that using the less specific term ''depleted'' is appropriate to clarify the usage of ''overfished'' in the NS1 guidelines. ''Depleted'' would be used to indicate that a stock or stock complex must be rebuilt, regardless of the cause of depletion. Recognizing that factors other than fishing can lead to depleted stocks does not imply any changes in fishery management obligations or measures to address the depleted status.

Core Stocks and Stock Assemblages

Fishery Management Units and Regulated Stocks.

A fishery means one or more stocks of fish that can be treated as a unit for purposes of conservation and management. Fishery Management Plans (FMP) are developed to regulate fisheries that have been determined to be in need of conservation and management. Each FMP will contain one to several Fishery Management Units (FMU) (see section 600.320(d)) and each FMU will contain and/or affect one to several stocks. The SDC requirements of NS1 are intended to apply to the regulated stocks specifically listed in these FMUs. Generally, these are stocks that are the target of the fishery or are commonly caught in the fishery. It is only the regulated stocks in the FMUs for which the NS1 requirement to establish MSY, OY and SDC pertain. Other stocks may be mentioned and/or listed in the FMP because of interest in data collection for these stocks, their importance as part of the marine ecosystem, or other reasons not necessarily related to conservation and management.

Two categories of regulated stocks would be exempt from the requirement to specify SDC: stocks primarily dependent on hatchery production, and stocks listed as ''endangered'' or ''threatened'' under the Endangered Species Act.

Core Stocks and Stock Assemblages

For the regulated stocks, the terms ''stock or stock complex'' would be replaced with ''core stock or stock assemblage'' in the NS1 guidelines, and FMPs could be revised so as to manage regulated stocks, to the extent possible as core stocks and stock assemblages. The status of core stocks with respect to SDC should be measured on a stock-specific basis, and the status of assemblages could be measured either on the basis of an aggregate SDC for the assemblage or on the basis of a suitable indicator stock within the assemblage.

''Core'' stocks may include key target species (stocks) historically important species that may now be relatively low in abundance, important bycatch species, or highly vulnerable species. Councils usually have adequate data to measure the status of core stocks relative to their SDC. Core stocks can also be a member of an assemblage and can serve as an indicator stock for that assemblage.

A ''stock assemblage'' would be a group of fish stocks that are geographically related, are caught by the same gear, and have sufficiently similar life history so they can be managed together based on an aggregate F_{lim}, B_{lim}, and OY, or on stock-specific F_{lim}s, B_{lim}s, and OYs for indicator stocks. It is possible that some stocks having unknown status could not be assigned to a stock assemblage due to their lack of conformity to stocks in a given FMP's stock assemblages. The selection of an indicator stock(s) for an assemblage would need to include documentation for the suitability of that selection to serve as a representative for the status of the assemblage.

This recommendation for SDC determination of assemblages is based on the practical aspects of measuring the status of every regulated stock. In the ''NMFS 2003 Report to Congress on the Status of the U.S. Fisheries,'' 503 of the 909 stocks reported had an unknown status regarding ''overfishing,'' and 541 of the 909 stocks had an unknown status regarding ''overfished.'' Because funding priorities require that stocks in the most important commercial and recreational fisheries continue to receive priority in terms of research, surveys, and stock assessments, many of the stocks in the unknown status category will likely remain that way for some time. Because many of these unknown status stocks co-occur with stocks of known status in multi-stock fisheries, monitoring and controlling the fishing mortality for at least one stock in the multi-stock fishery provides some knowledge and protection for the other stocks. Therefore, NMFS recommends that the Councils should group stocks for each FMP, to the extent possible, into stock assemblages in order to improve status determinations for stocks that currently have an unknown status with respect to their SDC.

Fishing Mortality Thresholds

The definition for F_{lim} would remain the same as the current definition of MFMT but, where appropriate, requirements for maintaining or reducing F below F_{lim} would be strengthened to provide a lower tolerance for overfishing. Later, the general requirement for OY control rules that set F_{target} below F_{lim} will be described as a mechanism to prevent overfishing. But OY control rules are not sufficient to address the special circumstances of depleted stocks.

Current guidelines state: ''In cases where overfishing is occurring, Council action must be sufficient to end overfishing.'' However, the guidelines don't specify the timeframe for ending overfishing. The NMFS Working Group proposed the following specific guidance to address the requirements of section 304(e)(4)(A) of the Magnuson-Stevens Act: ''In cases where overfishing is occurring, Council action must be sufficient to end overfishing as soon as practicable [should be as short a time as possible]. The Council action must include a rationale for the time period selected for ending overfishing. The appropriate time period for ending overfishing may be influenced by considerations including those related to mixed-stock fisheries. Phase-in periods for reducing the fishing mortality rate down to the level of F_{lim}

should be permitted only if the following two conditions are met: (A) For stocks that are depleted or are under a rebuilding plan, the maximum allowable rebuilding time is no greater than it would have been without the phase-in period; and (B) fishing mortality rate levels must, at the least, be reduced by a substantial and measurable amount each year.'' NMFS invites public comment on the Working Group's recommended measure, as well as the proposed measure pertaining to section 304(e)(4)(A) of the Magnuson-Stevens Act contained in this proposed rule. The measure being proposed in this proposed rule is that, whenever a new FMP with one or more rebuilding plans, or an action to amend a current FMP to revise an existing rebuilding plan is submitted for Secretarial review, the F_{target} for any stock in that FMP that is overfished must be less than F_{lim}, beginning in the first year and thereafter, except under circumstances listed in section 304(e)(4)(A) of the Magnuson-Stevens Act (also see section 600.310(f)(4)(ii)(A) of this proposed rule). Rebuilding plans already in place would not be affected by this proposed revision to the NS1 guidelines, unless a revision to such a rebuilding plan is made for other reasons and submitted for Secretarial review, in which case the revised rebuilding plan would need to prevent overfishing beginning in the first year of the revised rebuilding plan, unless the factors in section 304(e)(4)(A) of the Magnuson-Stevens Act are taken into account (see § 600.310(f)(4)(1)).

Stock Size Thresholds

NMFS believes that there is a need to (1) simplify the requirements for specifying and calculating B_{lim} and (2) emphasize its role as a secondary, rather than a primary, consideration relative to the need to reduce F and end overfishing.

NMFS proposes that a B_{lim} or proxy continue to be required, either at the level of individual stocks, for core stocks, or at the level of indicator stocks or of an assemblage-wide aggregate amount for stock assemblages, with limited exceptions. A core stock, indicator stock, or stock assemblage that falls below the B_{lim} would be deemed to be ''depleted'' and would require a rebuilding plan.

The NS1 guidelines would be simplified to define the default B_{lim} as $\frac{1}{2}B_{msy}$. In rare cases, it would be possible to justify a B_{lim} below $\frac{1}{2}B_{msy}$ (*e.g.*, for stocks with high natural fluctuations that result in biomass frequently falling below $\frac{1}{2}B_{msy}$, even when overfishing does not occur); in this case, the B_{lim} could be set near the lower end of some appropriate range (*e.g.*, the lower 95-percent confidence interval) of natural fluctuations that would result if the stock or assemblage was not subjected to overfishing. On the other hand, the B_{lim} could be set higher than $\frac{1}{2}B_{msy}$ for stocks that are rarely expected to fall below some level appreciably higher than $\frac{1}{2}B_{msy}$.

A B_{lim} or proxy should be specified with the following exceptions: If an implemented OY control rule results in an F at least as conservative as would have been the case if B_{lim} had been used, then explicit use of a B_{lim} would not be required. If NMFS determines that existing data are grossly inadequate or insufficient for providing a defensible estimate of B_{lim} or a reasonable proxy thereof, specification of such would not be required. Such cases should be relatively rare, particularly for core stocks, and explicit justification must always be provided whenever a B_{lim} or proxy is not specified. Guidance on how to address the lack of a B_{lim} or proxy in unknown status fisheries is further described under ''Rebuilding Targets'' below.

Rebuilding Time Horizons

NMFS proposes to modify the rebuilding time horizon so that it still must be as short a time as possible, taking into account the appropriate factors, and by removing the current discontinuity. Under this proposed modification, if T_{min} + one generation time (GT) exceeds 10 years, then T_{max} = T_{min} + one GT; otherwise T_{max} is 10 years. For example, if T_{min} = 6 years and GT = 5 years, then T_{max} = 11 years. If T_{min} plus one GT ≤ 10 years, then T_{max} is 10 years. For example, if T_{min} = 4 or 5 years and GT = 5 years, then T_{max} = 10 years.

The definition of the maximum rebuilding time horizon in the current NS1 guidelines, while consistent with the Magnuson-Stevens Act, contains an inherent discontinuity, which can prove problematic to implement due to biological uncertainties in calculation of the minimum time to rebuild. NMFS currently defines T_{min} in its technical guidance as the minimum rebuilding time based on the number of years it takes to achieve a 50-percent probability that biomass will equal or exceed B_{msy} at least once, when F = 0, and T_{max} is the maximum permissible target rebuilding time. Under the current NS1 guidelines, T_{max} may not exceed 10 years if T_{min} is less than 10 years, and T_{max} may not exceed T_{min} plus one generation time, if T_{min} is greater than or equal to 10 years. This creates a discontinuity. For example, if GT = 5 years and T_{min} equals 9 years, then GT is not a factor and T_{max} equals 10 years. But if T_{min} is just 1 year longer (i.e., 10 years), then T_{max} equals T_{min} + GT = 15 years, so that T_{max} is considerably longer for a fish stock having a T_{min} of 10 years and a GT = 5 years compared to a stock having a T_{min} of 9 years and a GT = 5 years. The best scientific estimate of T_{min} always has a probability distribution due to the expected variability in biological stock productivity during the rebuilding period. Experience has shown that it is unreasonable use of this best scientific information to have a sharp difference in management response, and resultant impact on the fishery, when, for example, T_{min} has a 49-percent chance of exceeding 10 years, versus the management response when T_{min} has a 51-percent chance of exceeding 10 years. Accounting for this biological uncertainty in T_{min}, while taking into account the biological specifics of a stock or stock complex, requires a smoother transition in T_{max} calculation. The proposed modification to T_{max} described above would not alter the general requirement to rebuild a stock in as short a time as possible while taking into account various factors, including the needs of fishing communities. In cases where the needs of fishing communities merit extending the rebuilding time horizon beyond T_{min}, the target time to rebuild, T_{target}, would be bounded by T_{min} and T_{max}. The best scientific information available typically will not allow precise measurement of the needs of fishing communities or economic benefits of a particular T_{target} value. Because of these difficulties, a reasonable default value for setting T_{target} should be midway between T_{min} and T_{max}. This presumptive value should be used unless an analysis is available that demonstrates that the status and biology of the stocks in question or the needs of fishing communities require application of an earlier or later target time to rebuild.

Rebuilding Targets

NMFS proposes that, when it is determined that data are inadequate to estimate rebuilding targets in terms of B_{msy}, or its proxy, and T_{min}, it would be permissible to rely solely on F_{lim}. In such instances, keeping F below F_{lim} to produce at least a 50-percent chance that the stock would increase in abundance would be considered a rebuilding F proxy. It would also be permissible to declare the stock to be rebuilt if the realized average F has been substantially below the F_{lim} (default is 75 percent of F_{lim}) for at least two generation times, provided there is no

other scientific evidence that biomass is still ''depleted.''

Under the current NS1 guidelines, once any stock or assemblage has been declared to be ''overfished'' (*i.e.*, below its B_{lim}), it must be rebuilt to B_{msy} or its proxy before being declared to be fully rebuilt and to no longer require a rebuilding plan. The reason for requiring rebuilding to B_{msy} is that the Magnuson-Stevens Act requires restoration of the stock's capacity to produce MSY; this can only be assured if the stock is returned to that level of abundance.

Revision of Rebuilding Plans

Because any approved rebuilding plan was determined to be based upon the best available scientific information and to take into account the expected variability in future stock productivity, NMFS proposes that rebuilding plans need not be adjusted in response to each minor stock assessment update. However, if a rebuilding plan needs to be adjusted, then NMFS proposes new guidance to clarify when different parameters (*e.g.*, the sequence of rebuilding $F_{targets}$ or the time horizon (T_{target})) can be revised. Note that the $F_{targets}$ can be the same or different for each year of a rebuilding plan, but they should be listed in sequence, year-by-year, or specified by a formula (control rule).

The Magnuson-Stevens Act requires that progress toward ending overfishing and rebuilding affected fish stocks be evaluated for adequacy at least every 2 years, but does not define ''adequate progress.'' Also, the current guidelines do not include guidance on procedures to follow when rebuilding plans require revision after initiation. NMFS proposes specifying two circumstances for revising a rebuilding plan: (1) Rebuilding is occurring much faster or slower than expected due to natural fluctuations in stock productivity, or (2) a new stock assessment indicates that the best scientific estimate of one or more parameters in the rebuilding calculations (*i.e.*, generation time, T_{min}, B_{msy}, etc.) has changed substantially.

NMFS proposes that, if the rate of rebuilding of a stock (*i.e.*, the amount of biomass attained for a given year compared to projected biomass for that year under a rebuilding plan) is occurring substantially faster than projected, the former sequence of $F_{targets}$ for that stock should be retained in order to rebuild the stock in as short a time as possible, and to allow transition to an OY control rule. If rebuilding is occurring substantially slower than initially projected, even though $F_{targets}$ for that stock have not been exceeded, the rebuilding plan should be revised by reducing the rebuilding $F_{targets}$ and/or by lengthening the rebuilding time horizon T_{target}. In the case of slower rebuilding, if the existing $F_{targets}$ have been exceeded, future $F_{targets}$ should be reduced to the extent necessary to compensate for previous overruns (years when $F_{targets}$ were exceeded) before considering any lengthening of the former rebuilding time horizon. If rebuilding to B_{msy} with at least a 50-percent probability is no longer deemed possible by the rebuilding time horizon, even at F=0, then a new rebuilding plan must be prepared (new rebuilding time horizon and sequence of $F_{targets}$).

If a new stock assessment indicates that current stock abundance or any of the rebuilding parameters have changed in such a way as to allow substantial increases in the sequence of $F_{targets}$ in the existing rebuilding plan, then the rebuilding plan may be maintained or may be revised by increasing the rebuilding $F_{targets}$ and/or by shortening the rebuilding time horizon. Maintaining the current F_{target} and T_{target} would simply allow for faster rebuilding and sooner transition to an OY control rule. If scientific estimates of stock abundance or rebuilding parameters change in such a way as to suggest that substantial reductions in $F_{targets}$ would be necessary to rebuild the core stock or stock assemblages within the specified time horizon, and if rebuilding $F_{targets}$ have not been exceeded, then the rebuilding plan should be revised by reducing the rebuilding $F_{targets}$ and/or by lengthening the rebuilding time horizon. If the existing rebuilding $F_{targets}$ have been exceeded, the existing former T_{target} must be maintained to the extent possible, and future $F_{targets}$ must be reduced to the extent necessary to compensate for previous overruns (years when F_{target} was exceeded).

NMFS proposes specific guidance to be added to the NS1 guidelines in § 600.310(f)(5)(v) to cover the circumstance when a stock is no longer overfished at the end of its maximum rebuilding period, but the stock is not yet rebuilt. In such cases, F should not be increased until the stock has been demonstrated to be rebuilt. If the rebuilding F is at F_{lim} and the stock is not rebuilt by T_{max}, then the rebuilding F should be reduced to 75 percent of F_{lim} until the stock is rebuilt.

OY Control Rules

NMFS proposes that the current requirement to develop ''target'' (OY) control rules, in addition to ''limit'' (MSY) control rules, be strengthened, so that the current wording of ''may'' would be changed to ''must.'' OY and MSY control rules would have to be developed for each core stock and stock assemblage (either through one or more indicator stocks for the stock assemblage or an assemblage-wide control rule), unless NMFS determines that data are inadequate to do so for a given stock. Targets are set with the intention that they typically will be achieved. OY control rules must be less than the MSY control rule for all levels of stock abundance. To the extent possible, the OY control rule should incorporate social, economic, and ecological factors.

Control rules are harvest strategies, such as (1) remove a constant catch in each year such that the estimated stock size exceeds an appropriate lower bound; (2) remove a constant fraction of the biomass each year; (3) allow a constant escapement level each year; or (4) vary F as a continuous function of stock size. Many existing FMPs have no OY control rules (target control rules); some existing FMPs have MSY control rules (limit control rules); and some existing FMPs set the OY control rules equal to the MSY control rule.

Although these proposed revisions to the NS1 guidelines clearly establish a general rule that the target (OY control rule) is to be set safely below the limit (MSY control rule) in order to prevent overfishing and to take into account social, economic, and ecological factors, such an approach may not be feasible when there is insufficient knowledge to establish either OY control rules or MSY control rules. In circumstances where there is no meaningful estimate or proxy for MSY, it may be satisfactory to set OY directly on the basis of available social, economic, and biological information, rather than to set OY at less than a measured MSY, but the underlying science and supporting administrative record would need to clearly support the individual and the fact-specific determination and OY must still prevent overfishing and stock depletion.

International Fisheries

NMFS proposes that the NS1 guidelines be amplified with respect to international HMS and straddling stocks in which the United States has an interest. Principles to be applied would be the following: (1) To generally rely on international organizations in which the United States participates to determine the status of HMS stocks or assemblages under their purview, including specification of SDC and the process to apply to them; (2) if the international organization in which the United States is a participant does not have a process for developing a formal plan to rebuild a specific overfished HMS stock or assemblage, to use the

Magnuson-Stevens Act process for development of rebuilding plans by a Council or NMFS to be promoted in the international organization or arrangement; and (3) to develop appropriate domestic fishery regulations to implement internationally agreed upon measures or appropriate U.S. measures consistent with a rebuilding plan, giving due consideration to the position of the U.S. domestic fleet relative to other participants in the fishery.

Transitional Steps To Implement Proposed Revisions to NS1 Guidelines

If the proposed revisions to terminology are adopted, NMFS proposes that the Councils and NMFS, on behalf of the Secretary of Commerce (Secretary), in the case of Atlantic HMS, begin using the new terms in place of the old terms and revise FMP language the next time a Council submits an FMP amendment for Secretarial review. NMFS would begin using the new terms in its first Annual Report to Congress on the Status of U.S. Fisheries after the effective date of the revised NS1 guidelines. Any codified text in 50 CFR part 600 that contains the old terminology, such as ''overfished,'' ''minimum stock size threshold,'' or ''maximum fishing mortality threshold,'' would be revised by NMFS.

For the proposed revisions to the NS1 guidelines other than terminology, the new guidelines would apply to some, but not all, new actions submitted by a Council. Any new action submitted by a Council that includes new or revised SDC, OY control rules, or rebuilding plans would need to be developed and evaluated according to the revised NS1 guidelines. However, if a Council action that includes new or revised SDC, OY control rules, or rebuilding plans is already under development and is at the stage that a draft environmental impact statement (DEIS) notice of availability has already been published in the **Federal Register**, when the revised NS1 guidelines become effective, then a Council could submit the action under the ''old'' or ''new'' NS1 guidelines. If an FMP, FMP amendment, or other regulatory action not accompanied by an EIS has already been adopted by a Council for Secretarial review before the new NS1 guidelines become effective, then the Council could submit the action under the ''old'' or ''new'' NS1 guidelines.

After any final rule implementing revisions to the NS1 guidelines becomes effective, if a Council submits an action (*e.g.*, annual specifications, an FMP amendment, interim rulemaking, or a regulatory amendment) that does not involve new or revised SDC, OY control rules, or rebuilding plans for a stock, then that action could be reviewed and approved without the FMP being amended to bring existing SDC, OY control rules, and rebuilding plans into conformance with the new guidelines. The proposed action would still need to be in conformance with all of the national standard guidelines to be approvable. Any FMP amendment or other regulatory action that involves: (1) Proposed SDC, an OY control rule, or a rebuilding plan for a stock not previously managed by SDC or by a rebuilding plan; or (2) proposed revisions to SDC, an OY control rule, or a rebuilding plan for a stock already managed under SDC or by a rebuilding plan, then the proposed SDC, OY control rule, and/or rebuilding plan would need to comply with the new NS1 guidelines.

Regarding the proposed recommendation that stocks in FMPs be managed according to core stocks and stock assemblages, if a Council determines that a given FMP has only core stocks (*e.g.*, the Mid-Atlantic Council's Spiny Dogfish FMP, the New England Council's Atlantic Sea Scallops FMP, and the Gulf of Mexico Council's Stone Crab FMP), then the Council should make such a determination with accompanying rationale in its next FMP amendment.

In the case of an FMP that has a mixture of SDC known stocks and stocks having an unknown status related to SDC (*e.g.*, Snapper-Grouper FMP), when a Council begins to align its management under ''core stocks'' and ''stock assemblages,'' the Council could begin such realignment in a stepwise fashion (in a series of separate FMP actions) for given core stocks or stock assemblages, once new or revised SDC, OY control rules, or rebuilding plans are developed. If a Council determines that the stepwise method is problematic, it could take action to realign all of the FMP's stocks into core stocks and stock assemblages in one action.

If some stocks are not being effectively managed under a given FMP because their status relative to SDC is unknown, and the proposed revisions to the NS1 guidelines are approved, then the Council should re-evaluate those stocks as soon as possible, to decide whether or not any grouping of some or all of the unknown status stocks could be managed by SDC under one or more indicator stocks, or through stock assemblage-wide SDC. A Council should clearly designate which stocks in the FMP are in the FMUs and thus are subject to SDC and to inclusion in the NMFS Annual Report to Congress on the Status of U.S. Fisheries. Stocks that are listed as threatened or endangered under the Endangered Species Act would be exempt from being evaluated according to SDC, but must be evaluated against SDC within 1 year of being de-listed. Finally, stocks that are primarily dependent on artificial propagation from hatcheries would be exempt from being evaluated according to SDC. If any stocks are currently undergoing overfishing as part of an approved rebuilding plan (*e.g.*, reductions in F are being phased in over a number of years until F is less than or equal to F_{lim}), then, the first time that the Council submits a revised rebuilding plan for those stocks, overfishing must be prevented, beginning in the first year of the revised rebuilding plan, except under circumstances listed under section 304(e)(4)(A) of the Magnuson-Stevens Act.

In general, the Councils would not be required to amend their existing SDC and rebuilding plans approved under the SFA by any date certain, with the following exceptions. In the event that NMFS, on behalf of the Secretary, determines that a fishery is overfished, or approaching an overfished condition under section 304(e)(1) or (2) of the Magnuson-Stevens Act, or that a rebuilding plan needs revision as described under section 304(e)(7) of the Magnuson-Stevens Act, then the Council would need to take action consistent with the revised NS1 guidelines.

Proposed Changes in Codified Text Listed by Issues/Categories

For clarity and convenience of the reader, this proposed rule would revise § 600.310 in its entirety. The following describes the specific changes to § 600.310 that are being proposed.

In the proposed revisions to § 600.310, current paragraph (d) would become paragraph (e), current paragraph (e) would become paragraph (f), and current paragraph (f) would become paragraph (d). The newly numbered paragraphs would cover these headings: Paragraph (a) *National Standard 1,* paragraph (b) *General,* paragraph (c) *MSY,* paragraph (d) *OY,* paragraph (e) *Overfishing,* and paragraph (f) *Ending overfishing and rebuilding depleted stocks.*

A new paragraph (b)(3) would be added to list ''Definition of terms'' for terms used frequently in § 600.310. These terms would be defined briefly in paragraph (b)(3) for the convenience of the reader which is not intended to supersede more detailed descriptions of the terms elsewhere in § 600.310.

The following are the proposed changes to § 600.310.

Terminology and Definitions

Throughout § 600.310, ''minimum stock size threshold'' and ''MSST'' would be replaced with ''minimum biomass limit'' and ''B_{lim}''; ''maximum fishing mortality threshold'' and ''MFMT'' would be replaced with ''maximum fishing mortality limit'' and ''F_{lim}''; and ''overfished'' would be replaced with ''depleted.''

In § 600.310, paragraph (b) would be divided into paragraph (b) introductory text and paragraph (b)(1); paragraph (b)(2) would be added to provide an overview of the relationship between MSY, OY, SDC, and rebuilding; and paragraph (b)(3) would be added to define briefly terms used in § 600.310.

In § 600.310, under the newly redesignated paragraph (e), paragraph (e)(1)(iii) would be revised to explain why the term ''overfished,'' used to describe a condition of low abundance of a *fish* stock, should be replaced with the term ''depleted.''

Core Stocks, Fisheries, and Stock Assemblages

In § 600.310, paragraphs (b)(4), (b)(4)(i), (b)(4)(ii), and (b)(4)(iii) would be added to describe core stocks and stock assemblages.

The phrase ''stock or stock complex'' would be replaced with ''core stock or stock assemblage'' throughout § 600.310.

In § 600.310, paragraph (c)(2)(iii) would be revised to remove the term ''mixed stock,'' add the term ''stock assemblages,'' and clarify that a stock assemblage's MSY and SDC may be specified for the stock assemblage as a whole, or may be listed as unknown if the assemblage is managed on the basis of one or more indicator stocks that do have stock-specific MSY and SDC.

Fishing Mortality Limits

In § 600.310, under paragraph (c):

1. Paragraph (c)(1)(ii) would be revised by adding two sentences to further describe the ''MSY control rule.''

2. The first sentence in paragraph (c)(3) would be revised to indicate that other measures could serve as reasonable proxies for the ''MSY fishing mortality rate (F_{msy}).'' A sentence would also be added at the end of paragraph (c)(3) to indicate that there is greater risk when setting OY close to a proxy-based MSY estimate than when setting OY against MSY, itself.

In § 600.310, under the newly redesignated paragraph (d), paragraph (d)(4)(iii) would be revised by further clarifying that all forms of fishing mortality must be accounted for when evaluating overfishing.

In § 600.310, under the newly redesignated paragraph (e):

1. Two sentences would be added to paragraph (e)(1)(ii) to further explain the role that fishing at an excessive fishing mortality rate has in reducing the capacity of a stock to produce MSY.

2. A new sentence would be added to paragraph (e)(2)(i) to explain the relationship between F_{lim} and the OY control rule.

3. Paragraph (e)(6)(iii) would be revised by removing the reference to ''ESA,'' meaning the ''Endangered Species Act,'' and adding more specific language about expectations for management of fish stocks caught together (*i.e.*, no core stocks should fall below their B_{lim} more than 50 percent of the time in the long-term, even though overfishing of the stock occurs sometimes in a fishery consisting of more than one stock).

In § 600.310, the newly redesignated paragraph (f)(4)(i) would be revised to require that overfishing be prevented beginning in the first year of any new or revised rebuilding plans and thereafter, except under certain circumstances.

Biomass Limits

In § 600.310, paragraph (c)(1)(iii) would be revised by adding a sentence to clarify that ''MSY stock size'' is the target level of abundance when rebuilding depleted stocks.

In § 600.310, under the newly redesignated paragraph (e):

1. Paragraph (e)(2)(ii) would be revised to simplify the default value for B_{lim} and refer to new paragraph (e)(2)(ii)(A), which would be added to describe exceptions to the default value.

2. Paragraph (e)(2)(ii)(B) would be added to describe conditions under which a Council would not have to manage explicitly using a B_{lim} specification when certain conditions of the OY control rule apply.

3. Paragraph (e)(2)(ii)(C) would be added to explain that, if a stock's status with respect to B_{lim} or a proxy is unknown, then it is necessary to rely on F_{lim} as the primary SDC. In this case, it would be especially prudent to set the OY control rule below the F_{lim}. For example, OY could be set equal to 75 percent of the catch corresponding to F_{lim}.

4. Paragraph (e)(2)(ii)(D) would be added to explain that the determination of ''depleted'' may be based on more than 1 year of breaching B_{lim} for certain stocks with very short life spans.

Rebuilding Time Horizons

In § 600.310, under the newly redesignated paragraph (f):

1. The phrase ''is as short as possible'' would be added to newly redesignated paragraph (f)(4)(ii) for emphasis regarding the goal for time for rebuilding.

2. Paragraph (f)(4)(ii)(B)(*1*) would be revised to explain that the starting year for calculation of T_{min} is ''the first year after a stock is determined to be depleted that a final rule to implement the rebuilding plan becomes effective.''

3. Paragraph (f)(4)(ii)(B)(*2*) would be revised to explain the term ''generation time.''

4. New paragraph (f)(4)(ii)(B)(*4*) would be added to clarify that T_{target}, the target time to rebuild for a given fishery, would generally be between T_{min} and T_{max} and, under most circumstances, it should be less than T_{max} to satisfy the Magnuson-Stevens Act's intent to rebuild ''in as short a time as possible'' and to help ensure that there will be at least a 50-percent chance of actually rebuilding by T_{max}. A default value for T_{target} should be set midway between T_{min} and T_{max} unless there is an analysis demonstrating that the status and biology of the stocks in question, or the needs of the fishing community, require application of an earlier or later target time to rebuild.

5. Paragraphs (f)(4)(ii)(C) and (D) would be removed because the language associated with May 1, 1998, no longer applies.

Rebuilding Targets

In § 600.310, under the newly designated paragraph (f), paragraph (f)(4)(ii)(B)(*5*) would be added to explain how to use a fraction of F_{lim} as an alternative for a rebuilding target when it is not possible to estimate B_{msy}, T_{min}, or other factors needed to establish a rebuilding target and time frame.

Revision of Rebuilding Plans

In § 600.310, under newly redesignated paragraph (f):

1. New paragraphs (f)(5), (f)(5)(i), (f)(5)(ii), (f)(5)(ii)(A), (f)(5)(ii)(B), (f)(5)(iii), (f)(5)(iii)(A), (f)(5)(iii)(B), and (f)(5)(iv) would be added to describe what management approach to take if rebuilding occurs substantially slower or faster than expected, or if the best scientific estimate of the rebuilding target changes.

OY Control Rules

In § 600.310, paragraph (b)(2)(iv) would be added to define and describe OY, and would state that the target F should be below F_{lim} to account for economic, social, and ecological factors,

and to have at least a 50-percent chance of keeping the actual F below F_{lim}, to reduce the chance of the stock size falling below B_{lim}, to rebuild the stock(s) to B_{msy}, and to achieve a large fraction of MSY.

In § 600.310, paragraph (b)(2)(v) would be added to describe issues related to uncertainty and the benefits of setting an OY control rule more conservatively than the MSY control rule, and of setting the target time to rebuild a depleted stock at less than the maximum allowable time. In § 600.310, paragraph (c)(2)(ii) would be revised by adding a sentence that reads as follows: ''All estimates should be accompanied by an evaluation of uncertainty, to the extent possible, to assist in setting OY sufficiently below the MSY level to avoid overfishing and stock depletion.''

In § 600.310, under the newly redesignated paragraph (d):

1. A sentence would be added to paragraph (d)(1)(ii) to explain that an OY control rule that adjusts annual catch levels in response to changes in stock abundance would better ensure that OY is achieved.

2. Paragraph (d)(4)(i) would be revised extensively by explaining that core stocks must have an OY control rule associated with them, and describing in detail the purpose of OY and the function of OY control rules in fishery management.

3. Paragraph (d)(4)(iii) would be revised to explain that F_{lim} must also take into account mortality of fish as a result of scientific research.

4. Paragraph (d)(4)(v) would be revised to explain that, in circumstances where there is no meaningful estimate or proxy for MSY, it may be satisfactory to set OY directly on the basis of available social, economic, and biological information, rather than to set OY less than a measured MSY. However, the science and administrative record would need to clearly support such a determination, and OY must still prevent overfishing and stock depletion.

5. Paragraph (d)(4)(vi) would be removed because it was redundant with other sections.

6. Paragraph (d)(5)(i) would be revised by adding a new sentence, ''For stocks determined to be depleted and in need of rebuilding, the OY needs to satisfy the rebuilding time frame requirements in paragraph (e) of this section.'' Also, near the end of newly designated paragraph (d)(5)(i), the phrase ''because there should be a buffer between the OY F value and F_{lim}'' would be added to the end of the sentence ''Exceeding OY does not necessarily constitute overfishing.''

7. A sentence would be added to paragraph (d)(5)(ii): ''This is intended to reduce the chance that stock abundance would fall below B_{lim}.''

8. Paragraph (d)(5)(iii) would be divided into paragraphs (d)(5)(iii)(iv), so that paragraph (d)(5)(iv) would solely explain how to hold part of OY in reserve.

In § 600.310, under the newly redesignated paragraph (e):

1. Paragraph (e)(1)(ii) is revised by adding a sentence stating that bycatch and mortality caused by scientific research are also forms of fishing mortality).

2. Paragraph (e)(3)(iii) would be revised by adding the phrase ''and OY control rules.''

3. Paragraph (e)(3)(iv) would be added to explain that specification of OY needs to take into account National Standard 8. Also, a new paragraph (e)(3)(v) would be added to explain that SDC need to take into account National Standard 9.

4. Paragraph (e)(4)(ii) would be revised to explain the basis for determining that an environmental change has occurred.

International Fisheries

In § 600.310, the newly redesignated paragraph (f)(4)(iii) would be revised to further clarify how to manage international HMS or straddling stocks for which the United States shares part of the fishery.

Miscellaneous Issues

In § 600.310, paragraph (c)(2)(iv) would be revised to clarify that original establishment of MSY and SDC should be part of an FMP or FMP amendment. Numerical updates to these values need not be codified and could be made through annual specifications or framework rulemaking, as long as any new management measures are accompanied by the appropriate environmental, economic, and social impact analyses and are implemented through procedures in the FMP.

In § 600.310, newly redesignated paragraph (d)(1)(ii) would be revised to better explain the phrase ''achieving the OY on a continuing basis'' and how use of an OY control rule that adjusts the annual target harvest level according to changes in estimated stock abundance can be especially useful in fishery management. In the newly designated paragraph (d)(3), the sentences ''One of these is MSY. Moreover, various factors can constrain the optimum level of catch to a value less than MSY.'' would be replaced with ''In particular, the degree to which OY is less than MSY depends upon several factors.''

In § 600.310, under the newly redesignated paragraph (e):

1. The term ''reproductive potential'' in paragraph (e)(2) would be replaced with ''the capacity of the stock to produce MSY,'' to be more descriptive. Also, in paragraph (e)(2) of this section, the sentence ''As a general rule, these determinations should be updated annually to satisfy the requirements of section 304(e)(1) of the Magnuson-Stevens Act.'' would be added near the end of the paragraph. Lastly, the phrase ''In all cases'' in paragraph (e)(2) of this section would be replaced with ''Unless sufficient data are unavailable or unless otherwise excepted in this paragraph (e)(2),'' to better address the fact that NMFS does not have sufficient data to measure SDC for every stock or to evaluate the status of every stock relative to its SDC.

2. Paragraph (e)(4)(ii) would be revised to describe circumstances under which SDC should be re-specified due to environmental change.

3. Paragraph (e)(6) would be revised to mention that harvesting of one stock may result in overfishing of another stock when two stocks are caught together, even if the stocks are not both in the same FMP.

In § 600.310, under the newly redesignated paragraph (f):

1. In paragraph (f)(1), the term ''threshold'' would be replaced with the term ''limit,'' the term ''stock size'' would be replaced with the term ''biomass,'' and the term ''fishery resource size'' would be replaced by the term ''stock abundance.''

2. The phrase ''as short a time as possible, subject to the constraints and conditions in paragraph (f)(4)(ii)'' would be added to the newly designated paragraph (f)(3)(ii).

3. Paragraph (f)(5)(v) would be added to provide guidance about what steps should be taken when a stock has not rebuilt to B_{msy} at the end of the rebuilding period (T_{max}).

Classification

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce's Office of General Counsel certified to the Chief Counsel for Advocacy for the Small Business Administration that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule, if adopted, would revise portions of the NS1 guidelines that describe how to derive status determination criteria for overfishing, overfished, and rebuilding periods for

overfished stocks. This rule would not result in any immediate impacts on revenues or costs for small entities because it does not contain any new management measures that would have specific economic impacts on specific fisheries or fisheries in general. Therefore, an initial regulatory flexibility analysis was not prepared as described under section 603 of the Regulatory Flexibility Act (RFA). However, future rulemakings that are promulgated by NMFS on behalf of the Secretary of Commerce may be based in part on the proposed changes to the NS1 guidelines and such actions would likely have specific measurable impacts on fisheries in one or more regions of the United States. Such rulemakings would be done in full compliance with the RFA and all other applicable law.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 14, 2005.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 600 is proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

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

2. Section 600.310 is revised to read as follows:

§ 600.310 National Standard 1—Optimum Yield.

(a) *Standard 1.* Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield (OY) from each fishery for the U.S. fishing industry.

(b) *General.* (1) The determination of OY (see definitions in § 600.10) is a decisional mechanism for resolving the Magnuson-Stevens Act's multiple purposes and policies, implementing an FMP's objectives, and balancing the various interests that comprise the national welfare. OY is based on Maximum Sustainable Yield (MSY), as it is reduced as provided under paragraphs (d)(3) and (d)(5) of this section. The most important limitation on the specification of OY is that the choice of OY and the conservation and management measures proposed to achieve it must prevent overfishing.

(2) *Definitions—Overview of MSY, OY, Status Determination Criteria (SDC), and Rebuilding.* The concepts of MSY, OY, SDC and rebuilding targets (terms used here are defined in paragraph (b)(3) of this section) are closely related:

(i) Compliance with the guidelines requires specification of two SDC: The maximum fishing mortality limit, F_{lim}, and the minimum biomass limit, B_{lim}, to determine when overfishing and stock depletion have occurred. These SDC are related to the abundance and productivity of the managed stocks.

(ii) The fishing mortality rate (F_{msy}) and associated control rule that would produce the maximum long-term average catch (MSY) is the upper limit for F_{lim}. The long-term expected level of biomass (stock abundance) that would result from fishing at F_{msy} is defined as the MSY stock size (B_{msy}), recognizing that natural fluctuations above and below the MSY stock size are normal.

(iii) The National Standard 1 (NS1) guidelines in this section require use of target OY control rules for each core stock to guide setting of annual F and catch levels to achieve OY for the fishery. These targets generally should be set below the limits to avoid exceeding the F_{lim} and to account, to the extent possible, for social, economic, and ecological factors.

(iv) When overfishing is determined to be occurring, corrective management actions to get F below F_{lim} are required to occur the year such regulations will be put into effect, except when certain circumstances apply. When stock depletion is determined to have occurred, a rebuilding plan needs to be developed and implemented to return the stock to B_{msy} in as short a time as possible, while taking into account various factors (see paragraph (f)(3)(ii)(A) of this section). Rebuilding the stock to B_{msy} re-establishes its capacity to produce MSY. The target time to rebuild, T_{target}, must be defined and generally should be less than the maximum time to rebuild, T_{max}, as defined in these guidelines.

(v) *Uncertainty.* None of these limits and levels can be calculated with perfect certainty. Some uncertainty is related to our capability to measure stock status and can be reduced through additional data collection and research. Other uncertainty is related to fluctuations in natural biological and environmental processes that can be characterized, but not reduced. Best scientific estimates of these limits and levels should include evaluation of the uncertainty, to the extent possible. The primary operational response to uncertainty is in setting the OY control rule more conservatively than the MSY control rule, and in setting the target time to rebuild depleted stocks at less than the maximum allowable time to rebuild those stocks.

(3) *Definitions.* (i) *Approaching overfishing or a depleted condition* means a limit, either maximum fishing mortality or minimum biomass, is projected to be breached within 2 years, based on trends in fishing effort, stock abundance, and other appropriate factors.

(ii) *Assessment* means a stock assessment as defined in § 600.10. Assessments provide quantitative evaluation of a stock's status with respect to established SDC. Assessments also provide the technical basis for implementing the OY control rule.

(iii) *Average* means, in this section, the central tendency of a measure over time, including arithmetic mean, median, and other appropriate statistics as developed through technical guidance.

(iv) *Biomass* means the total quantity of fish in a stock and is used synonymously with stock abundance. For the purposes of SDC under NS1, biomass (B_{msy} and B_{lim}) focuses on reproductive potential of the stock so that ''spawning biomass'' is used and is commonly measured as mature female biomass. If spawning biomass is not available, total biomass or other proxies are sometimes used. Biomass is usually measured in total tonnage of fish, but could be numbers or other units to be synonymous with stock abundance.

(v) B_{lim} means the same as minimum biomass limit.

(vi) B_{msy} means the same as MSY stock size.

(vii) *Core stock* means a stock that is the principal or one of the principal target stocks of a fishery, and may also include historically important stocks, important bycatch stocks, highly vulnerable stocks, and indicator stocks. Core stocks should have sufficient information available to be managed on the basis of stock-specific SDC and OY control rules, or their proxies.

(viii) *Depleted* means a stock or stock assemblage whose biomass has been determined to be below its B_{lim}. Determination of a depleted status triggers the requirement for development of a rebuilding plan. Also see paragraph (e)(1)(iii) of this section.

(ix) *Expected* means a future level of biomass, catch, *or* fishing mortality, or *a* time to rebuild, that has at least a 50-percent chance of occurring, given the fishery management approach to be used in the future and taking into account, to the extent possible, the level of certainty in assessment results and natural fluctuations in stock productivity.

(x) *Fishery management plan (FMP)* means a plan developed by a Regional Fishery Management Council, or the Secretary of Commerce in the case of Atlantic highly migratory species, to comply with requirements and management responsibilities described in the Magnuson-Stevens Act.

(xi) *Fishery management unit (FMU)* means a list of fish species or stocks in an FMP that have been determined to be in need of conservation and management. These stocks constitute the FMP's set of regulated stocks and are the stocks for which MSY, OY, and SDC are required.

(xii) *Fishing mortality rate* means the rate of mortality imposed on the stock or stock assemblage due to fishing activities. The term F is an abbreviation for fishing mortality rate.

(xiii) *Fishing mortality target* means the level of fishing mortality that corresponds to the OY control rule.

(xiv) F_{lim} means the same as maximum fishing mortality rate limit.

(xv) *Generation time* means the average age of spawners for a fish stock or species. This biological factor is related to the time scale for stock rebuilding. Generation time is calculated as the average age of spawners, under constant recruitment, when individuals in a stock are subjected to only natural mortality and weighted by the amount of spawn production at each age.

(xvi) *Indicator stock* means a stock that has been selected as a representative for a stock assemblage because of similarity in geographic distribution, occurrence in fisheries (*e.g.*, caught by the same gear) and life history to other assemblage members. Indicator stocks must have SDC and sufficient data to measure their status relative to SDC. Indicator stocks should be managed as a core stock while also serving as an indicator for the assemblage.

(xvii) *Maximum fishing mortality limit* means the level of F, on an annual basis, above which overfishing is occurring. This level is abbreviated as F_{lim} and must be set to be no greater than the MSY control rule.

(xviii) *Minimum biomass limit* means the level of biomass below which the stock is considered to be depleted. The default level is $\frac{1}{2}B_{msy}$ and the abbreviated term is B_{lim}. Stock-specific determinations of B_{lim} should take into account the expected range of natural fluctuations in biomass while fishing according to the MSY control rule, and scientific evidence regarding the biomass level below which stock productivity is more impaired.

(xix) *MSY* means the Maximum Sustainable Yield and is calculated as the largest long-term potential average catch or yield that can be taken from a core stock or stock assemblage under prevailing (*e.g.*, generally current) ecological, environmental and fishery conditions while fishing according to a MSY control rule. Also see paragraph (c)(1)(i) of this section.

(xx) *MSY control rule* means a harvest strategy that, if implemented, would be expected to result in a long-term future potential average catch approximating MSY. F_{lim}, above which overfishing occurs, must be set at or below the F corresponding to the MSY control rule and typically will be set at the level of the MSY control rule. Because stocks naturally fluctuate in abundance, the annual result of applying the MSY control rule may be an annual catch level that fluctuates above and below the MSY which is the long-term average.

(xxi) *MSY stock size (B_{msy})* means the long-term average stock abundance level of the core stock or stock assemblage, measured in terms of spawning biomass or other appropriate, that would occur while fishing according to the MSY control rule. The MSY stock size is the target stock size to which depleted stocks must be rebuilt.

(xxii) *Natural mortality rate (M)* means the rate at which fish die from non-fishery related causes such as disease and predation. This rate is used directly in the calculation of generation time, and influences the values of T_{min} and F_{msy}.

(xxiii) *Overfishing* means to fish at a level that jeopardizes the capacity of the stock to produce MSY. Also, see paragraph (e)(1)(ii) of this section.

(xxiv) *OY (Optimum Yield),* as defined in § 600.10, means the amount of fish that:

(A) Will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems;

(B) Is prescribed on the basis of MSY from the fishery, as reduced by any relevant economic, social, or ecological factor; and

(C) In the case of an overfished (*i.e.*, depleted) fishery, that provides for rebuilding to a stock size level consistent with producing the MSY in such fishery.

(xxv) *OY control rule* means a specified approach to setting the target annual level of catch or F for each stock or stock assemblage such that overfishing is prevented and OY is achieved for the fishery as a whole. Also see paragraphs (d)(1)(ii) and (d)(4)(i) of this section.

(xxvi) *Rebuilding plan* means a revision of an OY control rule that addresses the management objective to rebuild a depleted (*i.e.*, previously called ''overfished'') stock's abundance until it reaches B_{msy} (or its proxy), in as short a time as possible, taking into account circumstances described under section 304(e)(4)(A) of the Magnuson-Stevens Act. A rebuilding plan should contain: A target time for rebuilding to be completed (T_{target}) based upon a calculation of T_{min} and T_{max}, the stock abundance (B_{msy} or proxy) to be reached before a stock is considered ''rebuilt,'' a control rule that specifies how the target fishing mortality would change during the course of the rebuilding plan, and sufficient information to track the progress towards controlling F and rebuilding the stock abundance. In the case of a fish stock for which B_{msy} or a proxy is unknown, but F_{lim} or a good estimate is known, a ''rebuilding plan'' would consist of keeping F less than the default value of 75 percent of F_{lim} for at least two generation times, after which the stock would be considered ''rebuilt.''

(xxvii) *Rebuilding target* means the target biomass for rebuilding depleted stocks. This target is set equal to B_{msy} or a suitable proxy.

(xxviii) *Rebuilt* means that an assessment or other analysis finds that a previously depleted stock has at least a 50-percent probability of being at or above B_{msy} in the current year.

(xxix) *SDC-known* means the status of a stock is known relative to F_{lim}, B_{lim}, or both.

(xxx) *Status determination criteria (SDC)* means the quantifiable factors, F_{lim} and B_{lim}, or their proxies, that are used to determine if overfishing or stock depletion, respectively, has occurred.

(xxxi) *Stock abundance often* means the total quantity of fish in a stock, but sometimes refers to spawning biomass. The term is used synonymously with total or spawning biomass in this section. Stock abundance is usually measured as total tonnage of fish, but could be expressed in numbers or other units.

(xxxii) *Stock assemblage* means a group of stocks in an FMP that are sufficiently similar in geographic distribution, co-occurrence in fisheries, and life history so that SDC measured on an assemblage-wide basis or for an indicator stock will satisfy the Magnuson-Stevens Act requirements to achieve OY and prevent overfishing of a fishery. Not all stocks in an assemblage will *not* have sufficient

information to measure stock-specific SDC.

(xxxiii) T_{max} means the latest year that can be used as the target time to rebuild a depleted stock. If T_{min} plus one generation time is greater than 10 years, then T_{max} is equal to T_{min} plus one generation time; otherwise, T_{max} equals 10 years.

(xxxiv) T_{min} means the earliest year with a 50-percent chance that the stock will have rebuilt to B_{msy}. T_{min} is calculated under the conditions of zero fishing mortality, beginning the first year of a rebuilding plan.

(xxxv) T_{target} means the year by which there is a 50-percent chance that the stock will have reached B_{msy} while being fished according to the fishing mortality rate prescribed by the rebuilding plan.

(xxxvi) *Unknown status* means that the status of the stock relative to its B_{lim}, F_{lim}, or both is unknown. This includes two situations:

(A) The actual numeric level of B_{lim} or F_{lim} or their proxies cannot be calculated; or

(B) The numeric level of B_{lim} or F_{lim} or their proxies can be calculated, but the current level of the stock's F or its proxy, or biomass or its proxy, is not known relative to the SDC.

(4) *Core stocks and stock assemblages.* A fishery means one or more stocks of fish that can be treated as a unit for purposes of conservation and management. National Standard 3 provides several approaches to defining Fishery Management Units (FMU) for all or part of a fishery. The SDC of NS1 are applied to the regulated stocks listed in the FMUs of an FMP. A stock identified as a regulated stock should be designated as a core stock and/or a member of a stock assemblage based on its degree of importance to the fishery or Nation, and on the availability of data sufficient to make reliable estimates of SDC for that stock. Although not all stocks have a known status, it is the goal to acquire sufficient scientific information to attain a known status for each core stock and to assign all other managed stocks to a stock assemblage.

(i) *Core stocks.* Core stocks are the principal target stocks of the fishery and may also include historically important stocks, important bycatch stocks, highly vulnerable stocks, and indicator stocks (see paragraph (b)(4)(ii) of this section). Quantitative SDC and OY control rules, or suitable proxies, must be developed for core stocks, with the rare exception of those core stocks that have insufficient information to develop or implement SDC. Core stocks that co-occur in a fishery may be identified as members of an assemblage, and assemblage-wide management measures may be implemented, but this does not relieve the requirement to manage each core stock with stock-specific SDC.

(ii) *Stock assemblages.* A stock assemblage is a group of stocks that constitute all or part of a fishery, that typically co-occur geographically, and that tend to have similar productivity, but for some or all of which the available data are insufficient to specify individual SDC or control rules. A stock assemblage may be assessed and managed as a group, using SDC, MSY and OY control rules, and other benchmarks based upon an indicator stock(s) or the entire assemblage. Whenever possible, an assessed core stock should serve as an indicator stock for a stock assemblage's SDC, although management measures, such as fishery days-at-sea or recreational bag limits, could apply to the entire assemblage. When an indicator stock is chosen, it is intended to be representative of the typical status of each stock within the assemblage. More than one indicator stock can be selected to provide more information about the status of the assemblage. Assemblages should be managed in a way that is more conservative than the management of SDC-known core stocks, because there is less information available on stocks in assemblages than there is for core stocks. For individual stocks that are important, but for which data are inadequate to measure the stock's status relative to its SDC, data collection should be improved so that sufficient data become available to make them core stocks. Individual stocks within assemblages should be examined periodically using available quantitative or qualitative information to warn of depletion of these stocks. Some stocks may not even have enough data that they can be assigned confidently to an assemblage. These should remain identified as ''unknown status'' until sufficient information is available to classify them into an assemblage.

(iii) *Exempted stocks.* Two categories of stocks are exempt from the requirement to specify SDC or reasonable proxies. First, stocks that are primarily dependent on hatchery production, such as some Pacific salmon stocks, do not require SDC because they are not primarily dependent on natural ecosystem production. However, this exemption from SDC requirements does not exempt fisheries for these hatchery stocks from other national standards. Second, stocks that are listed as threatened or endangered are exempt from SDC requirements until they are no longer listed under the Endangered Species Act. After de-listing, these stocks would become subject to NS1 considerations and a determination of SDC and stock status would need to be made within 1 year of de-listing.

(c) *MSY.* Each FMP should include an estimate of MSY, as explained in this paragraph (c), with the numeric value of MSY specified and modified according to paragraph (c)(2)(iv) of this section.

(1) *Definitions.* (i) *MSY* is defined in paragraph (b)(3)(xviii) of this section.

(ii) *MSY control rule* is defined in paragraph (b)(3)(xix) of this section.

(iii) *MSY stock size* (B_{msy}) is defined in paragraph (b)(3)(xx) of this section.

(2) *Options in specifying MSY.* (i) Because MSY is a long-term average, its estimation can be conditional on the choice of an MSY control rule. In choosing an MSY control rule, Councils should be guided by the characteristics of the stock and fishery, the FMP's objectives, and the best scientific information available. A simple MSY control rule is to remove a constant catch in each year that the estimated stock size exceeds an appropriate lower bound, where this catch is chosen so as to maximize the resulting long-term average yield (this strategy causes a higher F as the stock size approaches the chosen lower bound therefore the constant catch level must be set cautiously). A more commonly used MSY control rule is to remove a constant fraction of the biomass each year, where this fraction is chosen so as to maximize the resulting long-term average yield. Other examples include: Remove a constant fraction of the biomass in each year, where this fraction is chosen so as to maximize the resulting long-term average yield; allow a constant level of escapement in each year, where this level is chosen so as to maximize the resulting long-term average yield; or, vary the fishing mortality rate as a continuous function of stock size, where the parameters of this function are constant and chosen so as to maximize the resulting long-term average yield. In any MSY control rule, a given stock size is associated with a given level of F and a given level of potential harvest, where the long-term average of these potential harvests provides an estimate of MSY.

(ii) Any MSY value used in determining OY will necessarily be an estimate, and will typically be associated with some level of uncertainty. Such estimates must be based on the best scientific information available (see § 600.315). All estimates should be accompanied by an evaluation of uncertainty, to the extent possible, to assist in setting OY sufficiently below the MSY level to

avoid overfishing and stock depletion. Beyond these requirements, however, Councils, with the technical guidance of their Scientific and Statistical Committees, have a reasonable degree of latitude in determining which estimates to use and how these estimates, and associated uncertainty, are to be expressed.

(iii) *MSY for stock assemblages.* MSY is specified on a stock-by-stock basis for each core stock. For stock assemblages, when indicator stocks are not used as the primary basis for management, MSY may be specified for the stock assemblage as a whole and calculated relative to the total catch of the assemblage. When indicator stocks are used, the assemblage's MSY could be listed as ''unknown,'' while noting that the assemblage is managed on the basis of one or more indicator stocks that do have known, stock-specific MSYs or suitable proxies.

(iv) *MSY numerical values.* Because MSY is a long-term average, its value need not be updated annually, but it must be based on the best scientific information available, and should be re-estimated as required by changes in environmental or ecological conditions or new scientific information. See paragraph (e)(4) of this section for more guidance on responding to environmental change. Original determinations of MSY and related quantities (*i.e.*, OY and SDC) for fisheries in an FMP should be established through an FMP, FMP amendment, or other appropriate regulatory action. Numerical updates to these values can be made through annual specifications or framework rulemaking, if allowed by the respective FMP, or temporarily by emergency or interim rulemaking, as long as any new management measures resulting from such measures are accompanied by the appropriate environmental, economic, and social impact analyses. The numeric level of MSY and related quantities need not be codified in regulatory text.

(3) *Alternatives to specifying MSY.* When data are insufficient to estimate MSY directly, Councils should adopt other measures of productive capacity that can serve as reasonable proxies for MSY or F_{msy}, to the extent possible; *e.g.*, fishing mortality reference points defined in terms of relative spawn production per recruit (SPR). For some stocks, the F that reduces the long-term average level of SPR to 30–40 percent of the long-term average that would be expected in the absence of fishing may be a reasonable proxy for F_{msy}. The long-term average stock size that results from fishing year after year at this rate, under average recruitment, may thus be a reasonable proxy for the MSY stock size, and the long-term average catch so obtained may be a reasonable proxy for MSY. The natural mortality rate (M) or some fraction of M may also be a reasonable proxy for F_{msy}. If a reliable estimate of pristine stock size (*i.e.*, the long-term average stock size that would be expected in the absence of fishing) is available, a stock size approximately 40 percent of this value may be a reasonable proxy for the MSY stock size, and the product of this stock size and the M may be a reasonable proxy for MSY. Because proxies may not represent MSY exactly, this added uncertainty should be taken into account when setting OY below MSY (also see paragraph (d)(4)(v) of this section).

(d) *OY*—(1) *Definitions.* (i) As defined in the Magnuson-Stevens Act, see paragraph (b)(3)(xxiii) of this section.

(ii) *OY control rule.* The phrase ''achieving, on a continuing basis, the OY from each fishery'' means producing, from each fishery, a long-term series of catches such that the average catch is equal to the OY and such that SDC (F_{lim} and B_{lim}) for each stock in the fishery are not breached. Achieving OY on a continuing basis is not the same as obtaining the same level of catch each year. Rather, OY for the fishery is best achieved by following an OY control rule for each stock or stock assemblage that provides direction for adjusting annual target level of catch in response to changes in stock abundance and other factors. When a stock is determined to be depleted, the rebuilding plan represents a temporary modification of the OY control rule to rebuild the stock, at which time the long-term OY control rule is resumed. Also see paragraph (d)(4)(i) of this section.

(2) *Values in determination.* In determining the greatest benefit to the Nation, the values that should be weighed are food production, recreational opportunities, and protection afforded to marine ecosystems. They should receive serious attention when considering the economic, social, or ecological factors used in reducing MSY to obtain OY.

(i) The benefits of food production are derived from providing seafood to consumers; maintaining an economically viable fishery, together with its attendant contributions to the national, regional, and local economies; and utilizing the capacity of the Nation's fishery resources to meet nutritional needs.

(ii) The benefits of recreational opportunities reflect the quality of both the recreational fishing experience and non-consumptive fishery uses such as ecotourism, fish watching, and recreational diving; and the contribution of recreational fishing to the national, regional, and local economies and food supplies.

(iii) The benefits of protection afforded to marine ecosystems are those resulting from maintaining viable populations (including those of unexploited species), maintaining evolutionary and ecological processes (*e.g.*, disturbance regimes, hydrological processes, nutrient cycles), maintaining the evolutionary potential of species and ecosystems, and accommodating human use.

(3) *Factors relevant to OY.* Because fisheries have finite capacities, any attempt to maximize the benefits described in paragraph (d)(2) of this section will inevitably encounter practical constraints. In particular, the degree to which OY is less than MSY depends upon several factors. The Magnuson-Stevens Act's definition of OY identifies three categories of such factors: Social, economic, and ecological. Not every factor will be relevant in every fishery. For some fisheries, insufficient information may be available with respect to some factors to provide a basis for establishing the degree to which OY is less than MSY.

(i) *Social factors.* Examples are enjoyment gained from recreational fishing, avoidance of gear conflicts and resulting disputes, preservation of a way of life for fishermen and their families, and dependence of local communities on a fishery. Other factors that may be considered include the cultural place of subsistence fishing, obligations under Indian treaties, and worldwide nutritional needs.

(ii) *Economic factors.* Examples are prudent consideration of the risk of overfishing or stock depletion when a stock's size or productive capacity is uncertain (also see paragraph (d)(5) of this section), satisfaction of consumer and recreational needs, and encouragement of domestic and export markets for U.S.-harvested fish. Other factors that may be considered include the value of fisheries, the level of capitalization, the decrease in cost per unit of catch afforded by an increase in stock size and the attendant increase in catch per unit of effort, alternate employment opportunities, and economies of coastal areas.

(iii) *Ecological factors.* Examples are stock size and age composition, the vulnerability of incidental stocks in a mixed-stock fishery, predator-prey or competitive interactions, and dependence of marine mammals and

birds or endangered species on a stock of fish. Also important are ecological or environmental conditions that stress marine organisms, such as natural and manmade changes in wetlands or nursery grounds, and effects of pollutants on habitat and stocks.

(4) *Specification.* (i) The amount of fish that constitutes the OY for the fishery should be expressed in terms of numbers or weight of fish. Like MSY, OY is a long-term average that is the result of fishing according to a harvest policy. The long-term level of OY need not be adjusted annually as stock abundance and other factors fluctuate, although an FMP could adjust OY to changing conditions if these adjustments were beneficial to achieving the FMP's goals. To assist in specifying OY and preventing overfishing, each FMP must include an OY control rule for each core stock to provide an annual specification of the target F (or catch) level. These OY control rules constitute a harvest strategy which, when implemented, would be expected to result in a long-term average catch approximating OY while preventing overfishing and stock depletion. The target annual F (or catch) associated with the OY control rule must be less than the F (or catch) associated with the fishing mortality limit (F_{lim}). Management measures that implement the control rule should be designed with the intent of achieving at least a 50-percent chance that the actual F (or catch) will not exceed the F (or catch) associated with the control rule. To the extent possible, the OY control rule for each core stock or stock assemblage should quantify the relevant social, economic and ecological factors used to reduce MSY to get to OY. In most cases, only a few factors can be quantified in the OY control rule, but the FMP still must address all relevant factors in its demonstration that the targeted management actions will achieve OY for the fishery while preventing overfishing. To the extent that the OY control rule is less than the MSY control rule, the resulting long-term average biomass while fishing at the OY control rule will be correspondingly greater than B_{msy}, but the rebuilding target remains at B_{msy} because this is the level that specifically has the capacity to produce MSY. Assemblages can have either an OY control rule for the entire assemblage, or they can contain an indicator stock(s) with an OY control rule. See paragraph (d)(4)(v) of this section for more guidance on situations in which OY must be established without having an estimate of MSY.

(ii) In addition to the OY control rule, or in cases where an OY control rule cannot be implemented, the OY may specify annual harvest of fish having a minimum weight, length, or other measurement; or an amount of fish taken only in certain areas, in certain seasons, with particular gear; or a specified amount of fishing effort.

(iii) All fishing mortality must be counted against F_{lim}, including that resulting from bycatch and other fishing activities. Mortality caused by scientific research also needs to be counted towards F_{lim}.

(iv) The OY specification should be translatable into an annual numerical estimate for the purposes of establishing any Total Allowable Level of Foreign Fishing (TALFF) and analyzing impacts of the management regime. There should be a mechanism in the FMP for periodic reassessment of the OY specification, so that it is responsive to changing circumstances in the fishery.

(v) The determination of OY requires a specification of MSY, directly or through a proxy. Where sufficient scientific data as to the biological characteristics of the stock do not exist, or where the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, or where frequent large-scale fluctuations in stock size diminish the meaningfulness of the MSY concept, OY must still be based on the best scientific information available. When data are insufficient to estimate MSY directly, Councils should adopt other measures of productive capacity that can serve as reasonable proxies for MSY to the extent possible (see paragraph (c)(3) of this section). In circumstances where there is no meaningful estimate or proxy for MSY, it may be satisfactory to set OY directly on the basis of available social, economic, and biological information, rather than to set OY less than a measured MSY, but the underlying science and supporting administrative record must clearly support the individual and fact-specific determination, and OY must still prevent overfishing and stock depletion.

(5) *OY and the precautionary approach.* In general, Councils should adopt a precautionary approach to specification of OY. A precautionary approach has the following features:

(i) Target reference points, such as OY, should be set safely below limit reference points, taking into account social, economic, and ecological factors as defined in paragraph (d)(1) of this section. For stocks determined to be depleted and in need of rebuilding, the OY also needs to satisfy the rebuilding timeframe requirements in paragraph (e) of this section. Because OY is a target reference point, it does not constitute an absolute ceiling or limit, but rather a desired result. An FMP must contain conservation and management measures to achieve OY, and provisions for information collection that are designed to determine the degree to which OY is achieved on a continuing basis—that is, a long-term average catch that is equal to the long-term average OY, while meeting the SDC. These measures should allow for practical and effective implementation and enforcement of the management regime, so that the harvest is allowed to achieve OY, but should result in at least a 50-percent probability of the fishing mortality being below F_{lim}. The Secretary has an obligation to implement and enforce the FMP so that OY is achieved. If management measures prove unenforceable or too restrictive, or not rigorous enough to realize OY, they should be modified; an alternative is to reexamine the adequacy of the OY specification. Exceeding OY on a short-term basis does not necessarily constitute overfishing, because there should be a buffer between the F resulting from the OY control rule and F_{lim}. However, even if no overfishing results from exceeding OY, continual harvest at a level above OY would violate NS1, because OY is not being achieved on a continuing basis.

(ii) The OY control rule should be designed so that a core stock, or a stock assemblage that has an OY control rule, that is below the stock size that would produce MSY (B_{msy}) is harvested at a lower rate of fishing mortality than if the core stock or stock assemblage were above B_{msy}. This is intended to reduce the chance that the stock abundance would fall below B_{lim}.

(iii) Criteria used to set target catch levels should be explicitly risk averse, so that greater uncertainty regarding the status or productive capacity of a core stock or stock assemblage corresponds to a greater buffer between the target F level and the F_{lim} level.

(iv) Part of the OY may be held as a reserve to allow for factors such as uncertainties in estimates of stock size and Domestic Annual Harvest (DAH). If an OY reserve is established, an adequate mechanism should be included in the FMP to permit timely release of the reserve to domestic or foreign fishermen, if necessary.

(6) *Analysis.* An FMP must contain an assessment of how its OY specification was determined (section 303(a)(3) of the Magnuson-Stevens Act). It should relate the explanation of overfishing in paragraph (e) of this section to conditions in the particular fishery and

explain how its choice of OY and conservation and management measures will prevent overfishing in that fishery. A Council must identify those economic, social, and/or ecological factors relevant to management of a particular fishery, then evaluate them to determine the amount by which OY should be set below MSY. The choice of a particular OY must be carefully defined and documented to show that the OY selected will produce the greatest benefit to the Nation. If overfishing is permitted under paragraph (e)(6) of this section, the assessment must contain a justification in terms of overall benefits, including a comparison of benefits under alternative management measures, and an analysis of the risk of any species, or ecologically significant unit thereof, reaching a threatened or endangered status, as well as the risk of any core stock or stock assemblage falling below its B_{lim}.

(7) *OY and foreign fishing.* Section 201(d) of the Magnuson-Stevens Act provides that fishing by foreign nations is limited to that portion of the OY that will not be harvested by vessels of the United States.

(i) *DAH.* Councils must consider the capacity of, and the extent to which, U.S. vessels will harvest the OY on an annual basis. Estimating the amount that U.S. fishing vessels will actually harvest is required to determine the surplus.

(ii) *Domestic annual processing (DAP).* Each FMP must assess the capacity of U.S. processors. It must also assess the amount of DAP, which is the sum of two estimates: The estimated amount of U.S. harvest that domestic processors will process, which may be based on historical performance or on surveys of the expressed intention of manufacturers to process, supported by evidence of contracts, plant expansion, or other relevant information; and the estimated amount of fish that will be harvested by domestic vessels, but not processed (e.g., marketed as fresh whole fish, used for private consumption, or used for bait).

(iii) *Joint venture processing (JVP).* When DAH exceeds DAP, the surplus is available for JVP. JVP is derived from DAH.

(e) *Overfishing*—(1) *Definitions.* (i) *To overfish* means to fish at a rate that jeopardizes the capacity of a core stock or stock assemblage to produce MSY on a continuing basis.

(ii) *Overfishing* means a core stock or stock assemblage is subjected to a rate of fishing mortality that jeopardizes the capacity of a core stock or stock assemblage to produce MSY on a continuing basis. The capacity of a stock to produce MSY depends upon the reproductive potential of the stock when its abundance is near B_{msy}. Thus, jeopardizing the capacity to produce MSY means to fish at an annual rate that would reduce the long-term future average stock abundance below B_{msy}. Fishing mortality must include all mortality resulting from bycatch and other fishing activities, and must also account for mortality caused by scientific research.

(iii) In the Magnuson-Stevens Act, the term ''overfished'' is used in two senses: First, to describe any core stock or stock assemblage that is subjected to a rate of fishing mortality meeting the criterion in paragraph (e)(1)(i) of this section and, second, to describe any core stock or stock assemblage whose abundance is sufficiently small that a change in management practices is required to achieve an appropriate level and rate of rebuilding. This second usage can cause confusion because it implies that any severe decline in stock size is necessarily caused by an excessive rate of fishing. While excessive fishing may be the only contributing factor in stock decline, the severe decline in stock size could also be caused by a number of other factors, including abnormal fluctuations in prevailing environmental factors. In most cases, multiple causes will affect the stock's abundance. Rebuilding is necessary, whatever the cause, unless it is also determined, according to paragraph (e)(4) of this section, that the shift in environmental conditions represents a long-term, persistent shift in conditions that has caused a change in the SDC such that the stock is not depleted relative to the updated SDC. To avoid an incorrect implication of the cause of a severe decline in stock size, the term ''depleted'' is used rather than ''overfished'' (see paragraph (b)(2)(ii) of this section) throughout these guidelines to describe a condition in which the stock size has become sufficiently small, for whatever reason, that a change in fishery management practices is required in order to rebuild the stock to B_{msy}.

(2) *Specification of SDC.* Each FMP must specify objective and measurable SDC for each core stock or stock assemblage covered by that FMP, and provide an analysis of how the SDC were chosen and how they relate to the capacity of the stock to produce MSY. SDC must be expressed in a way that enables the Council and the Secretary to monitor the core stock or stock assemblage and to determine whether overfishing is occurring and whether the core stock or stock assemblage is depleted. As a general rule, these determinations should be re-examined at least annually and updated, as necessary, to satisfy the requirements of section 304(e)(1) of the Magnuson-Stevens Act. In all cases, SDC (both F_{lim} and B_{lim} or their proxies) should be specified while recognizing that, for some stocks, their actual stock status in relation to an SDC might be unknown, at least for the time being, because of insufficient data.

(i) *F_{lim} or reasonable proxy thereof.* The F_{lim} may be expressed either as a single number or as a function of spawning biomass or other measure of productive capacity. The F_{lim} must not exceed the F associated with the relevant MSY control rule, and F_{lim} may be set equal to Fmsy. Overfishing has occurred when it is demonstrated that the best scientific estimate of annual F has exceeded F_{lim}. Operationally, this generally means that a stock assessment or other analysis has found that the F in the most recent fishing year has more than a 50-percent probability of having exceeded F_{lim}. The fishery must be managed by setting annual targets and implementation of effective regulations, such that there is at least a 50-percent chance that the actual F, on an annual basis, will be below F_{lim}, while achieving OY.

(ii) *B_{lim} or reasonable proxy thereof.* The minimum biomass limit (B_{lim}) is the level of stock abundance below which there is increased concern regarding potential impairment of stock productivity, delayed rebuilding to B_{msy}, and potential ecosystem harm. B_{lim} should be expressed in terms of spawning biomass or other measure of productive capacity. As a default, in the absence of other information and analysis, B_{lim} should equal one-half the MSY stock size, except as described in paragraphs (e)(2)(ii)(A), (B), and (C) of this section. Should the actual size of the core stock or stock assemblage in a given year fall below B_{lim}, the core stock or stock assemblage is considered depleted, except as described in paragraph (e)(2)(ii)(D) of this section, in which case more than 1 year of information may need to be examined before declaring a stock to be depleted.

(A) Use of values higher or lower than $\frac{1}{2}B_{msy}$ as the B_{lim} may be justified based on the expected range of natural fluctuations in the stock size when the stock is not subjected to overfishing, and while taking into account protection of the reproductive potential of the stock.

(B) B_{lim} does not have to be specified if a fishery is being managed with a sufficiently conservative OY control rule, such that target and actual levels of F are at least as conservative as would

have been the case if a B_{lim} had been specified and used to trigger a rebuilding plan. This generally means that the F values associated with the OY control rule are sufficiently low that, in the event the stock falls below $\frac{1}{2}B_{msy}$, continued management of the stock according to the OY control rule is expected to rebuild the stock to B_{msy} within the maximum allowable time period for rebuilding (*see* paragraph (f)(4)(ii)(B) of this section). If B_{lim} is not specified explicitly by a Council, NMFS, nevertheless, would retain estimates of $\frac{1}{2}B_{msy}$ for fish stocks managed in the manner described in this paragraph (e)(2)(ii)(B) to help ensure that the control rule is effective and in line with productivity estimates for the stocks. If such a stock is found to fall below $\frac{1}{2}B_{msy}$, it would be prudent to conduct a scientific evaluation of the adequacy of the OY control rule.

(C) In the case of fisheries for which status of a stock as it relates to its B_{lim} or a suitable proxy is unknown, then status determination must rely solely on F_{lim}. In this case, it is prudent to set the OY control rule safely below the F_{lim}. For example, the OY control rule could be set at 75 percent of F_{lim}. The 75 percent of F_{lim} level is also used as a determination that a stock has rebuilt, as described in paragraph (f)(4)(ii)(B)(5) of this section.

(D) In the case of some species, such as some penaeid shrimp, squid, and Pacific salmon, that have very short life spans and may have extreme year-to-year fluctuations in stock abundance, the definition of B_{lim} can be based on the stock abundance level in more than 1 consecutive year.

(3) *Relationship of SDC to other national standards*—(i) *National Standard 2.* SDC must be based on the best scientific information available (*see* § 600.315). When data are insufficient to estimate MSY, Councils should base SDC on reasonable proxies thereof, to the extent possible (also *see* paragraph (c)(3) of this section). In cases where scientific data are severely limited, effort should also be directed to identifying and gathering the needed data.

(ii) *National Standard 3.* The requirement to manage interrelated stocks of fish as a unit or in close coordination notwithstanding (see § 600.320), SDC should generally be specified in terms of the level of stock aggregation for which the best scientific information is available (also see paragraph (c)(2)(iii) of this section).

(iii) *National Standard 6.* Councils must build into the OY appropriate consideration of risk, taking into account uncertainties in estimating harvest, stock conditions, life history parameters, and the SDC (see § 600.335).

(iv) *National Standard 8.* Councils must build into the specification of OY and OY control rules available data on the fishing communities affected by the specific fishery being considered (see § 600.345).

(v) *National Standard 9.* Evaluation of stock status with respect to specification of SDC and overfishing must take into account mortality caused by bycatch (see § 600.350).

(4) *Relationship of SDC to environmental change.* Some short-term environmental changes can alter the current size of a core stock or stock assemblage without affecting the long-term productive capacity of the core stock or stock assemblage. Other environmental changes affect both the current size and long-term productivity of the core stock or stock assemblage. MSY and OY control rules must be designed and calculated for prevailing environmental, ecosystem, and habitat conditions, taking into account the scale and frequency of fluctuations in these conditions, as follows:

(i) If environmental changes contribute to a core stock or stock assemblage falling below the B_{lim} without affecting the long-term productive capacity of the core stock or stock assemblage, F must be constrained sufficiently to allow rebuilding within an acceptable time frame (also see paragraph (f)(4)(ii) of this section). SDC should not be respecified in this situation.

(ii) If environmental changes affect the long-term productive capacity of the core stock or stock assemblage, one or more components of the SDC must be respecified. The determination of a long-term change in environmental conditions must be based on the best available scientific information and cannot be based solely on a decline in stock productivity. Such a decline in productivity could be due to low stock abundance, which is exactly the situation that NS1 seeks to avoid. Suitable evidence for a relevant environmental shift could include scientific information for a long-term change in an environmental, ecosystem, or habitat condition that has been demonstrated to directly and plausibly relate to stock productivity. The duration of ''long-term'' cannot be precisely specified in these guidelines, but the justification for an environmentally based change in the SDC must adequately demonstrate that the environmental change is substantially more persistent than the environmental fluctuations normally experienced by each generation of fish. Once SDC have been respecified, fishing mortality may or may not have to be changed, depending on the status of the core stock or stock assemblage with respect to the new criteria.

(iii) If anthropogenic environmental changes are partially responsible for a core stock or stock assemblage being in a depleted condition, in addition to controlling effort, Councils should recommend restoration of habitat and other ameliorative programs, to the extent possible (see also the guidelines issued pursuant to section 305(b) of the Magnuson-Stevens Act for Council actions concerning essential fish habitat at subparts J and K of this part).

(5) *Secretarial approval of SDC.* Secretarial approval or disapproval of proposed SDC will be based on consideration of whether the proposal:

(i) Has sufficient scientific merit;

(ii) Contains the elements described in paragraph (e)(2) of this section;

(iii) Provides a basis for objective measurement of the status of the core stock or stock assemblage against the criteria;

(iv) Is operationally feasible; and

(v) Is accompanied by sufficient analyses that explains how the SDC were chosen and how they relate to the capacity of the stock to produce MSY.

(6) *Exceptions.* There are certain limited exceptions to the requirement to prevent overfishing. Harvesting one stock at its optimum level may result in overfishing of another stock when the two stocks tend to be caught together (This can occur when the two stocks are part of the same fishery and assemblage, or if one is bycatch in the other's fishery, even if the stocks are not in the same FMP). A Council may decide to allow this type of overfishing only if analysis (pursuant to paragraph (e)(6) of this section) demonstrates that all of the following conditions are satisfied:

(i) Such action will result in long-term net benefits to the Nation;

(ii) Mitigating measures have been considered and it has been demonstrated that a similar level of long-term net benefits cannot be achieved by modifying fleet behavior, gear selection/configuration, or other technical characteristic in a manner such that no overfishing would occur; and

(iii) The resulting rate of fishing mortality will not cause any core stock or stock assemblage to fall below its B_{lim} more than 50 percent of the time in the long term, although it is recognized that persistent overfishing is expected to cause the affected stock to fall below its B_{msy} more than 50 percent of the time in the long term.

(f) *Ending overfishing and rebuilding depleted stocks.* Action is to be taken when a fish stock is depleted or undergoing overfishing or approaching a depleted condition or approaching an overfishing condition.

(1) *Definition of approaching a depleted condition or an overfishing condition.* Approaching a depleted condition (a biomass amount less than B_{lim}) or approaching an overfishing condition (an annual F value greater than F_{lim}) is occurring whenever the limit is projected to be breached within 2 years, based on trends in fishing effort, stock abundance, and other appropriate factors.

(2) *Notification.* The Secretary will immediately notify a Council and request that remedial action be taken whenever the Secretary determines that:

(i) A core stock's F or stock assemblage's F is above its F_{lim} (*i.e.*, overfishing is occurring);

(ii) A core stock's biomass or stock assemblage's biomass is below its B_{lim} (*i.e.*, the stock or stock assemblage is depleted);

(iii) The rate of fishing mortality for a core stock or stock assemblage is approaching its F_{lim};

(iv) A core stock or stock assemblage is approaching its B_{lim}; or

(v) Existing remedial action taken for the purpose of ending previously identified overfishing or rebuilding a previously identified depleted core stock or stock assemblage has not resulted in adequate progress.

(3) *Council action.* Within 1 year of such time as the Secretary identifies that overfishing is occurring, that a core stock or stock assemblage is depleted, or that a limit is being approached, or of such time as a Council may be notified of the same under paragraph (f)(2) of this section, the Council must take remedial action by preparing an FMP, FMP amendment, or proposed regulations, as appropriate. This remedial action must be designed to accomplish all of the following purposes that apply:

(i) If overfishing is occurring, the purpose of the action is to end overfishing in as short a time as possible, except under circumstances listed under section 304 (e)(4)(A) of the Magnuson-Stevens Act.

(ii) If the core stock or stock assemblage is depleted, the purpose of the action is to rebuild the core stock or stock assemblage to the MSY stock size in as short a time as possible, subject to the constraints and conditions in paragraph (f)(4)(ii) of this section. Operationally, the determination of stock depletion generally means that an assessment or other analysis has found at least a 50-percent chance that the biomass fell below B_{lim} in the most recent year.

(iii) If the rate of fishing mortality is approaching the F_{lim} (from below), the purpose of the action is to prevent this limit from being exceeded.

(iv) If the biomass of a core stock or stock assemblage is approaching the B_{lim} (from above), the purpose of the action is to prevent this limit from being reached.

(v) *Inadequate data situations.* When the Secretary determines that data are inadequate to estimate biomass-based rebuilding factors (B_{msy} and T_{min}) reliably, it is permissible to rely solely on appropriate F values for developing rebuilding plans, in certain situations. In cases where the available quantitative or qualitative evidence indicates that a core stock or stock assemblage is in need of rebuilding because it appears to be depleted, but reasonable estimates or proxies of B_{msy} and T_{min} are unknown, it is permissible to establish a rebuilding F, at or below the F_{lim}, that will result in at least a 50-percent chance that the stock will increase in abundance. See paragraph (f)(3)(ii)(B)(*5*) of this section for related information about determining that the stock has been rebuilt when F_{lim} is known and B_{msy} and T_{min} are not known.

(4) *Constraints on Council action.* (i) In cases where overfishing is occurring, Council action must be sufficient to end overfishing beginning in the first year of any new or revised rebuilding plans and thereafter, except under circumstances listed under section 304(e)(4)(A) of the Magnuson-Stevens Act.

(ii) In cases where a core stock or stock assemblage is depleted, the Council action must specify a time period for rebuilding the core stock or stock assemblage that is as short as possible, taking into consideration the factors listed in paragraph (f)(4)(ii)(A) of this section, and that otherwise satisfies the requirements of section 304(e)(4)(A) of the Magnuson-Stevens Act. The rebuilding plan represents a temporary modification of the long-term OY control rule in order to rebuild the stock to B_{msy}; at which time the target fishing mortality level of the fishery would switch to that determined by the long-term OY control rule.

(A) A number of factors may be taken into account in the specification of the time period for rebuilding:

(*1*) The status and biology of the core stock or stock assemblage;

(*2*) Interactions between the core stock or stock assemblage and other components of the marine ecosystem (also referred to as ''other environmental conditions'');

(*3*) The needs of fishing communities;

(*4*) Recommendations by international organizations in which the United States participates;

(*5*) Management measures under an international agreement in which the United States participates; and

(*6*) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise.

(B) These factors enter into the specification of the maximum allowable time period for rebuilding (T_{max}) as follows:

(*1*) The ''minimum time for rebuilding a stock'' (T_{min}) means the amount of time the stock is expected to take to rebuild to its MSY biomass level in the absence of any fishing mortality. In this context, the term ''expected'' means to have a 50-percent probability of attaining the B_{msy}. The starting year for T_{min} calculation is the first year that a final rule to implement the rebuilding plan becomes effective. Additionally, interim actions may be taken that are authorized under section 304(e)(6) of the Magnuson-Stevens Act to reduce overfishing prior to implementation of the final rule.

(*2*) If T_{min} plus one generation time for the stock is 10 years or less, then the maximum time allowable for rebuilding (T_{max}) that stock to its B_{msy} is 10 years, taking into account the factors listed in paragraph (e)(4)(ii)(A) of this section.

(*3*) If T_{min} plus one generation time for the stock exceeds 10 years, then the maximum time allowable for rebuilding a stock to its B_{msy} is the minimum time for rebuilding that stock, plus the length of time associated with one generation time for that stock.

(*4*) The target time to rebuild (T_{target}) is between, or equal to, T_{min} and T_{max}. T_{target} should generally be less than T_{max} to rebuild the stock or assemblage in as short a time as possible, taking into account the factors listed in section 304(e)(4)(A) of the Magnuson-Stevens Act, and to help assure that there will be at least a 50-percent chance of rebuilding by T_{max}. It is expected that the target time will generally be greater than T_{min} because the needs of the fishing community generally require some opportunity to fish during the rebuilding period. If the best scientific information available will not allow precise measurement of the needs of fishing communities or the economic benefits of a particular T_{target} value, a reasonable default value of T_{target} is presumed to be midway between T_{min} and T_{max}. This presumptive value

should be applied unless there is available a specific analysis demonstrating that the status and biology of the stocks in question, or the needs of the fishing community, require application of an earlier or later target time to rebuild.

(*5*) Under the circumstances where B_{msy} and T_{min} are unknown, but F_{lim} is known, a stock assemblage may be considered to be rebuilt if the average F has been substantially below the F_{lim} for at least two generation times, provided there is no other scientific information that biomass is still depleted. Absent a stock-specific analysis that calculates the level of F that would be most effective at rebuilding the stock in as short a time as possible, the default level for substantially below F_{lim} should be set at 75 percent of F_{lim}. In addition, paragraph (f)(3)(v) of this section requires that the rebuilding F has at least a 50-percent chance that the stock will increase in abundance. Setting the rebuilding F much closer to F_{lim} would simply be following the requirement to set the OY harvest rate below F_{lim} and would do little to rebuild the stock in as short a time as possible.

(iii) *Fisheries managed by the United States and other nations.* (A) For fisheries being managed by international fisheries organizations to which the United States is a party, the international fisheries organization has the primary authority to determine the status of stocks or assemblages under its purview, as well as to specify the stock SDC.

(B) For fisheries managed under an international agreement, any rebuilding plan must reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

(C) If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock or assemblage, the provisions of the Magnuson-Stevens Act and these guidelines will be given strong consideration by the United States for promotion in the international fisheries organization.

(D) In fisheries that are also engaged in by fishermen from other countries, management measures shall implement internationally agreed-upon measures, or appropriate U.S. fishery measures consistent with a rebuilding plan, giving due consideration to the position of the U.S. domestic fleet relative to other participants in the fishery.

(5) *Revision of rebuilding plans.* (i) Fishing mortality targets and other measures of progress in rebuilding a core stock or stock assemblage are expected to be achieved, on average, over the rebuilding period. Rebuilding plans need not be adjusted in response to each minor stock assessment update. This is especially true when initial rebuilding plans have target times to rebuild that are sooner than the maximum permissible time to rebuild, which provides a buffer to absorb some slower than anticipated pace of rebuilding. When T_{min} is updated, it must nevertheless be applied retrospectively, assuming the same starting date for the rebuilding plan. When rebuilding plans that have not included a buffer between the target and maximum time for rebuilding need to be revised to lower F or increase the rebuilding time, the choice must be to lower F, in order to meet the requirement that rebuilding should occur in as short a time as possible.

(ii) *Change in the pace of rebuilding.* This occurs when the actual rate of rebuilding deviates substantially from the expected rate of rebuilding, but other aspects of the stock's status and productivity remain close to the levels used in the current rebuilding plan.

(A) If rebuilding occurs faster than the rebuilding plan anticipated, then the rebuilding plan should be maintained in order to rebuild the stock or assemblage in as short a time as possible.

(B) If rebuilding occurs substantially slower than the rebuilding plan anticipated, despite the rebuilding $F_{targets}$ having been achieved, then the rebuilding plan should be revised by reducing the rebuilding $F_{targets}$ and/or lengthening the rebuilding time horizon.

(iii) *Change in estimate of rebuilding parameters.* This occurs when new scientific information substantially revises the stock status, SDC, or other rebuilding parameters used in the current rebuilding plan.

(A) If the best scientific estimate of stock abundance or rebuilding parameters change in such a way as to indicate that an increased F would be consistent with rebuilding the stock or assemblage within the specified time horizon, then the rebuilding plan may be maintained or be revised by increasing the rebuilding $F_{targets}$ and/or shortening the rebuilding time horizon consistent with the new information. The benefits of such changes should be considered in the context of the possibility that making these changes to the rebuilding plan could result in the need for future changes in F in the opposite direction.

(B) If the scientific estimates of stock abundance or rebuilding parameters change in such a way as to indicate that substantial reductions in F would be necessary to rebuild the core stock or stock assemblage within the specified time horizon, and if rebuilding $F_{targets}$ have been achieved, then the rebuilding plan should be revised by reducing the rebuilding $F_{targets}$ and/or lengthening the rebuilding time horizon. If the rebuilding $F_{targets}$ in the existing rebuilding plan have been exceeded, the existing T_{target} must be maintained, and future $F_{targets}$ must be reduced to the extent necessary to compensate for previous overruns in fishing mortality (years when F_{target} was exceeded).

(iv) Any revision to a rebuilding plan must be accomplished either by an amendment to the FMP or by some other action authorized by the FMP, such as a framework adjustment, with accompanying analyses required by the Magnuson-Stevens Act and other applicable law.

(v) If, at the end of the maximum rebuilding period, T_{max}, the stock has not rebuilt to B_{msy}, then the rebuilding F should not be increased until the stock has been demonstrated to be rebuilt. However, if the rebuilding F is at F_{lim} and the stock has not rebuilt by T_{max}, then the rebuilding F should be reduced to 75 percent of F_{lim} until the stock has been demonstrated to be rebuilt.

(6) *Interim measures.* The Secretary, on his/her own initiative or in response to a Council request, may implement interim measures to reduce overfishing under section 305(c) of the Magnuson-Stevens Act, until such measures can be replaced by an FMP, FMP amendment, or regulations taking remedial action.

(i) These measures may remain in effect for no more than 180 days, but may be extended for an additional 180 days if the public has had an opportunity to comment on the measures and, in the case of Council-recommended measures, the Council is actively preparing an FMP, FMP amendment, or proposed regulations to address overfishing on a permanent basis. Such measures, if otherwise in compliance with the provisions of the Magnuson-Stevens Act, may be implemented even though they are not sufficient by themselves to stop overfishing.

(ii) Interim measures made effective without prior notice and opportunity for comment should be reserved for exceptional situations, because they affect fishermen without providing the usual procedural safeguards. A Council recommendation for interim measures without notice-and-comment rulemaking will be considered favorably if the short-term benefits of the measures in reducing overfishing outweigh the value of advance notice, public comment, and deliberative

consideration of the impacts on participants in the fishery.

[FR Doc. 05–11978 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–22–P

Federal Register

Wednesday,
June 22, 2005

Part III

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Parts 60–1, 60–250 and 60–741

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Compliance Evaluations in All OFCCP Programs; Final Rule

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60–1, 60–250 and 60–741

RIN 1215–AB28, 1215–AB27, 1215–AB23

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Compliance Evaluations in All OFCCP Programs

AGENCY: Office of Federal Contract Compliance Programs, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), to give the Office of Federal Contract Compliance Programs (OFCCP) authority to use additional investigative procedures to determine a contractor's compliance with Section 503. In this regard, this rule adopts the ''compliance evaluation approach'' that is incorporated in the regulations implementing Executive Order 11246, as amended, and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA), respectively.

In addition, this final rule revises the compliance check procedure found in the current Executive Order 11246 and VEVRAA implementing regulations. The compliance check is one of the four investigative procedures currently used by OFCCP to determine a contractor's compliance with Executive Order 11246 and the affirmative action provisions of VEVRAA. This final rule makes a few other minor and non-substantive revisions to the regulations in 41 CFR Parts 60–1, 60–250, and 60–741.

DATES: *Effective Date:* These regulations are effective: July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Joseph J. DuBray, Jr., Director, Division of Policy, Planning and Program Development, OFCCP, Room C–3325, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–0102 (voice), (202) 693–1337 (TTY). Copies of this rule, including copies in alternative formats, may be obtained by calling (202) 693–0102 (voice), or (202) 693–1337 (TTY). The alternate formats available are large print, electronic file on computer disk, and audiotape. The rule also is available on the Internet at *http://www.dol.gov/esa/ofccp/index.html.*

SUPPLEMENTARY INFORMATION:

Current Regulations and Rulemaking History

Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (Section 503 of the Act), requires parties holding a nonexempt Government contract or subcontract in excess of $10,000 to take affirmative action to employ and advance in employment qualified individuals with disabilities. The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) administers Section 503 and has published implementing regulations at 41 CFR part 60–741, 61 FR 19336 (May 1, 1996).

The compliance review is used to evaluate contractor compliance under all the laws administered and enforced by OFCCP. The compliance review had been the primary method of evaluating compliance under Executive Order 11246 and the affirmative action provisions of VEVRAA until OFCCP, through amendments to both sets of regulations, introduced additional procedures for evaluating contractors' compliance with their nondiscrimination and affirmative action obligations. Prior to the amendments, both the scope and content of compliance reviews were prescribed in the Executive Order regulations. Compliance reviews were to be a comprehensive evaluation of a contractor's employment practices and were to consist of a desk audit, an on-site review and, if necessary, an off-site analysis. The amendments made to the Executive Order and VEVRAA regulations give OFCCP greater flexibility in the manner in which it assesses a contractor's compliance.

The term ''compliance evaluation'' has been adopted in the regulations implementing Executive 11246 and the affirmative action provisions of VEVRAA. ''Compliance evaluation'' refers to any one of the four investigative methods OFCCP may utilize to determine a contractor's compliance with its nondiscrimination and affirmative action obligations. In addition to the comprehensive compliance review, three abbreviated methods for evaluating a contractor's compliance are authorized under the regulations implementing Executive Order 11246 and the affirmative action provisions of VEVRAA: Off-site review of records, compliance check, and focused review. OFCCP has found that the compliance evaluation approach for determining compliance has resulted in improved efficiency and better targeting of agency resources.

Under the current regulations implementing Section 503 the compliance review is still the primary method used to determine whether a contractor maintains nondiscriminatory employment practices and is taking affirmative action to employ and advance in employment qualified individuals with disabilities. The current regulation at 41 CFR 60–741.60 provides that the compliance review shall consist of a comprehensive analysis and evaluation of the contractor's employment practices. However, unlike the prior Executive Order regulations, the current regulations do not prescribe the content of the compliance review under Section 503. Thus, under the current Section 503 regulations, if OFCCP can make a determination about compliance based upon a review and analysis of the documentation submitted in response to the scheduling letter, the agency may complete the Section 503 compliance review without making an on-site visit to the contractor's establishment.

On October 12, 2000, OFCCP issued a notice of proposed rulemaking (NPRM), 65 FR 60816, to revise certain regulations implementing Section 503. The NPRM proposed to formally adopt the compliance evaluation approach and expressly authorize off-site reviews of records, compliance checks, and focused reviews under Section 503. In addition, the NPRM proposed to revise the compliance check procedure found in the regulations implementing Executive Order 11246 and the affirmative action provisions of VEVRAA by removing the requirement that OFCCP visit a contractor's establishment during a compliance check. The NPRM proposed other minor and non-substantive revisions to the regulations in 41 CFR parts 60–250 and 60–741. The comment period closed on December 11, 2000. Comments were received from two organizations: One representing Government contractors and the other representing human resource professionals. Both sets of comments were considered in the development of this final rule.

Overview of the Final Rule

The final rule, for the most part, adopts the revisions that were proposed in the NPRM. The final rule revises the regulation at 41 CFR 60–741.60 to authorize the use of additional investigative procedures for evaluating compliance under Section 503. In addition, the final rule revises the compliance check provisions contained in 41 CFR 60–1.20 and 41 CFR 60–250.60 by eliminating the on-site visit requirement. The final rule replaces the term ''compliance review'' with ''compliance evaluation,'' as

appropriate, in certain sections of the regulations. Further, the rule corrects a drafting oversight by including the term ''compliance evaluation'' in the definition section of the VEVRAA regulations at 41 CFR 60–250.2.

The final rule also makes substantive revisions to the compliance evaluation regulations in response to the public comments. In particular, the final rule revises the compliance check provisions by conforming the scope of the procedure to OFCCP's current and historical use of the compliance check, *i.e.*, a determination of whether the contractor maintains records, consistent with the record retention regulations. In addition, in response to the commenters, the final rule revises the confidentiality provision in the 41 CFR 60–1.20(g). These changes are explained in more detail in the Analysis of the Comments and Revisions.

Further, the final rule makes a ''housekeeping'' revision to the regulations in 41 CFR Parts 60–1, 60–250, and 60–741 that was not proposed in the NPRM. The final rule removes from the regulations all references to the ''Letter of Commitment.'' In August 1998, OFCCP discontinued the use of the Letter of Commitment as a resolution document. (Transmittal Number 226, ADM Notice, ''Discontinuing the Use of the Letter of Commitment,'' August 5, 1998). The minor technical violations formerly incorporated into the Letter of Commitment are now summarized in the closure letter. Since OFCCP no longer uses the Letter of Commitment, the final rule removes the references to the term found in the following regulations: 41 CFR 60–1.33, 60–1.34, 60–250.62, 60–250.63, 60–741.62 and 60–741.63.

OFCCP has determined that the amendments to remove references to the Letter of Commitment need not be published in an NPRM for public comment, as generally required by the Administrative Procedure Act (APA), 5 U.S.C. 553. These amendments are technical and non-substantive, and do not affect any rights or interests of parties. Further, removing references to the Letter of Commitment from the regulations will ensure that the public has updated information about the agency's enforcement procedures. Accordingly, there is good cause for finding that the notice and public comment procedure is unnecessary and contrary to the public interest, pursuant to section 553(b)(B) of the APA.

The discussion below identifies the comments received in response to the NPRM and provides OFCCP's response to those comments. For an explanation of provisions adopted unchanged from the proposed rule and on which no comments were made, see the NPRM preamble.

Analysis of the Comments and Revisions

Section 60–741.60 Compliance Evaluations

Proposed 41 CFR 60–741.60 authorizes OFCCP to use compliance evaluations to determine if a contractor is complying with its obligations under Section 503 and its implementing regulations. Consistent with the regulations implementing Executive Order 11246 and the affirmative action provisions of VEVRAA, proposed § 60–741.60(a) specified that the compliance evaluation methods available to OFCCP include a compliance review, an off-site review of records, a compliance check, and a focused review. Proposed § 60–741.60(a) also contained descriptions of the activities contemplated under each of the four compliance evaluation methods.

OFCCP explained in the preamble discussion that the revisions to the Section 503 regulations are necessary to harmonize the procedures used when enforcing Section 503, the Executive Order, and VEVRAA. The revisions would ensure that the agency could use parallel procedures to simultaneously evaluate contractor compliance under all three laws. At the same time, the revisions would give OFCCP leeway to develop and pursue enforcement initiatives that focus only on contractor compliance with Section 503 and its implementing regulations.

Both commenters favored the proposal to adopt the compliance evaluation approach under Section 503. The commenters acknowledged that conforming the compliance evaluation regulations under Section 503 to those under the regulations implementing Executive Order 11246 and the affirmative action provisions of VEVRAA would make for a consistent regulatory enforcement structure. Aside from the statements in support, there were no other specific comments on this aspect of the proposal. Accordingly, § 60–741.60 is adopted in the final rule as proposed.

Section 60–1.20 and 60–250.60 Compliance Evaluations

The current regulations at 41 CFR 60–1.20(a)(3) and 60–250.60(a)(3) describe a compliance check as a ''visit to the [contractor's] establishment'' to ascertain whether data and other information previously submitted are accurate and complete; whether the contractor has maintained records consistent with the record retention requirements in § 60–1.12 and § 60–250.80; and whether the contractor has developed affirmative action programs consistent with the regulations. OFCCP proposed to revise the regulations at 41 CFR 60–1.20(a)(3) and 60–250(a)(3) by eliminating the requirement that OFCCP visit a contractor's establishment when the compliance check procedure is used to assess compliance. OFCCP has found that, in many instances, the assessments made with a compliance check procedure can be made without making an on-site visit.

OFCCP stated in the NPRM that the proposed change would allow the agency greater flexibility when using the compliance check method to assess a contractor's compliance status. The NPRM explained that, with the elimination of the on-site requirement, the contractor still would be required to provide OFCCP access to the requested documents, but at the contractor's option the documents may be provided either on-site or off-site. One commenter believed that other statements in the preamble implied that OFCCP, rather than the contractor, would decide how the requirements of the compliance check would be satisfied. The commenter stated that the final rule should unequivocally state that the contractor could elect whether to provide documents on-site at the establishment being evaluated or submit them to an OFCCP office. To that end, the commenter recommended that the ''contractor's option'' be added to the text of the compliance check regulation.

OFCCP wishes to clarify that contractors will have the option of either providing requested documents on-site or submitting them to an OFCCP office or other designated location when the compliance check is the method used to investigate compliance. Accordingly, the final rule adds the ''contractor's option'' language to the text of the compliance check regulation.

The NPRM also explained that eliminating the on-site visit requirement would not expand the scope of the examination contemplated under the compliance check procedure. Under OFCCP's current procedure, the compliance check involves a perfunctory assessment of whether the contractor maintains certain records as required under the Executive Order regulations. Procedures for conducting the ''Compliance Check to Ensure Maintenance of Records Consistent with 41 CFR 60–1.12'' are set forth in OFCCP's Federal Contract Compliance Manual (FCCM), which is available on our Internet Web site at *http://*

www2.dol.gov/esa/regs/compliance/ofccp/fccm/fccmanul.htm. The Compliance Manual explains that the Compliance Officer is only inspecting records to ensure compliance with 41 CFR 60–1.12 during the compliance check, and identifies three categories of records to be inspected during the compliance check: A report of results under the prior Affirmative Action Program (AAP); examples of job advertisements, including listings with state employment services; and examples of accommodations made for persons with disabilities. See FCCM, Section 2T00. In contrast to OFCCP's historical and current procedures, the regulations provide that the compliance check may be used to ascertain: (1) Whether data and other information previously submitted by the contractor are complete and accurate; (2) whether the contractor has maintained records consistent with the regulations; and (3) whether the contractor has developed AAPs consistent with the regulations.

Both commenters wanted to conform the scope of the compliance check to what is and has been OFCCP's practices, as reflected in the Compliance Manual. One commenter asked that OFCCP incorporate in the final regulation the language from the Compliance Manual that states that the compliance check is a limited inspection of certain records. The other commenter requested assurances that OFCCP would maintain the practice of requesting only the records that are currently specified in the Compliance Manual.

As was stated in the NPRM, OFCCP has no intention of expanding the scope of the examination contemplated under the compliance check procedure. Accordingly, OFCCP has decided to adopt the recommendation that the final rule state that the compliance check will be used to determine whether the contractor is maintaining records, as required under the regulations. However, OFCCP declines to adopt the recommendation that the final rule limit the records inspected during the compliance check to the three categories of records currently specified in the Compliance Manual. OFCCP announced in the Compliance Manual that the future procedures might focus on the review of other records the contractor is required to retain. One of the records currently identified in the Compliance Manual has been eliminated under the new regulations in Part 60–2. Obviously, this regulatory change in Part 60–2 will necessitate a change in the records currently identified in the Compliance Manual. OFCCP would seek authorization under the Paperwork Reduction Act prior to implementing any changes in the records inspected during the compliance check. During the Paperwork Reduction Act authorization, OFCCP would provide notice to the public and an opportunity to comment on any change in the records to be inspected during the compliance check.

Further, one commenter asked that OFCCP include in the compliance check regulation a confidentiality provision similar to the one found in the Part 60–2 regulations. The commenter presumably is referring to the confidentiality provision included in the Equal Opportunity Survey regulation at 41 CFR 60–2.18(d). The current compliance evaluation regulation at 41 CFR 60–1.20(g) includes a confidentiality provision. The language in § 60–1.20(g) differs from the language in § 60–2.18(d), but OFCCP follows the same set of procedures when responding to all requests to disclose information submitted by contractors. OFCCP believes the language in § 60–2.18(d) is preferable because it clearly describes the agency's policy and practice regarding the release of information provided by the contractor. Accordingly, the final rule conforms the confidentiality provision in 41 CFR 60–1.20(g) to the confidentiality provision in 41 CFR 60–2.18(d).

The additional changes made to the compliance evaluation regulation today do not alter existing agency practice, nor do they affect the substantive obligations of contractors under the laws OFCCP administers.

Regulatory Procedures

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB has determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order. However, this rule is not an economically significant regulatory action under the Order, and therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

This rule does not substantively change existing obligations for Federal contractors; it will only specify the procedures the agency may use to evaluate a Federal contractor's compliance with existing requirements. Accordingly, the Department certifies that the rule will not have a significant economic impact on a substantial number of small business entities. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Unfunded Mandates Reform

For purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, the rule does not include any Federal mandates that may result in increased expenditures by state, local, and tribal governments, or increased expenditures by the private sector, of $100,000,000 or more in any one year.

Paperwork Reduction Act

Today's rule will have a negligible impact, if any, on the information collection requirements currently approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). Information collection requirements for compliance evaluations are currently approved under OMB control number 1215–0072. The currently approved inventory includes a burden estimate for compliance checks, which is based on the assumption that it takes the average contractor approximately four-tenths of an hour to find and make available the documents requested during a compliance check. OFCCP intends to perform 2,500 compliance checks per year. OFCCP queried its field staff and estimates that a contractor will take approximately .5 hours to find and make available the necessary material. The reporting burden is 2,500 × .5 hours = 1,250 hours. The rule to revise the compliance check procedure by removing the on-site visit requirement will mean that, during some compliance checks, contractors will submit documents to an OFCCP office rather than make them available for an OFCCP compliance officer to review on-site. OFCCP estimates that the revision to the compliance check procedure will not result in a net change in the burden hours associated with compliance checks. OFCCP will submit for approval to OMB the information collection provisions of this rule as necessary.

Executive Order 13132 (Federalism)

OFCCP has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

List of Subjects

41 CFR Part 60–1

Administrative practice and procedure, Equal employment opportunity, Government contracts, Reporting and recordkeeping requirements.

41 CFR Part 60–250

Administrative practice and procedure, Equal employment opportunity, Government contracts, Veterans, Reporting and recordkeeping requirements.

41 CFR Part 60–741

Administrative practice and procedure, Equal employment opportunity, Government contracts, Individuals with disabilities, Reporting and recordkeeping requirements.

Signed at Washington, DC, this 15th day of June 2005.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

Charles E. James, Sr.

Deputy Assistant Secretary for Federal Contract Compliance

■ Accordingly, for the reasons set forth in the Preamble, this rule amends Title 41 of the Code of Federal Regulations, chapter 60, Parts 60–1, 60–250 and 60–741, under authorities cited as set forth below:

PART 60–1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

■ 1. The authority citation for part 60–1 continues to read as follows:

Authority: Sec. 201, E.O. 11246 (30 FR 12319), as amended by E.O. 11375 (32 FR 14303) and E.O. 12086 (43 FR 46501).

■ 2. In § 60–1.20 paragraph (a)(3) and paragraph (g) are revised to read as follows:

§ 60–1.20 Compliance evaluations.

(a) * * *

(3) *Compliance check.* A determination of whether the contractor has maintained records consistent with § 60–1.12; at the contractor's option the documents may be provided either on-site or off-site; or

* * * * *

(g) *Public Access to Information.* OFCCP will treat information obtained in the compliance evaluation as confidential to the maximum extent the information is exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552. It is the practice of OFCCP not to release data where the contractor is still in business, and the contractor indicates, and through the Department of Labor review process it is determined, that the data are confidential and sensitive and that the release of data would subject the contractor to commercial harm.

§ 60–1.33 [Amended]

■ 3. Section 60–1.33 is amended by removing paragraph (b), and by removing the designation ''(a)'' from the first paragraph.

■ 4. Section 60–1.34 is amended by removing paragraph (b), removing the paragraph (a) designation, redesignating paragraphs (a)(1) through (a)(4) as paragraphs (a) through (d) respectively, and revising the section heading to read as follows:

§ 60–1.34 Violation of a Conciliation Agreement.

* * * * *

PART 60–250—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

■ 5. The authority citation for part 60–250 continues to read as follows:

Authority: 29 U.S.C. 793: 38 U.S.C. 4211 and 4212; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841.)

■ 6. In § 60–250.2 paragraph (v) is added to read as follows:

§ 60–250.2 Definitions.

* * * * *

(v) *Compliance evaluation* means any one or combination of actions OFCCP may take to examine a Federal contractor or subcontractor's compliance with one or more of the requirements of the Vietnam Era Veterans' Readjustment Assistance Act.

■ 7. In § 60–250.60 paragraph (a)(3) is revised to read as follows:

§ 60–250.60 Compliance evaluations.

(a) * * *

(3) *Compliance check.* A determination of whether the contractor has maintained records consistent with § 60–250.80; at the contractor's option the documents may be provided either on-site or off-site; or

* * * * *

■ 8. Section 60–250.62 is amended by removing paragraph (b) and paragraph (a) designation, and by revising the section heading and the first sentence of former paragraph (a) to read as follows:

§ 60–250.62 Conciliation Agreements.

If a compliance evaluation, complaint investigation or other review by OFCCP finds a material violation of the Act or this part, and if the contractor is willing to correct the violations and/or deficiencies, and if OFCCP determines that settlement on that basis (rather than referral for consideration of formal enforcement) is appropriate, a written conciliation agreement shall be required. * * *

■ 9. Section § 60–250.63 is amended by removing paragraph (d), and by revising the section heading to read as follows:

§ 60–250.63 Violations of Conciliation Agreements.

* * * * *

PART 60–741—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

■ 10. The authority citation for part 60–741 continues to read as follows:

Authority: 29 U.S.C. 706 and 793; and E.O. 11758 (3 CFR 1971–1975 Comp., p. 841.)

■ 11. Section 60–741.2 is amended by adding a new paragraph (z) to read as follows:

§ 60–74l.2 Definitions.

* * * * *

(z) *Compliance evaluation* means any one or combination of actions OFCCP may take to examine a Federal contractor's or subcontractor's compliance with one or more of the requirements of Section 503 of the Rehabilitation Act of 1973.

■ 12. In § 60–741.44 paragraph (a)(2) is revised to read as follows:

§ 60–741.44 Required contents of affirmative action programs.

* * * * *

(a) * * *

■ (2) Assisting or participating in an investigation, compliance evaluation, hearing, or any other activity related to the administration of Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) or any other Federal, State or local law requiring equal opportunity for disabled persons;

* * * * *

■ 13. In § 60–741.60 the section heading and paragraph (a) are revised to read as follows:

§ 60–74l.60 Compliance evaluations.

(a) OFCCP may conduct compliance evaluations to determine if the contractor maintains nondiscriminatory hiring and employment practices and is

taking affirmative action to ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated in accordance with this part during employment. A compliance evaluation may consist of any one or any combination of the following investigative procedures:

(1) *Compliance review.* A comprehensive analysis and evaluation of the hiring and employment practices of the contractor, the written affirmative action program, and the results of the affirmative action efforts undertaken by the contractor. A compliance review may proceed in three stages:

(i) A desk audit of the written affirmative action program and supporting documentation to determine whether all elements required by the regulations in this part are included, whether the affirmative action program meets agency standards of reasonableness, and whether the affirmative action program and supporting documentation satisfy agency standards of acceptability. The desk audit is conducted at OFCCP offices;

(ii) An on-site review, conducted at the contractor's establishment to investigate unresolved problem areas identified in the affirmative action program and supporting documentation during the desk audit, to verify that the contractor has implemented the affirmative action program and has complied with those regulatory obligations not required to be included in the affirmative action program, and to examine potential instances or issues of discrimination. An on-site review normally will involve an examination of the contractor's personnel and employment policies, inspection and copying of documents related to employment actions, and interviews with employees, supervisors, managers, hiring officials; and

(iii) Where necessary, an off-site analysis of information supplied by the contractor or otherwise gathered during or pursuant to the on-site review;

(2) *Off-site review of records.* An analysis and evaluation of the affirmative action program (or any part thereof) and supporting documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether the contractor has complied with the requirements of Section 503 of the Rehabilitation Act of 1973 and regulations;

(3) *Compliance check.* A determination of whether the contractor has maintained records consistent with § 60–741.80; at the contractor's option the documents may be provided either on-site or off-site; or

(4) *Focused review.* An on-site review restricted to one or more components of the contractor's organization or one or more aspects of the contractor's employment practices.

* * * * *

■ 14. Section 60–741.62 is amended by removing paragraph (b) and the paragraph (a) designation, and by revising the section heading and the first sentence of former paragraph (a) to read as follows:

§ 60–741.62 Conciliation agreements.

If a compliance evaluation, complaint investigation or other review by OFCCP finds a material violation of the Act or this part, and if the contractor is willing to correct the violations and/or deficiencies, and if OFCCP determines that settlement on that basis (rather than referral for consideration of formal enforcement) is appropriate, a written conciliation agreement will be required. * * *

■ 15. Section 60–741.63 is amended by removing paragraph (d), and by revising the section heading to read as follows:

§ 60–250.63 Violations of Conciliation Agreements.

* * * * *

■ 16. In § 60–741.65, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 60–741.65 Enforcement proceedings.

(a) *General.* (1) If a compliance evaluation, complaint investigation or other review by OFCCP finds a violation of the act or this part, and the violation has not been corrected in accordance with the conciliation procedures in this part, or OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate, OFCCP may refer the matter to the Solicitor of Labor with a recommendation for the institution of enforcement proceedings to enjoin the violations, to seek appropriate relief, to impose appropriate sanctions, or any combination of these outcomes. * * *

* * * * *

■ 17. In § 60–741.68, the fourth sentence of paragraph (a) is revised to read as follows:

§ 60–741.68 Reinstatement of ineligible contractors.

(a) * * * Before reaching a decision, the Deputy Assistant Secretary may conduct a compliance evaluation of the contractor and may require the contractor to supply additional information regarding the request for reinstatement. * * *

■ 18. In § 60–741.69, paragraph (a)(2) is revised to read as follows:

§ 60–741.69 Intimidation and interference.

(a)* * *

(2) Assisting or participating in any manner in an investigation, compliance evaluation, hearing, or any other activity related to the administration of the act or any other Federal, State or local law requiring equal opportunity for disabled persons;

* * * * *

■ 19. In § 60–741.80, the last two sentences of paragraph (a) are revised to read as follows:

§ 60–741.80 Recordkeeping.

(a) * * * Where the contractor has received notice that a complaint of discrimination has been filed, that a compliance evaluation has been initiated, or that an enforcement action has been commenced, the contractor must preserve all personnel records relevant to the complaint, compliance evaluation or action until final disposition of the complaint, compliance evaluation or action. The term ''personnel records relevant to the complaint, compliance evaluation or action'' will include, for example, personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected.

* * * * *

■ 20. In § 60–741.81, the first sentence is revised to read as follows:

§ 60–741.81 Access to records.

Each contractor must permit access during normal business hours to its places of business for the purpose of conducting on-site compliance evaluations and complaint investigations and inspecting and copying such books and accounts and records, including computerized records, and other material as may be relevant to the matter under investigation and pertinent to compliance with the act or this part. * * *

[FR Doc. 05–12220 Filed 6–21–05; 8:45 am]

BILLING CODE 4510–CM–P

Federal Register

Wednesday,
June 22, 2005

Part IV

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2005–06 Subsistence Taking of Fish and Wildlife Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AT70

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2005–06 Subsistence Taking of Fish and Wildlife Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses in Alaska during the 2005–06 regulatory year. The rulemaking is necessary because the regulations governing the subsistence harvest of wildlife in Alaska are subject to an annual public review cycle. This rulemaking replaces the wildlife regulations that expire on June 30, 2005. This rule also amends the regulations that establish which Alaska residents are eligible to take specific species for subsistence uses.

DATES: Sections ____.24(a)(1) and ____.25 are effective July 1, 2005. Section ____.26 is effective July 1, 2005, through June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region, (907) 786–3888.

SUPPLEMENTARY INFORMATION:

Background

In Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), Congress found that ''the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses * * *'' and that ''continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened * * *.'' As a result, Title VIII requires, among other things, that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA.

The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* required the State to delete the rural preference from its subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990. As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114).

As a result of this joint process between Interior and Agriculture, these regulations can be found in both Code of Federal Regulations (CFR) Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure, Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subparts A, B, and C of these regulations, as revised May 7, 2002 (67 FR 30559), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participated in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (2002) and 50 CFR 100.11 (2002), and for the purposes identified therein, we divide Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents, who have personal knowledge of local conditions and resource requirements, to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

Current Rule

Because the Subpart D regulations, which establish seasons and harvest limits and methods and means, are subject to an annual cycle, they require development of an entire new rule each year. Customary and traditional use determinations (Subpart C) are also subject to an annual review process providing for modification each year. Section ____.24 (Customary and traditional use determinations) was originally published in the **Federal Register** (57 FR 22940) on May 29, 1992. The regulations at 36 CFR 242.4 and 50 CFR 100.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation * * *.'' Since that time, the Board has made a number of Customary and Traditional Use Determinations at the request of impacted subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

MODIFICATIONS TO § ____.24

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 1276	January 8, 1999	Fish/Shellfish.
64 FR 35776	July 1, 1999	Wildlife.
65 FR 40730	June 30, 2000	Wildlife.
66 FR 10142	February 13, 2001	Fish/Shellfish.
66 FR 33744	June 25, 2001	Wildlife.
67 FR 5890	February 7, 2002	Fish/Shellfish.
67 FR 43710	June 28, 2002	Wildlife.
68 FR 7276	February 12, 2003	Fish/Shellfish.
During its May 20–22, 2003, meeting, the Board did not make any additional customary and traditional use determinations.		
69 FR 5018	February 3, 2004	Fish/Shellfish.
69 FR 40174	July 1, 2004	Wildlife.
70 FR 13377	March 21, 2005	Fish/Shellfish.

The Departments of the Interior and Agriculture published a proposed rule on August 31, 2004 (69 FR 53023), to amend Subparts C and D of 36 CFR 242 and 50 CFR 100. The proposed rule opened a comment period, which closed on October 22, 2004. The Departments advertised the proposed rule by mail, radio, and newspaper. During that period, the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. The Board received a total of 21 proposals for changes to Subparts C and D. After the proposal period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The booklet was also made available online. The public then had an additional 30 days in which to comment on the proposals for changes to the regulations. The 10 Regional Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Regional Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, presented their Council's recommendations at the Board meeting of May 3–4, 2005. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. The public has had extensive opportunity to review and comment on all changes. Of the 21 proposals, the Board adopted 10 plus parts of 2 others and rejected or deferred action on 9 plus parts of 2 others. Additional details on the recent Board modifications are contained below in Analysis of Proposals Adopted by the Board.

Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 apply to regulations found in this subpart.

Analysis of Proposals Rejected by the Board

The Board rejected or took no action on nine proposals and parts of two others.

One proposal requested reduced season lengths for wolf hunting in numerous Units around the State. This proposal was rejected because there are no conservation concerns that warrant the action and it would be an unnecessary restriction on subsistence users.

Because of its actions taken on another similar proposal, the Board took no action on one proposal that requested the revision of definitions related to handicrafts and the expansion of the number of items from bears that could be used in the production of handicrafts for sale in Units 1–5.

One proposal requested a special caribou harvest limit for disabled hunters in Unit 13A and 13B. This proposal was rejected because the designated hunter program and Board action on another proposal made this proposal unnecessary.

One proposal requested the cutting of antlers from moose or separation from the skull plate. The Board rejected this proposal as an unnecessary restriction on subsistence users.

The Board took no action on one proposal that requested changes in the moose season in part of Unit 24 because of Board actions taken on another similar proposal for the Western Interior Region.

The Board deferred action on five proposals plus part of one other in order to allow communities, agencies, and the respective Regional Councils additional time to review the issues and to coordinate actions to achieve conservation concerns while still protecting subsistence opportunities.

Summary of Proposals Adopted by the Board

The Board adopted 10 proposals and parts of 2 others. Some of these proposals were adopted as submitted. Others were adopted with modifications suggested by the respective Regional Council, modifications developed during the analysis process, or modifications developed during the Board's public deliberations.

All of the adopted proposals were recommended for adoption by at least one of the Regional Councils, although further modifications may have been made during Board discussions, and were based on meeting customary and traditional uses or harvest practices, or on protecting wildlife populations. Detailed information relating to justification for the action on each

proposal may be found in the Board meeting transcripts, available for review at the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska, or on the Office of Subsistence Management Web site (*http://alaska.fws.gov/asm/home.html*). Additional minor technical clarifications have been made, resulting in a more readable document.

Multiple Regions

The Board adopted part of one proposal, resulting in the following change in the regulations found in § ____.25, which affect residents of multiple Regions.

• Expanded and clarified the definition of handicrafts.

Southeast Region

The Board adopted one proposal and part of another affecting residents of the Southeast Region, resulting in the following changes to the regulations found in §§ ____.25 and ____.26.

• Removed the registration permit requirement for deer in Unit 2 and instituted a harvest report requirement.

• Revised the evidence of sex requirement for deer in Units 1–5.

Southcentral Region

The Board adopted three proposals affecting residents in the Southcentral Region, resulting in the following changes to the regulations found in § ____.26.

• Established a minimum age for receiving a permit to harvest black bear, deer, goat, moose, wolf, or wolverine in Unit 6.

• Established a joint elder/youth sheep hunt in Units 11 and 12.

• Authorized the BLM Field Manager to determine the sex of caribou that may be taken in portions of Unit 13.

Western Interior Region

The Board adopted one proposal affecting residents of the Western Interior Region, resulting in the following change to the regulations found in § ____.26.

• Revised the season and hunt areas for moose in portions of Unit 24 and authorized announcement of antlerless moose seasons by local field managers.

Seward Peninsula Region

The Board adopted one proposal and part of another proposal affecting residents of the Seward Peninsula Region, resulting in the following changes to the regulations found in § ____.26.

• Reduced the harvest quota and procedures for both the fall and winter seasons for moose in Unit 22B.

Northwest Arctic Region

The Board adopted three proposals affecting residents in the Northwest Arctic Region, resulting in the following changes to the regulations found in § ____.26.

• Lengthened the brown bear season in Unit 23.

• Establish a limited muskox harvest for part of Unit 23.

• Increased the harvest limit and lengthened the season for wolf in Unit 23.

Eastern Interior Region

The Board adopted one proposal affecting residents of the Eastern Interior Region, resulting in the following change to the regulations found in § ____.24.

• Revised the customary and traditional use determination for moose in portions of Unit 12 to include residents of Chistochina.

Additionally, the U.S. Fish and Wildlife Service's Office of Subsistence Management used its delegated authority to adjust lynx seasons and harvest limits consistent with the ADF&G Lynx Harvest Management Strategy. The Office of Subsistence Management, in May 2005, exercised this authority and added or adjusted lynx hunting seasons in Units 7, 14C, 15, 16, and 20 and trapping seasons in Units 11, 13, 14C, 16, and 20.

We also added a definition of ''snagging'' to § ____.25 that the Board adopted during its January 11–13, 2005, meeting.

These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. All Board members have reviewed this rule and agree with its substance. Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board finds that additional public notice under the Administrative Procedure Act (APA) for this final rule is unnecessary, and contrary to the public interest. The Board has provided extensive opportunity for public input and involvement in excess of standard APA requirements, including participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change. Over the 15 years the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the regulations. A lapse in regulatory control could seriously affect the continued viability of wildlife populations and adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d) to make this rule effective less than 30 days after publication.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analyses and examined the environmental consequences of four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comments received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C, implemented the Federal

Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule	"Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the **Federal Register.**
64 FR 1276	January 8, 1999	Final Rule	Amended to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Final Rule	In response to comments the June 12, 2003, interim rule, amended the operating regulations. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	This rule clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Received no adverse comments on the direct final rule (67 FR 30559). Adopted direct final rule.
69 FR 60957	October 14, 2004	Final Rule	This rule clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of "regulatory year" from Subpart A to Subpart D of the regulations.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available from the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction did not constitute a major Federal action significantly affecting the human environment, and has, therefore, signed a Finding of No Significant Impact.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

This rule does not contain any new information collection requirements that need Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule applies to the use of public lands in Alaska. The information collection requirements described in this rule are already approved by OMB and have been assigned control number 1018–0075, which expires August 31, 2006. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

Other Requirements

This rule was not deemed significant for OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant economic effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, and gasoline dealers. The number of small entities affected is unknown; however, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that 2 million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, would equate to about $6 million in food value Statewide.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to

certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies 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 governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or tribal governments.

The Service has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over wildlife resources on Federal lands.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this action is not a significant action and no Statement of Energy Effects is required.

Drafting Information—William Knauer drafted these regulations under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Alaska Regional Office, Bureau of Indian Affairs; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; and Steve Kessler, Alaska Regional Office, USDA—Forest Service provided additional guidance.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

■ For the reasons set out in the preamble, the Federal Subsistence Board amends Title 36, part 242, and Title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, §____.24(a)(1) is revised to read as follows:

§____.24 Customary and traditional use determinations.

(a) * * *

(1) *Wildlife determinations.* The rural Alaska residents of the listed communities and areas have a customary and traditional use of the specified species on Federal public lands within the listed areas:

Area	Species	Determination
Unit 1C	Black Bear	Residents of Unit 1C, 1D, 3, Hoonah, Pelican, Point Baker, Sitka, and Tenakee Springs.
1A	Brown Bear	Residents of Unit 1A, except no subsistence for residents of Hyder.
1B	Brown Bear	Residents of Unit 1A, Petersburg, and Wrangell, except no subsistence for residents of Hyder.
1C	Brown Bear	Residents of Unit 1C, Haines, Hoonah, Kake, Klukwan, Skagway, and Wrangell, except no subsistence for residents of Gustavus.
1D	Brown Bear	Residents of 1D.
1A	Deer	Residents of Units 1A and 2.
1B	Deer	Residents of Units 1A, 1B, 2, and 3.
1C	Deer	Residents of 1C, 1D, Hoonah, Kake, and Petersburg.
1D	Deer	No Federal subsistence priority.
1B	Goat	Residents of Units 1B and 3.
1C	Goat	Residents of Haines, Kake, Klukwan, Petersburg, and Hoonah.
1B	Moose	Residents of Units 1, 2, 3, and 4.
1C Berner's Bay	Moose	No Federal subsistence priority.
1D	Moose	Residents of Unit 1D.
Unit 2	Deer	Residents of Unit 1A, 2, and 3.
Unit 3	Deer	Residents of Unit 1B, 3, Port Alexander, Port Protection, Pt. Baker, and Meyer's Chuck.
3, Wrangell and Mitkof Islands	Moose	Residents of Units 1B, 2, and 3.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
4	Deer	Residents of Unit 4, Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, Wrangell, and Yakutat.
4	Goat	Residents of Sitka, Hoonah, Tenakee, Pelican, Funter Bay, Angoon, Port Alexander, and Elfin Cove.

Area	Species	Determination
Unit 5	Black Bear	Residents of Unit 5A.
5	Brown Bear	Residents of Yakutat.
5	Deer	Residents of Yakutat.
5	Goat	Residents of Unit 5A
5	Moose	Residents of Unit 5A.
5	Wolf	Residents of Unit 5A.
Unit 6A	Black Bear	Residents of Yakutat and Unit 6C and 6D, except no subsistence for Whittier.
6, remainder	Black Bear	Residents of Unit 6C and 6D, except no subsistence for Whittier.
6	Brown Bear	No Federal subsistence priority.
6A	Goat	Residents of Unit 5A, 6(C), Chenega Bay, and Tatitlek.
6C and D	Goat	Residents of Unit 6C and D.
6A	Moose	Residents of Units 5A, 6A, 6B and 6C.
6B and C	Moose	Residents of Units 6A, 6B and 6C.
6D	Moose	No Federal subsistence priority.
6A	Wolf	Residents of Units 5A, 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
6, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 7	Brown Bear	No Federal subsistence priority.
7	Caribou	No Federal subsistence priority.
7, Brown Mountain hunt area.	Goat	Residents of Port Graham and Nanwalek.
7, that portion draining into Kings Bay	Moose	Residents of Chenega Bay and Tatitlek.
7, remainder	Moose	No Federal subsistence priority.
7	Sheep	No Federal subsistence priority.
7	Ruffed Grouse	No Federal subsistence priority.
Unit 8	Brown Bear	Residents of Old Harbor, Akhiok, Larsen Bay, Karluk, Ouzinkie, and Port Lions.
8	Deer	Residents of Unit 8.
8	Elk	Residents of Unit 8.
8	Goat	No Federal subsistence priority.
Unit 9D	Bison	No Federal subsistence priority.
9A and B	Black Bear	Residents of Units 9A, 9B, 17A, 17B, and 17C.
9A	Brown Bear	Residents of Pedro Bay.
9B	Brown Bear	Residents of Unit 9B.
9C	Brown Bear	Residents of Unit 9C.
9D	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
9E	Brown Bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, and Port Heiden/Meshik.
9A and B	Caribou	Residents of Units 9B, 9C and 17.
9C	Caribou	Residents of Unit 9B, 9C, 17, and Egegik.
9D	Caribou	Residents of Unit 9D, Akutan, False Pass.
9E	Caribou	Residents of Units 9B, 9C, 9E, 17, Nelson Lagoon and Sand Point.
9A, B, C and E	Moose	Residents of Unit 9A, 9B, 9C, and 9E.
9D	Moose	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
9B	Sheep	Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and residents of Lake Clark National Park and Preserve within Unit 9B.
9, remainder	Sheep	No determination.
9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
9A, B, C, & E	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 10 Unimak Island	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
Unit 10 Unimak Island	Caribou	Residents of Akutan, False Pass, King Cove, and Sand Point.
10, remainder	Caribou	No determination.
10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 11	Bison	No Federal subsistence priority.
11, north of the Sanford River	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
11, remainder	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Unit 11.
11, north of the Sanford River	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.

Area	Species	Determination
11, remainder	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Unit 11.
11, north of the Sanford River	Caribou	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
11, remainder	Caribou	Residents of Units 11, 13A–D, and Chickaloon.
11	Goat	Residents of Unit 11, Chitina, Chistochina, Copper Center, Gakona, Glennallen, Gulkana, Mentasta Lake, Slana, Tazlina, Tonsina, and Dot Lake.
11, north of the Sanford River	Moose	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
11, remainder	Moose	Residents of Units 11, 13A–D, and Chickaloon.
11, north of the Sanford River	Sheep	Residents of Unit 12, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina and Tonsina; residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
11, remainder	Sheep	Residents of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina and Tonsina; residents along the Tok Cutoff—Milepost 79–110 (Mentasta Pass), residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
11	Grouse (Spruce, Blue, Ruffed, and Sharp-tailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 15, 20D, 22 and 23.
11	Ptarmign (Rock, Willow and White-tailed).	Residents of Units 11, 12, 13 and the Chickaloon, 15, 16, 20D, 22 and 23.
Unit 12	Brown Bear	Residents of Units 12, Dot Lake, Chistochina, Gakona, Mentasta Lake, and Slana.
12	Caribou	Residents of Unit 12, Dot Lake, Healy Lake, and Mentasta Lake.
12, that portion west of the Nabesna River and Nabesna Glacier, south of a line from Noyes Mountain to the confluence of Tatschunda Creek with the Nabesna River.	Moose	Residents of Unit 11 north of 62nd parallel, Unit 12, 13A–D and the residents of Chickaloon, Dot Lake, and Healy Lake.
12, that portion east of the Nabesna River and Nabesna Glacier, south of the Winter Trail from Pickerel Lake to the Canadian Border.	Moose	Residents of Unit 12, Chistochina, and Healy Lake.
12, remainder	Moose	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
12	Sheep	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 13	Brown Bear	Residents of Unit 13 and Slana.
13B	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, residents of Unit 20D except Fort Greely, and the residents of Chickaloon.
13C	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, Chickaloon, Dot Lake and Healy Lake.
13A and D	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon.
13E	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, Chickaloon, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239 (except no subsistence for residents of Denali National Park headquarters).
13D	Goat	No Federal subsistence priority.
13A and D	Moose	Residents of Unit 13, Chickaloon, and Slana.
13B	Moose	Residents of Units 13, 20D except Fort Greely, and the residents of Chickaloon and Slana.
13C	Moose	Residents of Units 12, 13 and the residents of Chickaloon, Healy Lake, Dot and Slana.
13E	Moose	Residents of Unit 13, Chickaloon, McKinley Village, Slana, and the area along the Parks Highway between mileposts 216 and 239 (except no subsistence for residents of Denali National Park headquarters).
13D	Sheep	No Federal subsistence priority.

Area	Species	Determination
13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
13	Grouse (Spruce, Blue, Ruffed & Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 & 23.
13	Ptarmigan (Rock Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 & 23.
Unit 14C	Brown Bear	No Federal subsistence priority.
14	Goat	No Federal subsistence priority.
14	Moose	No Federal subsistence priority.
14A and C	Sheep	No Federal subsistence priority.
Unit 15C	Black Bear	Residents of Port Graham and Nanwalek only.
15, remainder	Black Bear	No Federal subsistence priority.
15	Brown Bear	No Federal subsistence priority.
15C, Port Graham and English Bay hunt areas	Goat	Residents of Port Graham and Nanwalek.
15C, Seldovia hunt area	Goat	Residents Seldovia area.
15	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15	Sheep	No Federal subsistence priority.
15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Unit 15.
15	Grouse (Spruce)	Residents of Unit 15.
15	Grouse (Ruffed)	No Federal subsistence priority.
Unit 16B	Black Bear	Residents of Unit 16B.
16	Brown Bear	No Federal subsistence priority.
16A	Moose	No Federal subsistence priority.
16B	Moose	Residents of Unit 16B.
16	Sheep	No Federal subsistence priority.
16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
16	Grouse (Spruce and Ruffed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
16	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
Unit 17A and that portion of 17B draining into Nuyakuk Lake and Tikchik Lake.	Black Bear	Residents of Units 9A and B, 17, Akiak, and Akiachak.
17, remainder	Black Bear	Residents of Units 9A and B, and 17.
17A	Brown Bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
17A and B, those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Kwethluk.
17B, that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown Bear	Residents of Akiak and Akiachak.
17B and C	Brown Bear	Residents of Unit 17.
17	Caribou	Residents of Units 9B, 17, Lime Village and Stony River.
Unit 17A, that portion west of the Izavieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Akiak, Akiachak, and Tuluksak.
17A and B, those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Kwethluk.
Unit 17B, that portion of Togiak National Wildlife Refuge within Unit 17B.	Caribou	Residents of Bethel, Goodnews Bay, Platinum, Quinhagak, Eek, Akiak, Akiachak, Tuluksak, Tuntutuliak, and Napakiak.
17A and B, those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Moose	Residents of Kwethluk.
17A	Moose	Residents of Unit 17, Goodnews Bay and Platinum; however, no subsistence for residents of Akiachak, Akiak and Quinhagak.
17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Moose	Residents of Akiak, Akiachak.

Area	Species	Determination
Unit 17B, that portion within the Togiak National Wildlife Refuge.	Moose	Residents of Akiak, Akiachak.
17B and C	Moose	Residents of Unit 17, Nondalton, Levelock, Goodnews Bay, and Platinum.
17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
17	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 18	Black Bear	Residents of Unit 18, Unit 19A living downstream of the Holokuk River, Holy Cross, Stebbins, St. Michael, Twin Hills, and Togiak.
18	Brown Bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mt. Village, Napaskiak, Platinum, Quinhagak, St. Marys, and Tuluksak.
18	Caribou	Residents of Unit 18, Manokotak, Stebbins, St. Michael, Togiak, Twin Hills, and Upper Kalskag.
18, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of, but not including the Tuluksak River drainage.	Moose	Residents of Unit 18, Upper Kalskag, Aniak, and Chuathbaluk.
18, remainder	Moose	Residents of Unit 18, Upper Kalskag, and Lower Kalskag.
18	Muskox	No Federal subsistence priority.
18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 19C and D	Bison	No Federal subsistence priority.
19A and B	Brown Bear	Residents of Units 19 and 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River.
19C	Brown Bear	No Federal subsistence priority.
19D	Brown Bear	Residents of Units 19A and D, Tulusak and Lower Kalskag.
19A and B	Caribou	Residents of Units 19A and 19B, Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River, and residents of St. Marys, Marshall, Pilot Station, Russian Mission.
19C	Caribou	Residents of Unit 19C, Lime Village, McGrath, Nikolai, and Telida.
19D	Caribou	Residents of Unit 19D, Lime Village, Sleetmute, and Stony River.
19A and B	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and Unit 19.
Unit 19B, west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.
19C	Moose	Residents of Unit 19.
19D	Moose	Residents of Unit 19 and Lake Minchumina.
19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 20D	Bison	No Federal subsistence priority.
20F	Black Bear	Residents of Unit 20F, Stevens Village, and Manley.
20E	Brown Bear	Residents of Unit 12 and Dot Lake.
20F	Brown Bear	Residents of Unit 20F, Stevens Village, and Manley.
20A	Caribou	Residents of Cantwell, Nenana, and those domiciled between mileposts 216 and 239 of the Parks Highway. No subsistence priority for residents of households of the Denali National Park Headquarters.
20B	Caribou	Residents of Unit 20B, Nenana, and Tanana.
20C	Caribou	Residents of Unit 20C living east of the Teklanika River, residents of Cantwell, Lake Minchumina, Manley Hot Springs, Minto, Nenana, Nikolai, Tanana, Talida, and those domiciled between mileposts 216 and 239 of the Parks Highway and between mileposts 300 and 309. No subsistence priority for residents of households of the Denali National Park Headquarters.
20D and E	Caribou	Residents of 20D, 20E, and Unit 12 north of the Wrangell-St. Elias National Park and Preserve.
20F	Caribou	Residents of 20F, 25D, and Manley.
20A	Moose	Residents of Cantwell, Minto, Nenana, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, except no subsistence for residents of households of the Denali National Park Headquarters.
20B, Minto Flats Management Area	Moose	Residents of Minto and Nenana.
20B, remainder	Moose	Residents of Unit 20B, Nenana, and Tanana.

Area	Species	Determination
20C	Moose	Residents of Unit 20C (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), Cantwell, Manley, Minto, Nenana, the Parks Highway from milepost 300–309, Nikolai, Tanana, Telida, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239. No subsistence for residents of households of the Denali National Park Headquarters.
20D	Moose	Residents of Unit 20D and residents of Tanacross.
20E	Moose	Residents of Unit 20E, Unit 12 north of the Wrangell-St. Elias National Preserve, Circle, Central, Dot Lake, Healy Lake, and Mentasta Lake.
20F	Moose	Residents of Unit 20F, Manley, Minto, and Stevens Village.
20F	Wolf	Residents of Unit 20F, Stevens Village and Manley.
20, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
20D	Grouse, (Spruce, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
20D	Ptarmigan (Rock and Willow).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
Unit 21	Brown Bear	Residents of Units 21 and 23.
21A	Caribou	Residents of Units 21A, 21D, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21B and C	Caribou	Residents of Units 21B, 21C, 21D, and Tanana.
21D	Caribou	Residents of Units 21B, 21C, 21D, and Huslia.
21E	Caribou	Residents of Units 21A, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21A	Moose	Residents of Units 21A, 21E, Takotna, McGrath, Aniak, and Crooked Creek.
21B and C	Moose	Residents of Units 21B, 21C, Tanana, Ruby, and Galena.
21D	Moose	Residents of Units 21D, Huslia, and Ruby.
21E	Moose	Residents of Unit 21E and Russian Mission.
21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 22A	Black Bear	Residents of Unit 22A and Koyuk.
22B	Black Bear	Residents of Unit 22B.
22C, D, and E	Black Bear	No Federal subsistence priority.
22	Brown Bear	Residents of Unit 22
22A	Caribou	Residents of Unit 21D west of the Koyukuk and Yukon Rivers, 22 (except residents of St. Lawrence Island), 23, 24, Kotlik, Emmonak, Hooper Bay, Scammon Bay, Chevak, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Marys, Nunam Iqua, and Alakanuk.
22, remainder	Caribou	Residents of Unit 21D west of the Koyukuk and Yukon Rivers, 22 (except residents of St. Lawrence Island), 23, and 24.
22	Moose	Residents of Unit 22.
22B, west of the Darby Mountains	Muskox	Residents of Unit 22B and 22C.
22B, remainder	Muskox	Residents of Unit 22B.
22C	Muskox	Residents of Unit 22C.
Unit 22D, that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages.	Muskox	Residents of Unit 22C, White Mountain, and Unit 22D excluding St. Lawrence Island.
22D, remainder	Muskox	Residents of Unit 22D excluding St. Lawrence Island.
22E	Muskox	Residents of Unit 22E excluding Little Diomede Island.
22	Wolf	Residents of Units 23, 22, 21D north and west of the Yukon River, and Kotlik.
22	Grouse (Spruce)	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
22	Ptarmigan (Rock and Willow).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
Unit 23	Black Bear	Residents of Unit 23, Alatna, Allakaket, Bettles, Evansville, Galena, Hughes, Huslia, and Koyukuk.
23	Brown Bear	Residents of Units 21 and 23.
23	Caribou	Residents of Unit 21D west of the Koyukuk and Yukon Rivers, Galena, 22, 23, 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and 26A.
23	Moose	Residents of Unit 23.
23, south of Kotzebue Sound and west of and including Buckland River drainage.	Muskox	Residents of Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage.

Area	Species	Determination
23, remainder	Muskox	Residents of Unit 23 east and north of the Buckland River drainage.
23	Sheep	Residents of Point Lay and Unit 23 north of the Arctic Circle.
23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
23	Grouse (Spruce and Ruffed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
23	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Black Bear	Residents of Stevens Village, Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, remainder	Black Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Brown Bear	Residents of Stevens Village and residents of Unit 24.
24, remainder	Brown Bear	Residents of Unit 24.
24	Caribou	Residents of Unit 24, Galena, Kobuk, Koyukuk, Stevens Village, and Tanana.
24	Moose	Residents of Unit 24, Koyukuk, and Galena.
24	Sheep	Residents of Unit 24 residing north of the Arctic Circle, Allakaket, Alatna, Hughes, and Huslia.
24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 25D	Black Bear	Residents of Unit 25D.
25D	Brown Bear	Residents of Unit 25D.
25, remainder	Brown Bear	Residents of Unit 25 and Eagle.
25D	Caribou	Residents of 20F, 25D, and Manley.
25A	Moose	Residents of Units 25A and 25D.
25D, west	Moose	Residents of Unit 25D West.
25D, remainder	Moose	Residents of remainder of Unit 25.
25A	Sheep	Residents of Arctic Village, Chalkyitsik, Fort Yukon, Kaktovik, and Venetie.
25B and C	Sheep	No Federal subsistence priority.
25D	Wolf	Residents of Unit 25D.
25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 26	Brown Bear	Residents of Unit 26 (except the Prudhoe Bay-Deadhorse Industrial Complex), Anaktuvuk Pass, and Point Hope.
26A and C	Caribou	Residents of Unit 26, Anaktuvuk Pass and Point Hope.
26B	Caribou	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and residents of Unit 24 within the Dalton Highway Corridor Management Area.
26	Moose	Residents of Unit 26, (except the Prudhoe Bay-Deadhorse Industrial Complex), Point Hope, and Anaktuvuk Pass.
26A	Muskox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
26B	Muskox	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
26C	Muskox	Residents of Kaktovik.
26A	Sheep	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
26B	Sheep	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
26C	Sheep	Residents of Unit 26, Anaktuvuk Pass, Arctic Village, Chalkyitsik, Fort Yukon, Point Hope, and Venetie.
26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.

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Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. In Subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.25 is revised to read as follows:

§ ____.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) *Definitions.* The following definitions shall apply to all regulations contained in this part:

Abalone iron means a flat device which is used for taking abalone and which is more than 1 inch (24 mm) in width and less than 24 inches (610 mm) in length, with all prying edges rounded and smooth.

ADF&G means the Alaska Department of Fish and Game.

Airborne means transported by aircraft.

Aircraft means any kind of airplane, glider, or other device used to transport people or equipment through the air, excluding helicopters.

Airport means an airport listed in the Federal Aviation Administration, Alaska Airman's Guide and chart supplement.

Anchor means a device used to hold a fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor, or being secured to another vessel or net that is anchored.

Animal means those species with a vertebral column (backbone).

Antler means one or more solid, horn-like appendages protruding from the head of a caribou, deer, elk, or moose.

Antlered means any caribou, deer, elk, or moose having at least one visible antler.

Antlerless means any caribou, deer, elk, or moose not having visible antlers attached to the skull.

Bait means any material excluding a scent lure that is placed to attract an animal by its sense of smell or taste; however, those parts of legally taken animals that are not required to be salvaged and which are left at the kill site are not considered bait.

Beach seine means a floating net which is designed to surround fish and is set from and hauled to the beach.

Bear means black bear, or brown or grizzly bear.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow, or any bow equipped with a mechanical device that holds arrows at full draw.

Broadhead means an arrowhead that is not barbed and has two or more steel cutting edges having a minimum cutting diameter of not less than seven-eighths inch.

Brow tine means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

Buck means any male deer.

Bull means any male moose, caribou, elk, or musk oxen.

Cast net means a circular net with a mesh size of no more than 12 inches and weights attached to the perimeter which, when thrown, surrounds the fish and closes at the bottom when retrieved.

Char means the following species: Arctic char (*Salvelinus alpinis*); lake trout (*Salvelinus namaycush*); brook trout (*Salvelinus fontinalis*), and Dolly Varden (*Salvelinus malma*).

Closed season means the time when fish, wildlife, or shellfish may not be taken.

Crab means the following species: Red king crab (*Paralithodes camshatica*); blue king crab (*Paralithodes platypus*); brown king crab (*Lithodes aequispina*); scarlet king crab *Lithodes couesi*; all species of tanner or snow crab (*Chionoecetes* spp.); and Dungeness crab (*Cancer magister*).

Cub bear means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Depth of net means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed.

Designated hunter or fisherman means a Federally qualified hunter or fisherman who may take all or a portion of another Federally qualified hunter's or fisherman's harvest limit(s) only under situations approved by the Board.

Dip net means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed 5 feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Diving gear means any type of hard hat or skin diving equipment, including SCUBA equipment; a tethered, umbilical, surface-supplied unit; or snorkel.

Drainage means all of the lands and waters comprising a watershed, including tributary rivers, streams, sloughs, ponds, and lakes, which contribute to the water supply of the watershed.

Drift gillnet means a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed in one place.

Edible meat means the breast meat of ptarmigan and grouse, and, those parts of caribou, deer, elk, mountain goat, moose, musk oxen, and Dall sheep that are typically used for human consumption, which are: The meat of the ribs, neck, brisket, front quarters as far as the distal (bottom) joint of the radius-ulna (knee), hindquarters as far as the distal joint (bottom) of the tibia-fibula (hock) and that portion of the animal between the front and hindquarters; however, *edible meat* of species listed in this definition does not include: Meat of the head, meat that has been damaged and made inedible by the method of taking, bones, sinew, and incidental meat reasonably lost as a result of boning or close trimming of the bones, or viscera. For black bear, brown and grizzly bear, ''edible meat'' means the meat of the front quarter and hindquarters and meat along the backbone (backstrap).

Federally-qualified subsistence user means a rural Alaska resident qualified to harvest fish or wildlife on Federal public lands in accordance with the Federal Subsistence Management Regulations in this part.

Field means an area outside of established year-round dwellings, businesses, or other developments usually associated with a city, town, or village; *field* does not include permanent hotels or roadhouses on the State road system or at State or Federally maintained airports.

Fifty-inch (50-inch) moose means a bull moose with an antler spread of 50 inches or more.

Fish wheel means a fixed, rotating device, with no more than four baskets on a single axle, for catching fish, which is driven by river current or other means.

Freshwater of streams and rivers means the line at which freshwater is separated from saltwater at the mouth of streams and rivers by a line drawn headland to headland across the mouth as the waters flow into the sea.

Full curl horn means the horn of a Dall sheep ram; the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken, or that the sheep is at least 8 years of age as determined by horn growth annuli.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, red squirrel, flying squirrel, ground squirrel, marmot, wolf, or wolverine.

Fyke net means a fixed, funneling (fyke) device used to entrap fish.

Gear means any type of fishing apparatus.

Gillnet means a net primarily designed to catch fish by entanglement in a mesh that consists of a single sheet of webbing which hangs between cork line and lead line, and which is fished from the surface of the water.

Grappling hook means a hooked device with flukes or claws, which is attached to a line and operated by hand.

Groundfish or *bottomfish* means any marine fish except halibut, osmerids, herring and salmonids.

Grouse collectively refers to all species found in Alaska, including spruce grouse, ruffed grouse, blue grouse, and sharp-tailed grouse.

Hand purse seine means a floating net which is designed to surround fish and

which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

Handicraft means a finished product made by a rural Alaskan resident from the nonedible byproducts of fish or wildlife and is composed wholly or in some significant respect of natural materials. The shape and appearance of the natural material must be substantially changed by the skillful use of hands, such as sewing, weaving, drilling, lacing, beading, carving, etching, scrimshawing, painting, or other means, and incorporated into a work of art, regalia, clothing, or other creative expression, and can be either traditional or contemporary in design. The handicraft must have substantially greater monetary and aesthetic value than the unaltered natural material alone.

Handline means a hand-held and operated line, with one or more hooks attached.

Hare or hares collectively refers to all species of hares (commonly called rabbits) in Alaska and includes snowshoe hare and tundra hare.

Harvest limit means the number of any one species permitted to be taken by any one person or designated group, per specified time period, in a Unit or portion of a Unit in which the taking occurs even if part or all of the harvest is preserved. A fish, when landed and killed by means of rod and reel becomes part of the harvest limit of the person originally hooking it.

Herring pound means an enclosure used primarily to contain live herring over extended periods of time.

Highway means the drivable surface of any constructed road.

Household means that group of people residing in the same residence.

Hung measure means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

Hunting means the taking of wildlife within established hunting seasons with archery equipment or firearms, and as authorized by a required hunting license.

Hydraulic clam digger means a device using water or a combination of air and water used to harvest clams.

Jigging gear means a line or lines with lures or baited hooks, drawn through the water by hand, and which are operated during periods of ice cover from holes cut in the ice, or from shore ice and which are drawn through the water by hand.

Lead means either a length of net employed for guiding fish into a seine, set gillnet, or other length of net, or a length of fencing employed for guiding fish into a fish wheel, fyke net, or dip net.

Legal limit of fishing gear means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district, or section.

Long line means either a stationary, buoyed, or anchored line, or a floating, free-drifting line with lures or baited hooks attached.

Marmot collectively refers to all species of marmot that occur in Alaska including the hoary marmot, Alaska marmot, and the woodchuck.

Mechanical clam digger means a mechanical device used or capable of being used for the taking of clams.

Mechanical jigging machine means a mechanical device with line and hooks used to jig for halibut and bottomfish, but does not include hand gurdies or rods with reels.

Mile means a nautical mile when used in reference to marine waters or a statute mile when used in reference to fresh water.

Motorized vehicle means a motor-driven land, air, or water conveyance.

Open season means the time when wildlife may be taken by hunting or trapping; an open season includes the first and last days of the prescribed season period.

Otter means river or land otter only, excluding sea otter.

Permit hunt means a hunt for which State or Federal permits are issued by registration or other means.

Poison means any substance that is toxic or poisonous upon contact or ingestion.

Possession means having direct physical control of wildlife at a given time or having both the power and intention to exercise dominion or control of wildlife either directly or through another person or persons.

Possession limit means the maximum number of fish, grouse, or ptarmigan a person or designated group may have in possession if the they have not been canned, salted, frozen, smoked, dried, or otherwise preserved so as to be fit for human consumption after a 15-day period.

Pot means a portable structure designed and constructed to capture and retain live fish and shellfish in the water.

Ptarmigan collectively refers to all species found in Alaska, including white-tailed ptarmigan, rock ptarmigan, and willow ptarmigan.

Purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

Ram means a male Dall sheep.

Registration permit means a permit that authorizes hunting and is issued to a person who agrees to the specified hunting conditions. Hunting permitted by a registration permit begins on an announced date and continues throughout the open season, or until the season is closed by Board action. Registration permits are issued in the order applications are received and/or are based on priorities as determined by 50 CFR 100.17 and 36 CFR 242.17.

Regulatory year means July 1 through June 30, except for fish and shellfish for which it means April 1 through March 31.

Ring net means a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that free movement of fish or shellfish across the top of the net is not prohibited when the net is employed.

Rockfish means all species of the genus *Sebastes.*

Rod and reel means either a device upon which a line is stored on a fixed or revolving spool and is deployed through guides mounted on a flexible pole, or a line that is attached to a pole. In either case, bait or an artificial fly or lure is used as terminal tackle. This definition does not include the use of rod and reel gear for snagging.

Salmon means the following species: pink salmon (*Oncorhynchus gorbuscha*); sockeye salmon (*Oncorhynchus nerka*); chinook salmon (*Oncorhynchus tshawytscha*); coho salmon (*Oncorhynchus kisutch*); and chum salmon (*Oncorhynchus keta*).

Salmon stream means any stream used by salmon for spawning, rearing, or for traveling to a spawning or rearing area.

Salvage means to transport the edible meat, skull, or hide, as required by regulation, of a regulated fish, wildlife, or shellfish to the location where the edible meat will be consumed by humans or processed for human consumption in a manner which saves or prevents the edible meat from waste, and preserves the skull or hide for human use.

Scallop dredge means a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor.

Sea urchin rake means a hand-held implement, no longer than 4 feet,

equipped with projecting prongs used to gather sea urchins.

Sealing means placing a mark or tag on a portion of a harvested animal by an authorized representative of the ADF&G; *sealing* includes collecting and recording information about the conditions under which the animal was harvested, and measurements of the specimen submitted for sealing or surrendering a specific portion of the animal for biological information.

Set gillnet means a gillnet that has been intentionally set, staked, anchored, or otherwise fixed.

Seven-eighths curl horn means the horn of a male Dall sheep, the tip of which has grown through seven-eights (315 degrees) of a circle, described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Shovel means a hand-operated implement for digging clams.

Skin, hide, pelt, or fur means any tanned or untanned external covering of an animal's body. However, for bear, the skin, hide, pelt, or fur means the external covering with claws attached.

Snagging means hooking or attempting to hook a fish elsewhere than in the mouth.

Spear means a shaft with a sharp point or fork-like implement attached to one end which is used to thrust through the water to impale or retrieve fish and which is operated by hand.

Spike-fork moose means a bull moose with only one or two tines on either antler; male calves are not spike-fork bulls.

Stretched measure means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under 5-pound weight.

Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.

Take or *Taking* means to fish, pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Tine or antler point refers to any point on an antler, the length of which is greater than its width and is at least one inch.

To operate fishing gear means any of the following: to deploy gear in the water; to remove gear from the water; to remove fish or shellfish from the gear during an open season or period; or to possess a gillnet containing fish during an open fishing period, except that a gillnet which is completely clear of the water is not considered to be operating for the purposes of minimum distance requirement.

Transportation means to ship, convey, carry, or transport by any means whatever and deliver or receive for such shipment, conveyance, carriage, or transportation.

Trapping means the taking of furbearers within established trapping seasons and with a required trapping license.

Trawl means a bag-shaped net towed through the water to capture fish or shellfish, and includes beam, otter, or pelagic trawl.

Troll gear means a power gurdy troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water by a power gurdy; hand troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing, or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical, or other assisting device or attachment; or dinglebar troll gear consisting of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

Trout means the following species: cutthroat trout (*Oncorhynchus clarki*) and rainbow/steelhead trout (*Oncorhynchus mykiss*).

Unclassified wildlife or *unclassified species* means all species of animals not otherwise classified by the definitions in this paragraph (a), or regulated under other Federal law as listed in paragraph (i) of this section.

Ungulate means any species of hoofed mammal, including deer, caribou, elk, moose, mountain goat, Dall sheep, and musk oxen.

Unit means one of the 26 geographical areas in the State of Alaska known as Game Management Units, or GMU, and collectively listed in this section as Units.

Wildlife means any hare (rabbit), ptarmigan, grouse, ungulate, bear, furbearer, or unclassified species and includes any part, product, egg, or offspring thereof, or carcass or part thereof.

(b) Taking fish, wildlife, or shellfish for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting, trapping, or fishing during a closed season or in an area closed by this part is prohibited. You may not take for subsistence fish, wildlife, or shellfish outside established Unit or Area seasons, or in excess of the established Unit or Area harvest limits, unless otherwise provided for by the Board. You may take fish, wildlife, or shellfish under State regulations on public lands, except as otherwise restricted at §§ ____.26 through ____.28. Unit/Area-specific restrictions or allowances for subsistence taking of fish, wildlife, or shellfish are identified at §§ ____.26 through ____.28.

(c) *Harvest limits.* (1) Harvest limits authorized by this section and harvest limits established in State regulations may not be accumulated.

(2) Fish, wildlife, or shellfish taken by a designated individual for another person pursuant to § ____.10(d)(5)(ii) counts toward the individual harvest limit of the person for whom the fish, wildlife, or shellfish is taken.

(3) A harvest limit applies to the number of fish, wildlife, or shellfish that can be taken during a regulatory year; however, harvest limits for grouse, ptarmigan, and caribou (in some Units) are regulated by the number that may be taken per day. Harvest limits of grouse and ptarmigan are also regulated by the number that can be held in possession.

(4) Unless otherwise provided, any person who gives or receives fish, wildlife, or shellfish shall furnish, upon a request made by a Federal or State agent, a signed statement describing the following: Names and addresses of persons who gave and received fish, wildlife, or shellfish; the time and place that the fish, wildlife, or shellfish was taken; and identification of species transferred. Where a qualified subsistence user has designated another qualified subsistence user to take fish, wildlife, or shellfish on his or her behalf in accordance with § ____.10(d)(5)(ii), the permit shall be furnished in place of a signed statement.

(d) *Fishing by designated harvest permit.* (1) Any species of fish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user, you (beneficiary) may designate another Federally-qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish for any number of beneficiaries but may have

no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated fishing permit when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.

(4) The designated fisherman may not fish with more than one legal limit of gear.

(5) You may not designate more than one person to take or attempt to take fish on your behalf at one time. You may not personally take or attempt to take fish at the same time that a designated fisherman is taking or attempting to take fish on your behalf.

(e) *Hunting by designated harvest permit.* In Units 1–8, 9D, 10–16, or 18–26, if you are a Federally qualified subsistence user (recipient), you may designate another Federally qualified subsistence user to take deer, moose and caribou on your behalf unless you are a member of a community operating under a community harvest system or unless Unit specific regulations in Section ____.26 preclude or modify the use of the designated hunter system or allow the harvest of additional species by a designated hunter. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time, unless otherwise specified in unit-specific regulations in § ____.26.

(f) A rural Alaska resident who has been designated to take fish, wildlife, or shellfish on behalf of another rural Alaska resident in accordance with § ____.10(d)(5)(ii) shall promptly deliver the fish, wildlife, or shellfish to that rural Alaska resident and may not charge the recipient for his/her services in taking the fish, wildlife, or shellfish or claim for themselves the meat or any part of the harvested fish, wildlife, or shellfish.

(g) [Reserved].

(h) *Permits.* If a subsistence fishing or hunting permit is required by this part, the following permit conditions apply unless otherwise specified in this section:

(1) You may not take more fish, wildlife, or shellfish for subsistence use than the limits set out in the permit;

(2) You must obtain the permit prior to fishing or hunting;

(3) You must have the permit in your possession and readily available for inspection while fishing, hunting, or transporting subsistence-taken fish, wildlife, or shellfish;

(4) If specified on the permit, you shall keep accurate daily records of the harvest, showing the number of fish, wildlife, or shellfish taken by species, location and date of harvest, and other such information as may be required for management or conservation purposes; and

(5) If the return of harvest information necessary for management and conservation purposes is required by a permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances.

(i) You may not possess, transport, give, receive, or barter fish, wildlife, or shellfish that was taken in violation of Federal or State statutes or a regulation promulgated hereunder.

(j) *Utilization of fish, wildlife, or shellfish.* (1) You may not use wildlife as food for a dog or furbearer, or as bait, except as allowed for in § ____.26, § ____.27, or § ____.28, or except for the following:

(i) The hide, skin, viscera, head, or bones of wildlife;

(ii) The skinned carcass of a furbearer;

(iii) Squirrels, hares (rabbits), grouse, or ptarmigan; however, you may not use the breast meat of grouse and ptarmigan as animal food or bait;

(iv) Unclassified wildlife.

(2) If you take wildlife for subsistence, you must salvage the following parts for human use:

(i) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel, or otter;

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in Units 5, 9B, 17, 18, portions of 19A and 19B, 21D, 22, 23, 24, and 26A need not be salvaged;

(iii) The hide and edible meat of a black bear;

(iv) The hide or meat of squirrels, hares (rabbits), marmots, beaver, muskrats, or unclassified wildlife.

(3) You must salvage the edible meat of ungulates, bear, grouse, and ptarmigan.

(4) You may not intentionally waste or destroy any subsistence-caught fish or shellfish; however, you may use for bait or other purposes whitefish, herring, and species for which bag limits, seasons, or other regulatory methods and means are not provided in this section, as well as the head, tail, fins, and viscera of legally-taken subsistence fish.

(5) Failure to salvage the edible meat may not be a violation if such failure is caused by circumstances beyond the control of a person, including theft of the harvested fish, wildlife, or shellfish, unanticipated weather conditions, or unavoidable loss to another animal.

(6) If you are a Federally-qualified subsistence user, you may sell handicraft articles made from the skin, hide, pelt, or fur, including claws, of a black bear.

(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a black bear taken from Units 1, 2, 3, or 5.

(ii) [Reserved].

(7) If you are a Federally-qualified subsistence user, you may sell handicraft articles made from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1–5, 9A–C, 9E, 12, 17, 20, and 25.

(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, or 5.

(ii) [Reserved].

(8) You may sell the raw fur or tanned pelt with or without claws attached from legally harvested furbearers.

(k) The regulations found in this part do not apply to the subsistence taking and use of fish, wildlife, or shellfish regulated pursuant to the Fur Seal Act of 1966 (80 Stat. 1091, 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), or to any amendments to these Acts. The taking and use of fish, wildlife, or shellfish, covered by these Acts, will conform to the specific provisions contained in these Acts, as amended, and any implementing regulations.

(l) Rural residents, nonrural residents, and nonresidents not specifically prohibited by Federal regulations from fishing, hunting, or trapping on public lands in an area, may fish, hunt, or trap on public lands in accordance with the appropriate State regulations.

■ 4. In subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.26 is added effective July 1, 2005, through June 30, 2006, to read as follows:

§ ____.26 Subsistence taking of wildlife.

(a) You may take wildlife for subsistence uses by any method, except as prohibited in this section or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a

closed season or in an area closed by this part is prohibited.

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

(1) Shooting from, on, or across a highway;

(2) Using any poison;

(3) Using a helicopter in any manner, including transportation of individuals, equipment, or wildlife; however, this prohibition does not apply to transportation of an individual, gear, or wildlife during an emergency rescue operation in a life-threatening situation;

(4) Taking wildlife from a motorized land or air vehicle, when that vehicle is in motion or from a motor-driven boat when the boat's progress from the motor's power has not ceased;

(5) Using a motorized vehicle to drive, herd, or molest wildlife;

(6) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge;

(7) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle, or pistol using center-firing cartridges, for the taking of ungulates, bear, wolves, or wolverine, except that—

(i) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine;

(ii) Only a muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, elk, moose, musk oxen, and mountain goat;

(8) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over 9 inches, or conibear style trap with a jaw spread over 11 inches;

(9) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and, individuals in possession of a valid trapping license may use snares to take furbearers;

(10) Using a trap to take ungulates or bear;

(11) Using hooks to physically snag, impale, or otherwise take wildlife; however, hooks may be used as a trap drag;

(12) Using a crossbow to take ungulates, bear, wolf, or wolverine in any area restricted to hunting by bow and arrow only;

(13) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting a ⅞ inch wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least 1 ounce (437.5 grains);

(14) Using bait for taking ungulates, bear, wolf, or wolverine; except, you may use bait to take wolves and wolverine with a trapping license, and you may use bait to take black bears with a hunting license as authorized in Unit-specific regulations at paragraphs (n)(1) through (26) of this section. Baiting of black bears is subject to the following restrictions:

(i) Before establishing a black bear bait station, you must register the site with ADF&G;

(ii) When using bait, you must clearly mark the site with a sign reading ''black bear bait station'' that also displays your hunting license number and ADF&G-assigned number;

(iii) You may use only biodegradable materials for bait; you may use only the head, bones, viscera, or skin of legally harvested fish and wildlife for bait;

(iv) You may not use bait within ¼ mile of a publicly maintained road or trail;

(v) You may not use bait within 1 mile of a house or other permanent dwelling, or within 1 mile of a developed campground or developed recreational facility;

(vi) When using bait, you must remove litter and equipment from the bait station site when done hunting;

(vii) You may not give or receive payment for the use of a bait station, including barter or exchange of goods;

(viii) You may not have more than two bait stations with bait present at any one time;

(15) Taking swimming ungulates, bears, wolves, or wolverine;

(16) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft); however, this restriction does not apply to subsistence taking of deer, the setting of snares or traps, or the removal of furbearers from traps or snares;

(17) Taking a bear cub or a sow accompanied by cub(s).

(c) Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(d) The following methods and means of trapping furbearers for subsistence uses pursuant to the requirements of a trapping license are prohibited, in addition to the prohibitions listed at paragraph (b) of this section:

(1) Disturbing or destroying a den, except that you may disturb a muskrat pushup or feeding house in the course of trapping;

(2) Disturbing or destroying any beaver house;

(3) Taking beaver by any means other than a steel trap or snare, except that you may use firearms in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(4) Taking otter with a steel trap having a jaw spread of less than 5⅞ inches during any closed mink and marten season in the same Unit;

(5) Using a net or fish trap (except a blackfish or fyke trap);

(6) Taking or assisting in the taking of furbearers by firearm before 3 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare.

(e) *Possession and transportation of wildlife.* (1) Except as specified in paragraph (e)(2) or (f)(1) of this section, or as otherwise provided, you may not take a species of wildlife in any unit, or portion of a unit, if your total take of that species already obtained anywhere in the State under Federal and State regulations equals or exceeds the harvest limit in that unit.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § ____.10(d)(5)(iii) or as otherwise provided for by this part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

(f) *Harvest limits.* (1) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that if you have taken a harvest limit for a particular species under a trapping season, you may take additional animals under the harvest limit specified for a hunting season or vice versa.

(2) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of ''one brown/grizzly bear per year'' counts against a ''one brown/grizzly bear every four regulatory years'' harvest limit in other Units. You may not take more than one brown/grizzly bear in a regulatory year.

(3) The Assistant Regional Director for Subsistence Management, FWS, is authorized to open, close, or adjust

Federal subsistence lynx seasons and to set harvest and possession limits for lynx in Units 6, 7, 11, 12, 13, 14, 15, 16, 20A, 20B, 20C east of the Teklanika River, 20D, and 20E, with a maximum season of November 1–February 28. This delegation may be exercised only when it is necessary to conserve lynx populations or to continue subsistence uses, only within guidelines listed within the ADF&G Lynx Harvest Management Strategy, and only after staff analysis of the potential action, consultation with the appropriate Regional Council Chairs, and Interagency Staff Committee concurrence.

(g) *Evidence of sex and identity.* (1) If subsistence take of Dall sheep is restricted to a ram, you may not possess or transport a harvested sheep unless both horns accompany the animal.

(2) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, you may not possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal, except that in Units 1–5 antlers are also considered proof of sex for deer if the antlers are naturally attached to an entire carcass, with or without the viscera; and except in Units 11, 13, 19, 21, and 24, where you may possess either sufficient portions of the external sex organs (still attached to a portion of the carcass) or the head (with or without antlers attached; however, the antler stumps must remain attached), to indicate the sex of the harvested moose; however, this paragraph (g)(2) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(3) If a moose harvest limit requires an antlered bull, an antler size, or configuration restriction, you may not possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. If you possess a set of antlers with less than the required number of brow tines on one antler, you must leave the antlers naturally attached to the unbroken, uncut skull plate; however, this paragraph (g)(3) does not apply to a moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(h) You must leave all edible meat on the bones of the front quarters and hind quarters of caribou and moose harvested in Units 9B, 17, 18, and 19B prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of moose harvested in Unit 21 prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 24 prior to October 1 until you remove the meat from the field or process it for human consumption. Meat of the front quarters, hind quarters, or ribs from a harvested moose or caribou may be processed for human consumption and consumed in the field; however, meat may not be removed from the bones for purposes of transport out of the field.

(i) If you take an animal that has been marked or tagged for scientific studies, you must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker, when and where the animal was taken. You also must retain any ear tag, collar, radio, tattoo, or other identification with the hide until it is sealed, if sealing is required; in all cases, you must return any identification equipment to the ADF&G or to an agency identified on such equipment.

(j) *Sealing of bear skins and skulls.* (1) Sealing requirements for bear shall apply to brown bears taken in all Units, except as specified in this paragraph, and black bears of all color phases taken in Units 1–7, 11–17, and 20.

(2) You may not possess or transport from Alaska the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A need not be sealed unless removed from the area.

(3) You must keep a bear skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision shall not apply to brown bears taken within Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A which are not removed from the Unit.

(i) In areas where sealing is required by Federal regulations, you may not possess or transport the hide of a bear that does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in Units 9B, 17, 18, and 19A and 19B downstream of and including the Aniak River drainage is removed from the area, you must first have it sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iii) If you remove the skin or skull of a bear taken in Units 21D, 22, 23, 24, and 26A from the area or present it for commercial tanning within the area, you must first have it sealed by an ADF&G representative in Barrow, Galena, Nome, or Kotzebue; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iv) If you remove the skin or skull of a bear taken in Unit 5 from the area, you must first have it sealed by an ADF&G representative in Yakutat; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(v) If you remove the skin or skull of a bear taken in Unit 9E from Unit 9, you must first have it sealed by an authorized sealing representative. At the time of sealing, the representative shall remove and retain the skin of the skull and front claws of the bear.

(4) You may not falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(k) *Sealing of beaver, lynx, marten, otter, wolf, and wolverine.* You may not possess or transport from Alaska the untanned skin of a marten taken in Units 1–5, 7, 13E, and 14–16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the State, unless the skin has been sealed by an authorized representative in accordance with State or Federal regulations. In Unit 18, you must obtain an ADF&G seal for beaver skins only if they are to be sold or commercially tanned.

(1) You must seal any wolf taken in Unit 2 on or before the 30th day after the date of taking.

(2) You must leave the radius and ulna of the left foreleg naturally attached to the hide of any wolf taken in Units 1–5 until the hide is sealed.

(l) If you take a species listed in paragraph (k) of this section but are unable to present the skin in person, you must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized

representative of ADF&G for sealing consistent with requirements listed in paragraph (k) of this section.

(m) You may take wildlife, outside of established season or harvest limits, for food in traditional religious ceremonies, that are part of a funerary or mortuary cycle, including memorial potlatches, under the following provisions:

(1) The harvest does not violate recognized principles of wildlife conservation and uses the methods and means allowable for the particular species published in the applicable Federal regulations. The appropriate Federal land manager will establish the number, species, sex, or location of harvest, if necessary, for conservation purposes. Other regulations relating to ceremonial harvest may be found in the unit-specific regulations in § ____.26(n).

(2) No permit or harvest ticket is required for harvesting under this section; however, the harvester must be a Federally qualified subsistence user with customary and traditional use in the area where the harvesting will occur.

(3) In Units 1 B 26 (except for Koyukon/Gwich'in potlatch ceremonies in Units 20F, 21, 24, or 25):

(i) A tribal chief, village council president or the chief's or president's designee for the village in which the religious ceremony will be held, or a Federally qualified subsistence user outside of a village or tribal-organized ceremony, must notify the nearest Federal land manager that a wildlife harvest will take place. The notification must include the species, harvest location, and number of animals expected to be taken.

(ii) Immediately after the wildlife is taken, the tribal chief, village council president or designee, or other Federally qualified subsistence user must create a list of the successful hunters and maintain these records including the name of the decedent for whom the ceremony will be held. If requested, this information must be available to an authorized representative of the Federal land manager.

(iii) The tribal chief, village council president or designee, or other Federally qualified subsistence user outside of the village in which the religious ceremony will be held must report to the Federal land manager the harvest location, species, sex, and number of animals taken as soon as practicable, but not more than 15 days after the wildlife is taken.

(4) In Units 20F, 21, 24, and 25 (for Koyukon/Gwich'in potlatch ceremonies only):

(i) Taking wildlife outside of established season and harvest limits is authorized if it is for food for the traditional Koyukon/Gwich'in Potlatch Funerary or Mortuary ceremony and if it is consistent with conservation of healthy populations.

(ii) Immediately after the wildlife is taken, the tribal chief, village council president, or the chief's or president's designee for the village in which the religious ceremony will be held must create a list of the successful hunters and maintain these records. The list must be made available, after the harvest is completed, to a Federal land manager upon request.

(iii) As soon as practical, but not more than 15 days after the harvest, the tribal chief, village council president, or designee must notify the Federal land manager about the harvest location, species, sex, and number of animals taken.

(n) *Unit regulations.* You may take for subsistence unclassified wildlife, all squirrel species, and marmots in all Units, without harvest limits, for the period of July 1–June 30. Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (n)(1) through (26) of this section.

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1A consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound;

(ii) Unit 1B consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound, and Seward Passage;

(iii) Unit 1C consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay;

(iv) Unit 1D consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay;

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1A—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1B—the Anan Creek drainage within one mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a one mile radius from the mouth of Anan Creek Lagoon, is closed to the taking of black bear and brown bear;

(D) Unit 1C:

(*1*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area;

(*2*) You may not take mountain goat in the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier;

(vi) You may not trap furbearers for subsistence uses in Unit 1C, Juneau area, on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail;

(vii) Unit-specific regulations:

(A) You may hunt black bear with bait in Units 1A, 1B, and 1D between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

Harvest limits	Open season
HUNTING	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept.–June 30.
Brown Bear: 1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1A—4 antlered deer	Aug. 1–Dec. 31.
Unit 1B—2 antlered deer	Aug. 1–Dec. 31.
Unit 1C—4 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1A—Revillagigedo Island only	No open season.
Unit 1B—that portion north of LeConte Bay. 1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1A and 1B—that portion on the Cleveland Peninsula south of the divide between Yes Bay and Santa Ana Inlet.	No open season.
Unit 1A and 1B—remainder—2 goats; a State registration permit will be required for the taking of the first goat and a Federal registration permit for the taking of a second goat. The taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1C—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River, and all drainages of the Chilkat Range south of the Endicott River—1 goat by the State registration permit only.	Oct. 1–Nov. 30.
Unit 1C—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier.	No open season.
Unit 1C—remainder—1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1D—that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sept. 15–Nov. 30.
Unit 1D—that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Unit 1D—remainder—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1A—1 antlered bull by Federal registration permit	Sept. 5–Oct. 15.
Unit 1B—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1C—that portion south of Point Hobart including all Port Houghton drainages—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1C—remainder, excluding drainages of Berners Bay—1 antlered bull by State registration permit only	Sept. 15–Oct. 15.
Unit 1D	No open season.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1.–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed); 20 per day, 40 in possession	Aug. 1–May 15.
TRAPPING	
Beaver: Unit 1A, B, and C—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10.–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(2) *Unit 2*. Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the westernmost point on Warren Island.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(ii) [Reserved]

Harvest limits	Open season
HUNTING	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	

Harvest limits	Open season
4 Deer; however, no more than one may be an antlerless deer. Antlerless deer may be taken only during the period Oct. 15–Dec. 31. You are required to report all harvests using a joint Federal/State harvest report.	July 24–Dec. 31.
The Federal public lands on Prince of Wales Island are closed to hunting of deer from Aug. 1 to Aug. 15, except by Federally-qualified subsistence users hunting under these regulations.	
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves. The Forest Supervisor (or designee) may close the Federal hunting and trapping season in consultation with ADF&G and the Chair of the Southeast Alaska Subsistence Regional Advisory Council, when the combined Federal-State harvest quota is reached.	Sept. 1–Mar. 31.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
TRAPPING	
Beaver: No limit	Dec. 1–May 15
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 15–Mar. 15.
Wolverine: No limit	Nov. 10–Apr. 30.

(3) *Unit 3*. (i) Unit 3 consists of all islands west of Unit 1B, north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevarof, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground;

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island;

(C) You may not hunt in the Blind Slough draining into Wrangell Narrows and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

Harvest limits	Open season
HUNTING	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
Unit 3—Mitkof, Woewodski, and Butterworth Islands—1 antlered deer	Oct. 15–Oct. 31.
Unit 3—remainder—2 antlered deer	Aug. 1–Nov. 30.
Moose: 1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow times or either antler by State registration permit only.	Sept. 15–Oct. 15.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Sliver Phase): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
TRAPPING	
Beaver:	
Unit 3—Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10.–Apr. 30.

(4) *Unit 4.* (i) Unit 4 consists of all islands south and west of Unit 1C and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take brown bears in the Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands;

(B) You may not take brown bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay;

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock);

(D) You may not use any motorized land vehicle for brown bear hunting in the Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwest point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay.

(iii) Unit-specific regulations:

(A) You may shoot ungulates from a boat. You may not shoot bear, wolves, or wolverine from a boat, unless you are certified as disabled;

(B) Five Federal registration permits will be issued for the taking of brown bear for educational purposes associated with teaching customary and traditional subsistence harvest and use practices. Any bear taken under an educational permit does not count in an individual's one bear every four regulatory years limit.

Harvest limits	Open season
HUNTING	
Brown Bear:	
Unit 4—Chichag of Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136°21′ W. long.) to Rodgers Point (57°35′ N. lat., 135°33′ W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57°34′ N. lat., 135°25′ W. long.) to the entrance of Gut Bay (56° 44′ N. lat. 134°38′ W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 31.
Unit 4—remainder—1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 20.
Deer: 6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31	Aug. 1–Jan. 31.
Goat: 1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1.–May 15.
TRAPPING	
Beaver:	
Unit 4—that portion east of Chatham Strait—No limit	Dec. 1–May 15.
Remainder of Unit 4	No open season.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(5) *Unit 5.* (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5A consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(B) Unit 5B consists of the remainder of Unit 5.

(ii) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled;

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag; if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
HUNTING	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.

Harvest limits	Open season
Brown Bear: 1 bear by Federal registration permit only	Sept. 1–May 31.
Deer:	
Unit 5A—1 buck	Nov. 1–Nov. 30.
Unit 5B	No open season.
Goat:	
Unit 5A—that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord—1 goat by Federal registration permit. The Yakutat District Ranger and ADF&G will jointly announce the harvest quota prior to the season. A minimum of two goats in the harvest quota will be reserved for Federally qualified subsistence users. The season will be closed by local announcement when the quota has been taken. The harvest quota and season announcements will be made in consultation with NPS and local residents.	Aug. 1–Jan. 31.
Unit 5A—remainder—1 goat by Federal registration permit. The Yakutat District Ranger and ADF&G will jointly announce the harvest quota prior to the season. A minimum of four goats in the harvest quota will be reserved for Federally qualified subsistence users. The season will be closed by local announcement when the quota has been taken. The harvest quota and season announcements will be made in consultation with NPS and local residents.	Aug. 1–Jan. 31.
Unit 5B—1 goat by Federal registration permit only	Aug. 1–Jan. 31.
Moose:	
Unit 5A, Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench.	Nov. 15–Feb. 15.
Unit 5A, except Nunatak Bench—1 bull by joint State/Federal registration permit only. The season will be closed when 60 bulls have been taken from the Unit. The season will be closed in that portion west of the Dangerous River when 30 bulls have been taken in that area. From Oct. 8–Oct. 21, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Oct. 8–Nov. 15.
Unit 5B—1 antlered bull by State registration permit only. The season will be closed when 25 antlered bulls have been taken from the entirety of Unit 5B.	Sept. 1–Dec. 15.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1– Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
TRAPPING	
Beaver: No limit	Nov. 10–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Nov. 10–Feb. 15.
Mink and Weasel: No limit	Nov. 10–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limil	Nov. 10–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(6) *Unit 6*. (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6A consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6B consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6C consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6D consists of the remainder of Unit 6.

(ii) For the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take mountain goat in the Goat Mountain goat observation area, which consists of that portion of Unit 6B bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River;

(B) You may not take mountain goat in the Heney Range goat observation area, which consists of that portion of Unit 6C south of the Copper River Highway and west of the Eyak River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may take coyotes in Units 6B and 6C with the aid of artificial lights;

(C) One permit will be issued to the Native Village of Eyak to take one bull moose from Federal lands in Units 6B or C for their annual Memorial/Sobriety Day potlatch;

(D) A Federally-qualified subsistence user (recipient) who is either blind, 65 years of age or older, at least 70 percent disabled, or temporarily disabled may designate another Federally-qualified subsistence user to take any moose, deer, black bear and beaver on his or her behalf in Unit 6, unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The

designated hunter may hunt for any number of recipients, but may have no more than one harvest limit in his or her possession at any one time;

(E) A hunter younger than 10 years old at the start of the hunt may not be issued a Federal subsistence permit to harvest black bear, deer, goat, moose, wolf, and wolverine;

(F) A hunter younger than 10 years old may harvest black bear, deer, goat, moose, wolf, and wolverine under the direct, immediate supervision of a licensed adult, at least 18 years old. The animal taken is counted against the adult's harvest limit. The adult is responsible for ensuring that all legal requirements are met.

Harvest limits	Open season
HUNTING	
Black Bear: 1 bear	Sept. 1–June 30.
Deer: 4 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31	Aug. 1–Dec. 31.
Goats:	
Unit 6A and B—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6C	No open season.
Unit 6D (subareas RG242, RG243, RG244, RG249, RG266 and RG252 only) 1 goat by Federal registration permit only. In each of the Unit 6D subareas, goat seasons will be closed when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG243—4 goats, RG244—2 goats, RG249—4 goats, RG266—4 goats, RG252—1 goat.	Aug. 20–Jan. 31.
Unit 6D (subarea RG245) Federal public lands are closed to all taking of goats	No open season.
Moose:	
Unit 6C—1 cow by Federal registration permit only	Sept. 1–Oct. 31.
Unit 6C—1 bull by Federal registration permit only	Sept. 1–Dec. 31.
(In Unit 6C, only one moose permit may be issued per household. A household receiving a State permit may not receive a Federal permit. The annual harvest quota will be announced by the US Forest Service, Cordova Office, in consultation with ADF&G. The Federal harvest allocation will be 100% of the cow permits and 75% of the bull permits.).	
Unit 6—remainder	No open season.
Beaver: 1 beaver per day, 1 in possession	May 1–Oct. 31.
Coyote:	
Unit 6A and D—2 coyotes	Sept. 1–Apr. 30.
Unit 6B and 6C—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases)	No open season.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx	No open season.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and Whitetailed): 20 per day, 40 in possession	Aug. 1–May 15.
TRAPPING	
Beaver: No limit	Dec. 1–Apr. 30.
Coyote:	
Unit 6C—south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Unit 6A, B, C remainder, and D—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28
Mink and Weasel: No limit	Nov. 10–Jan 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(7) *Unit 7.* (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Kenai Fjords National Park;

(B) You may not hunt in the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek, and Byron Glacier; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15; except in the drainages of Resurrection Creek and its tributaries.

(B) [Reserved]

Harvest limits	Open season
HUNTING	
Black Bear: Unit 7–3 bears	July 1–June 30.
Moose:	

Harvest limits	Open season
Unit 7—that portion draining into Kings Bay—1 bull with spike-fork or 50-inch antlers or 3 more brow tines on either antler may be taken by the community of Chenega Bay and also by the community of Tatitlek. Public lands are closed to the taking of moose except by eligible rural residents hunting under these regulations.	Aug. 10–Sept. 20.
Unit 7—remainder	No open season.
Beaver: 1 beaver per day, 1 in possession	May 1–Oct. 10.
Coyote: No limit	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 7—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7—Remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 10 per day, 20 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed):	No open season
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar.31.
TRAPPING	
Beaver: 20 beaver per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox. Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(8) *Unit 8.* Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) If you have a trapping license, you may take beaver with a firearm in Unit 8 from Nov. 10–Apr. 30.

Harvest limits	Open season
HUNTING	
Brown Bear: 1 bear by Federal registration permit only. Up to 1 permit may be issued in Akhiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 2 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions.	Dec. 1–Dec. 15.
Deer: Unit 8—all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—3 deer; however, antlerless deer may be taken only from Nov. 1–Jan. 31.	Aug. 1–Jan. 31.
Elk: Kodiak, Ban, Uganik, and Afognak Islands—1 elk per household by Federal registration permit only. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge when the combined Federal/State harvest reaches 15% of the herd.	Sept. 15–Nov. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver: 30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Jan. 31.

(9) *Unit 9.* (i) Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9A consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve;

(B) Unit 9B consists of the Kvichak River drainage;

(C) Unit 9C consists of the Alagnak (Branch) River drainage, the Naknek River drainage, and all land and water within Katmai National Park and Preserve;

(D) Unit 9D consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands;

(E) Unit 9E consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in Katmai National Park;

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts from Aug. 1 through Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9C within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, you may use a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 9B from April 1 through May 31 and in the remainder of Unit 9 from April 1 through April 30;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in Unit 9B, except that portion within the Lake Clark National Park and Preserve, if you have obtained a State registration permit prior to hunting.

(C) In Unit 9B, Lake Clark National Park and Preserve, residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth may hunt brown bear by Federal registration permit in lieu of a resident tag; ten permits will be available with at least one permit issued in each community; however, no more than five permits will be issued in a single community. The season will be closed when four females or ten bears have been taken, whichever occurs first;

(D) Residents of Newhalen, Nondalton, Iliamna, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9B for ceremonial purposes, under the terms of a Federal registration permit from July 1 through June 30. Permits will be issued to individuals only at the request of a local organization. This 10-moose limit is not cumulative with that permitted for potlatches by the State;

(E) For Units 9C and 9E only, a Federally-qualified subsistence user (recipient) of Units 9C and 9E may designate another Federally-qualified subsistence user of Units 9C and 9E to take bull caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report and turn over all meat to the recipient. There is no restriction on the number of possession limits the designated hunter may have in his/her possession at any one time;

(F) For Unit 9D, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time;

(G) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through May 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only;

(H) You may hunt brown bear in Unit 9E with a Federal registration permit in lieu of a State locking tag if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 9B—Lake Clark National Park and Preserve—Rural residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth only—1 bear by Federal registration permit only.	July 1–June 30.
Unit 9B, remainder—1 bear by State registration permit only	Sept. 1–May 31.
Unit 9E—1 bear by Federal registration permit	Sept. 25–Dec. 31. Apr. 15–May 25.
Caribou:	
Unit 9A—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Sept. 30 and no more than 1 caribou may be taken Oct. 1–Nov. 30.	Aug. 10–Mar. 31.
Unit 9B—5 caribou; however, no more than 1 bull may be taken from July 1–Nov. 30	July 1–Apr. 15.
Unit 9C, that portion within the Alagnak River drainage—1 caribou	Aug. 1–Mar. 31.
Unit 9C, remainder—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of caribou except by residents of Units 9C and 9E hunting under these regulations.	Aug. 10–Sept. 20. Nov. 15–Feb. 28.
Unit 9D—2 caribou by Federal registration permit.	Aug. 1–Sept. 30. Nov.15–Mar. 31.
Unit 9E—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of caribou except by residents of Units 9C and 9E hunting under these regulations.	Aug. 10–Sept. 20. Nov. 1–Apr. 30.
Sheep:	
Unit 9B—Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and residents of Lake Clark National Park and Preserve within Unit 9B.—1 ram with 7/8 curl or larger horn by Federal registration permit only.	Aug. 10–Oct. 10.
Remainder of Unit 9—1 ram with 7/8 curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 9A—1 bull	Sept. 1–Sept. 15.
Unit 9B—1 bull	Aug. 20–Sept. 15. Dec. 1–Jan. 15.
Unit 9C—that portion draining into the Naknek River from the north—1 bull	Sept. 1–Sept. 15. Dec. 1–Dec. 31.
Unit 9C—that portion draining into the Naknek River from the south—1 bull. However, during the period Aug. 20–Aug. 31, bull moose may be taken by Federal registration permit only. During the December hunt, antlerless moose may be taken by Federal registration permit only. The antlerless season will be closed when 5 antlerless moose have been taken. Public lands are closed during December for the hunting of moose, except by eligible rural Alaska residents hunting under these regulations.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.

Harvest limits	Open season
Unit 9C—remainder—1 bull	Sept. 1–Sept. 15. Dec. 15–Jan. 15.
Unit 9D—1 bull by Federal registration permit. Federal public lands will be closed to the harvest of moose when a total of 10 bulls have been harvested between State and Federal hunts.	Dec. 15–Jan. 20.
Unit 9E—1 bull	Aug. 20–Sept. 20. Dec. 1–Jan. 20.
Beaver: Unit 9B and 9E—2 beaver per day	Apr. 15–May 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White): No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver:	
No limit	Oct. 10–Mar. 31.
2 beaver per day; only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White): No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(10) *Unit 10.* (i) Unit 10 consists of the Aleutian Islands, Unimak Island, and the Pribilof Islands.

(ii) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

(iii) In Unit 10—Unimak Island only, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(iv) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through May 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

Harvest limits	Open season
HUNTING	
Caribou:	
Unit 10—Unimak Island only—4 caribou by Federal registration permit only	Aug. 1–Sept. 30. Nov. 15–Mar. 31.
Unit 10—remainder—No limit	July 1–June 30.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Wolf: 5 wolves	Aug. 10–Apr. 30
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Sept. 21–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older;

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt;

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met;

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear	Aug. 10–June 15.
Caribou:	No open season.
Sheep:	
1 sheep	Aug. 10–Sept. 20.
1 sheep by Federal registration permit only by persons 60 years of age or older	Sept. 21–Oct. 20.
Goat: Unit 11—that portion within the Wrangell-St. Elias National Park and Preserve—1 goat by Federal registration permit only. Federal public lands will be closed to the harvest of goats when a total of 45 goats have been harvested between Federal and State hunts.	Aug. 25– Dec. 31.
Moose: 1 antlered bull by Federal registration permit only	Aug. 20–Sept. 20.
Beaver: 1 beaver per day, 1 in possession	June 1–Oct. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct.1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
TRAPPING	
Beaver: 30 beaver per season	Nov. 10–Apr. 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 1–Jan. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Jan. 31.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may not use a steel trap, or a snare using cable smaller than 3/32 inch diameter to trap coyotes or wolves in Unit 12 during April and October;

(C) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Sept. 21–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older;

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt;

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met;

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear	Aug. 10–June 30.
Caribou:	
Unit 12—that portion of the Nabesna River drainage within the Wrangell-St. Elias National Park and Preserve and all Federal lands south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—All hunting of caribou is prohibited on Federal public lands.	No open season.
Unit 12—remainder—1 bull	Sept 1–Sept. 20.
Unit 12—remainder—1 caribou may be taken by a Federal registration permit during a winter season to be announced. Dates for a winter season to occur between Oct. 1 and Apr. 30 and sex of animal to be taken will be announced by Tetlin National Wildlife Refuge Manager in consultation with Wrangell-St. Elias National Park and Preserve Superintendent, Alaska Department of Fish and Game area biologists, and Chairs of the Eastern Interior Regional Advisory Council and Upper Tanana/Fortymile Fish and Game Advisory Committee.	Winter season to be announced.
Sheep:	
I ram with full curl or larger horn	Aug. 10–Sept. 20.
Unite 12—that portion within Wrangell-St. Elias National Park and Preserve—1 ram with full curl horn or larger by Federal registration permit only by persons 60 years of age or older.	Sept. 21–Oct. 20.
Moose:	
Unit 12—that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Laker Winter Trail from the Canadian border to the southern boundary of the Tetlin National Wildlife Refuge—1 antlered bull. The November season is open by Federal registration permit only.	Aug. 24–Aug. 28. Sept. 8–Sept. 17. Nov. 20–Nov. 30.
Unit 12—that portion lying east of the Nabesna River and Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian broder—1 antlered bull.	Aug. 24–Sept. 30.
Unit 12—remainder—1 antlered bull with spike/fork antlers	Aug. 15–Aug. 28.
Unit 12—remainder—1 antlered bull	Sept. 1–Sept. 15.
Beaver: Unit 12—Wrangell-Saint Elias National Park and Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption..	Sept. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Mar. 15.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Beaver: 15 beaver per season. Only firearms may be used during Sept. 20–Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1–Apr. 15. The total annual harvest limit for beaver is 15, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption.	Sept. 20–May 15.
Coyote: No limit	Oct. 15–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30	Nov. 1–Dec. 31.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Sept. 20–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(13) *Unit 13.* (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north and east bank of the Talkeetna River including the Talkeetna River to its confluence with Clear Creek, the eastside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeast shore of lake 4408, then southeast in a straight line to the northern most fork of the Chickaloon River; the drainages into the east bank of the Chickaloon River below the line from lake 4408; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13A consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with

the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(B) Unit 13B consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning;

(C) Unit 13C consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(D) Unit 13D consists of that portion of Unit 13 south of Unit 13(A);

(E) Unit 13E consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5 through Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River;

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Board, you may not use motorized vehicles for subsistence hunting in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13(B) bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Middle Fork Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning;

(D) You may not use any motorized vehicle or pack animal for hunting, including the transportation of hunters, their hunting gear, and/or parts of game from July 26 through September 30 in the Tonsina Controlled Use Area. The Tonsina Controlled Use Area consists of that portion of Unit 13D bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) Upon written request by the Camp Director to the Glennallen Field Office, 2 caribou, sex to be determined by the Glennallen Field Office Manager of the BLM, may be taken from Aug. 10 through Sept. 30 or Oct. 21 through Mar. 31 by Federal registration permit for the Hudson Lake Residential Treatment Camp. Additionally, 1 bull moose may be taken Aug. 1 through Sept. 20. The animals may be taken by any Federally-qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted;

(C) Upon written request from the Ahtna Heritage Foundation to the Glennallen Field Office, either 1 bull moose or 2 caribou, sex to be determined by the Glennallen Field Office Manager of the Bureau of Land Management, may be taken from Aug 1 through Sept. 20 for 1 moose or Aug. 10 through Sept. 20 for 2 caribou by Federal registration permit for the Ahtna Heritage Foundation's culture camp. The permit will expire on September 20 or when the camp closes, whichever comes first. No combination of caribou and moose is allowed. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
Caribou:	
Unit 13A and 13B—2 caribou by Federal registration permit only. The sex of animals that may be taken will be announced by the Glennallen Field Office Manager of the Bureau of Land Management in consultation with the Alaska Department of Fish and Game area biologist and Chairs of the Eastern Interior Regional Advisory Council and the Southcentral Regional Advisory Council.	Aug. 10–Sept. 30. Oct. 21–Mar. 31.
Unit 13—remainder—2 bulls by Federal registration permit only	Aug. 10–Sept. 30. Oct. 21–Mar. 31.
Hunting within the Trans-Alaska Oil Pipeline right-of-way is prohibited. The right-of-way is identified as the area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline.	

Harvest limits	Open season
Sheep: Unit 13, excluding Unit 13D and the Tok Management Area and Delta Controlled Use Area—1 ram with 7/8 or larger horn.	Aug. 10–Sept. 20.
Moose:	
Unit 13E—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household	Aug. 1–Sept. 20.
Unit 13—remainder—1 antlered bull moose by Federal registration permit only	Aug. 1–Sept. 20.
Beaver: 1 beaver per day, 1 in possession	June 15–Sept. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
TRAPPING	
Beaver: No limit	Sept. 25–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 1–Jan. 31.
Marten: Unit 13—No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Sept.25–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Oct. 15–Apr. 30.
Wolverine: No limit	Nov. 10–Jan. 31.

(14) *Unit 14.* (i) Unit 14 consists of drainages into the north side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the north side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south and west bank of the Talkeetna River to its confluence with Clear Creek, the west side drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeast shore of lake 4408, then southeast in a straight line to the northern most fork of the Chickaloon River:

(A) Unit 14A consists of drainages in Unit 14 bounded on the west by the east bank of the Susitna River, on the north by the north bank of Willow Creek and Peters Creek to its headwaters, then east along the hydrologic divide separating the Susitna River and Knik Arm drainages to the outlet creek at lake 4408, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the north side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14B consists of that portion of Unit 14 north of Unit 14A;

(C) Unit 14C consists of that portion of Unit 14 south of Unit 14A.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservation;

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

Harvest limits	Open season
HUNTING	
Black Bear: Unit 14C—1 bear	July 1–June 30.
Beaver: Unit 14C—1 beaver per day, 1 in possession	May 15–Oct. 31.
Coyote: Unit 14C—2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): Unit 14C—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): Unit 14C—5 hares per day	Sept. 8–Apr. 30.
Lynx: Unit 14C—2 lynx	Jan. 1–Jan. 31.
Wolf: Unit 14C—5 wolves	Aug. 10–Apr. 30.
Wolverine: Unit 14C—1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): Unit 14C—5 per day, 10 in possession	Sept. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): Unit 14C—10 per day, 20 in possession	Sept. 8–Mar. 31.
TRAPPING	
Beaver: Unit 14C—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote: Unit 14C—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): Unit 14C—1 fox	Nov. 10–Feb. 28.
Lynx: Unit 14C—No limit	Jan. 1–Jan. 31.
Marten: Unit 14C—No limit	Nov. 10–Jan. 31.

Harvest limits	Open season
Mink and Weasel: Unit 14C—No limit	Nov. 10–Jan. 31.
Muskrat: Unit 14C—No limit	Nov. 10–May 15.
Otter: Unit 14C—No limit	Nov. 10–Feb. 28.
Wolf: Unit 14C—No limit	Nov. 10–Feb. 28.
Wolverine: Unit 14C—No limit	Nov. 10–Feb. 28.

(15) *Unit 15.* (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet, and Turnagain Arm from Gore Point to the point where longitude line 150° 00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150° 00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15A consists of that portion of Unit 15 north of the north bank of the Kenai River and the north shore of Skilak Lake;

(B) Unit 15B consists of that portion of Unit 15 south of the north bank of the Kenai River and the north shore of Skilak Lake, and north of the north bank of the Kasilof River, the north shore of Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15C consists of the remainder of Unit 15.

(ii) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1—March 1 by bow and arrow only, in the Skilak Loop Management Area, which consists of that portion of Unit 15A bounded by a line beginning at the eastern most junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its western most junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area;

(C) You may not trap marten in that portion of Unit 15B east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier;

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare.

Harvest limits	Open season
HUNTING	
Black Bear:	
Unit 15C—3 bears	July 1–June 30.
Unit 15—remainder	No open season.
Moose:	
Unit 15A—Skilak Loop Wildlife Management Area	No open season.
Unit 15A—remainder, 15B, and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sep. 20.
Coyote: No limit	Sept. 1–Apr. 30.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf: Unit 15—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug.–Apr. 30.
Unit 15—remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 Wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15A and 15B—20 per day, 40 in possession	Aug. 10–Mar. 31
Unit 15C—20 per day, 40 in possession	Aug. 10–Dec. 31.
Unit 15C—5 per day, 10 in possession	Jan. 1–Mar. 31.
TRAPPING	
Beaver: 20 Beaver per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): 1 Fox.	Nov. 10–Feb. 28.
Marten:	
Unit 15B—that portion east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: Unit 15—No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: Unit 15B and C—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.* (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the west side of the Susitna River (including

the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the west side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the south side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16A consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16B consists of the remainder of Unit 16.

(ii) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) [Reserved]

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Caribou: 1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16B—Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 bull	Sept. 1–Sept. 15.
Unit 16B—remainder—1 bull	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Jan. 1–Jan. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
TRAPPING	
Beaver: No limit	Oct. 10–May 15.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Jan. 1–Jan. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(17) *Unit 17.* (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17A consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17B consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage, and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17C consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bears, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1–Nov. 1.

(B) [Reserved]

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting;

(C) For Federal registration permit caribou hunts for Unit 17A and 17C, that portion consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay, a Federally-qualified subsistence user may designate another Federally-qualified subsistence user to harvest caribou on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(D) If you have a trapping license, you may use a firearm to take beaver in Unit 17 from April 15–May 31. You may not take beaver with a firearm under a trapping license on National Park Service lands.

Harvest limits	Open season
HUNTING	
Black Bear: 2 bears	Aug. 1–May 31.
Brown Bear: Unit 17—1 bear by State registration permit only	Sept. 1–May 31.
Caribou:	

Harvest limits	Open season
Unit 17A—all drainages west of Right Hand Point—5 caribou; however, no more than 1 bull may be taken from Aug. 1 through Nov. 30. The season may be closed and harvest limit reduced for the drainages between the Togiak River and Right Hand Point by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Mar. 31.
Unit 17A and 17C—that portion of 17A and 17C consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—up to 2 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by the residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk hunting under these regulations. The harvest objective, harvest limit, and the number of permits available will be announced by the Togiak National Wildlife Refuge Manager after consultation with the Alaska Department of Fish and Game and the Nushagak Peninsula Caribou Planning Committee. Successful hunters must report their harvest to the Togiak National Wildlife Refuge within 24 hours after returning from the field. The season may be closed by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Sept. 30. Dec. 1–Mar. 31.
Unit 17B and 17C—that portion of 17C east of the Wood River and Wood River Lakes—5 caribou; however, no more than 1 bull may be taken from Aug. 1 through Nov. 30.	Aug. 1–Apr. 15.
Unit 17A—remainder and 17C—remainder—selected drainages; a harvest limit of up to 5 caribou will be determined at the time the season is announced.	Season to occur between Aug. 1 through March 31, harvest limit, and hunt area to be announced by the Togiak National Wildlife Refuge Manager.
Sheep: 1 ram with full curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 17A—1 bull by State registration permit	Aug. 25– Sept. 20.
Unit 17A—that portion that includes the area east of the west shore of Nenevok Lake, east of the west bank of the Kemuk River, and east of the west bank of the Togiak River south from the confluence Togiak and Kemuk Rivers 1 antlered bull by State registration permit. Up to a 14-day season during the period Dec. 1–Jan. 31 may be opened or closed by the Togiak National Wildlife Refuge Manager after consultation with ADF&G and local users.	Winter season to be announced
Unit 17B—that portion that includes all the Mulchatna River drainage upstream from and including the Chilchitna River drainage 1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sep. 15.
Unit 17C—that portion that includes the Iowithla drainage and Sunshine Valley and all lands west of Wood River and south of Aleknagik Lake—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Unit 17B—remainder and 17C—remainder—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	August 20–Sept. 15. Dec. 1–Dec. 31.
Coyote: 2 coyotes	Sept. 1– Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver: Unit 17—No limit	Oct. 10–Mar. 31.
—2 beaver per day. Only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: 2 muskrats	Nov. 10–Feb. 28.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(18) *Unit 18.* (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River.

(ii) In the Kalskag Controlled Use Area, which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag, you are not allowed to use aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does

not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 18 from Apr. 1 through Jun. 10;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting;

(C) You may take caribou from a boat moving under power in Unit 18.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear by State registration permit only	Sept. 1–May 31.
Caribou: 5 caribou	Aug. 1–Apr. 15.
Moose:	
Unit 18—that portion east of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the easternmost point of Takslesluk Lake, then along the Kuskokwim River drainage boundary to the Unit 18 border, and then north of and including the Eek River drainage.	No open season.
Unit 18—south of and including the Kanektok River drainages	No open season.
Unit 18–remainder—1 antlered bull. A 10-day hunt to occur between Dec. 1 and Feb. 28 (1 bull, evidence of sex required) will be opened by announcement.	Sept. 1–Sept. 30. Winter season to be announced.
Public lands in Unit 18 are closed to the hunting of moose, except by Federally-qualified rural Alaska residents hunting under these regulations.	
Beaver: No limit	July 1–June 30.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Mar. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–May 30.
TRAPPING	
Beaver: No limit	July 1–June 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Mar. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 31.

(19) *Unit 19.* (i) Unit 19 consists of the Kuskokwim River drainage upstream from a straight line drawn between Lower Kalskag and Piamiut:

(A) Unit 19A consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19B;

(B) Unit 19B consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19C consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwest corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage;

(D) Unit 19D consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) In the Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19D upstream from the mouth of Big River including the drainages of the Big River, Middle Fork, South Fork, East Fork, and Tonzona River, and bounded by a line following the west bank of the Swift Fork (McKinley Fork) of the Kuskokwim River to 152°50′ W. long., then north to the boundary of Denali National Preserve, then following the western boundary of Denali National Preserve north to its intersection with the Minchumina-Telida winter trail, then west to the crest of Telida Mountain, then north along the crest of Munsatli Ridge to elevation 1,610, then northwest to Dyckman Mountain and following the crest of the divide between the Kuskokwim River and the Nowitna

drainage, and the divide between the Kuskokwim River and the Nixon Fork River to Loaf benchmark on Halfway Mountain, then south to the west side of Big River drainage, the point of beginning, you may not use aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in those portions of 19A and 19B downstream of and including the Aniak River drainage if you have obtained a State registration permit prior to hunting.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 19A and 19B—those portions which are downstream of and including the Aniak River drainage—1 bear by State registration permit.	Aug. 10–June 30.
Unit 19A—remainder, 19B—remainder, and Unit 19D—1 bear	Aug. 10–June 30.
Caribou:	
Unit 19A—north of Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 19A—south of the Kuskokwim River and Unit 19B 28. (excluding rural Alaska residents of Lime Village)—5 caribou.	Aug. 1–Apr. 15.
Unit 19C—1 caribou	Aug. 10–Oct. 10.
Unit 19D—south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Jan. 31.
Unit 19D—remainder—1 caribou	Aug. 10–Sept. 30.
Unit 19—rural Alaska residents domiciled in Lime Village only—no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1–Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep: 1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 19—Rural Alaska residents of Lime Village only—no individual harvest limit, but a village harvest quota of 28 bulls (including those taken under the State Tier II system). Reporting will be by a community reporting system.	July 1–June 30.
Unit 19A—1 antlered bull by State registration permit	Sept. 1–Sept. 20.
Unit 19B—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side by harvest ticket; or 1 antlered bull by State registration permit.	Sept. 1–Sept. 20.
Unit 19C—1 antlered bull	Sept. 1–Sept. 20.
Unit 19C—1 bull by State registration permit	Jan. 15–Feb. 15.
Unit 19D—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sept. 1–Sept. 30.
Unit 19D—remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sept. 1–Sept. 30. Dec. 1–Feb. 28
Unit 19D—remainder—1 antlered bull	Sept. 1–Sept. 30 Dec. 1–Dec. 15
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 19D—10 wolves per day	Aug. 10–Apr. 30.
Unit 19—remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver: No limit	Nov. 1–Jun. 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Mar. 31.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(20) *Unit 20.* (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from

and including the Charley River drainage, the Ladue River and Fortymile River drainages, and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20A consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River;

(B) Unit 20B consists of drainages into the north bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage;

(C) Unit 20C consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River;

(D) Unit 20D consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding the Banner Creek drainage;

(E) Unit 20E consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage;

(F) Unit 20F consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5 through Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(D) You may not use any motorized vehicle for hunting from August 5 through September 20 in the Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20E bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport;

(E) You may by permit only hunt moose on the Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River three miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning;

(F) You may hunt moose by bow and arrow only in the Fairbanks Management Area, which consists of that portion of Unit 20B bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to Isberg Road, then northeasterly on Isberg Road to Cripple Creek Road, then northeasterly on Cripple Creek Road to the Parks Highway, then north on the Parks Highway to Alder Creek, then westerly to the middle fork of Rosie Creek through section 26 to the Parks Highway, then east along the Parks Highway to Alder Creek, then upstream along Alder Creek to its confluence with Emma Creek, then upstream along Emma Creek to its headwaters, then northerly along the hydrographic divide between Goldstream Creek drainages and Cripple Creek drainages to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to Sheep Creek Road, then north on Sheep Creek Road to Murphy Dome Road, then west on Murphy Dome Road to Old Murphy Dome Road, then east on Old Murphy Dome Road to the Elliot Highway, then south on the Elliot Highway to Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, Davidson Ditch, then southeasterly along the Davidson Ditch to its confluence with the tributary to Goldstream Creek in Section 29, then downstream along the tributary to its confluence with Goldstream Creek, then in a straight line to First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its confluence with Ruby Creek, then upstream along Ruby Creek to Esro Road, then south on Esro Road to Chena Hot Springs Road, then east on Chena Hot Springs Road to Nordale Road, then south on Nordale Road to the Chena River, to its intersection with the Trans-Alaska Pipeline right of way, then southeasterly along the easterly edge of the Trans-

Alaska Pipeline right of way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along the Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may not use a steel trap, or a snare using cable smaller than 3/32 inch diameter to trap coyotes or wolves in Unit 20E during April and October;

(C) Residents of Unit 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 20A—1 bear	Sept. 1–May 31.
Unit 20E—1 bear	Aug. 10–June 30.
Unit 20—remainder—1 bear	Sept. 1–May 31.
Caribou:	
Unit 20E—1 caribou by joint State/Federal registration permit only. Up to 900 caribou may be taken under a State/Federal harvest quota. During the winter season, area closures or hunt restrictions may be announced when Nelchina caribou are present in a mix of more than 1 Nelchina caribou to 15 Fortymile caribou, except when the number of caribou present is low enough that less than 50 Nelchina caribou will be harvested regardless of the mixing ratio for the two herds. The season closures will be announced by the Northern Field Office Manager, Bureau of Land Management, after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 20F—north of the Yukon River—1 caribou	Aug. 10–Mar. 31.
Unit 20F—east of the Dalton Highway and south of the Yukon River—1 caribou; however, cow caribou may be taken only from Nov. 1–March 31. During the November 1–March 31 season a State registration permit is required.	Aug. 10–Sept. 20. Nov. 1–Mar. 31.
Moose:	
Unit 20A—1 antlered bull	Sept. 1–Sept. 20.
Unit 20B—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sept. 1–Sept. 20. Jan. 10–Feb. 28.
Unit 20B—remainder—1 antlered bull	Sept. 1–Sept. 20.
Unit 20C—that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30. Nov. 15–Dec. 15.
Unit 20C—remainder—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30.
Unit 20E—that portion within Yukon Charley National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 20E—that portion drained by the Forty-mile River (all forks) from Mile 92 to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 bull.	Aug. 24–Aug. 28. Sept. 1–Sept. 15.
Unit 20F—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sept. 1–Sept. 25.
Unit 20F—remainder—1 antlered bull	Sept. 1–Sept. 25. Dec. 1–Dec. 10.
Beaver: Unit 20E B Yukon—Charley Rivers National Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sept. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx:	
Unit 20A, 20B, 20D and that portion of 20C east of the Teklanika River—2 lynx	Dec. 15–Jan. 31.
Unit 20E—2 lynx	Nov. 1–Jan. 31.
Unit 20—remainder—2 lynx	Dec. 1–Jan. 31.
Wolf: 10 wolves.	Aug. 10–Apr. 30.
Wolverine: 1 wolverine.	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
Unit 20D—that portion south of the Tanana River and west of the Johnson River—15 per day, 30 in possession, provided that not more than 5 per day and 10 in possession are sharp-tailed grouse.	Aug. 25–Mar. 31.
Unit 20—remainder—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock and Willow):	
Unit 20—those portions within five miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver:	
Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 15.
Unit 20D—25 beaver per season	Nov. 1–Apr. 15.

Harvest limits	Open season
Unit 20E—25 beaver per season. Only firearms may be used during Sept. 20–Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1–Apr. 15. The total annual harvest limit for beaver is 25, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption.	Sept. 20–May 15.
Coyote:	
Unit 20E—No limit	Oct. 15–Apr.30.
Unit 20—remainder—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 20A, 20B, 20D, and 20C east of the Teklanika River—No limit	Dec. 15–Dec. 31.
Unit 20E—No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30	Nov. 1–Dec. 31.
Unit 20F and 20C—remainder—No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat:	
Unit 20E—No limit	Sept. 20–June 10.
Unit 20—remainder—No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1– Apr. 15.
Wolf:	
Unit 20A, 20B, 20C, & 20F—No limit	Nov. 1–Apr. 30.
Unit 20D—No limit	Oct. 15–Apr. 30.
Unit 20E—No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(21) *Unit 21.* (i) Unit 21 consists of drainages into the Yukon River upstream from Paimiut to, but not including the Tozitna River drainage on the north bank, and to, but not including the Tanana River drainage on the south bank; and excluding the Koyukuk River drainage upstream from the Dulbi River drainage:

(A) Unit 21A consists of the Innoko River drainage upstream from and including the Iditarod River drainage, and the Nowitna River drainage upstream from the Little Mud River;

(B) Unit 21B consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Nowitna River drainage upstream from the Little Mud River, and excluding the Melozitna River drainage upstream from Grayling Creek;

(C) Unit 21C consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage;

(D) Unit 21D consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek;

(E) Unit 21E consists of the Yukon River drainage from Paimiut upstream to, but not including the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Unit 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64° 52.58′ N. lat., 157° 43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65° 28.42′ N. lat., 157° 44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57′ N. lat., 156° 41 W. long.) at 65° 56.66′ N. lat., 156° 40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66° 02.56′ N. lat., 156° 12.71′ W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66° 00.31′ N. lat., 155° 18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65° 31.87′ N. lat., 154° 52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65° 13.00′ N. lat., 156° 06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64° 49.35′ N. lat., 157° 21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) In Unit 21D, you may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including

transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25;

(B) If you have a trapping license, you may use a firearm to take beaver in Unit 21(E) from Nov. 1–June 10;

(C) The residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State;

(D) The residents of Unit 21 may take up to three moose per regulatory year for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 21D—1 bear by State registration permit only	Aug. 10–June 30.
Unit 21—remainder—1 bear	Aug. 10–June 30
Caribou:	
Unit 21A—1 caribou	Aug. 10–Sept. 30. Dec. 10–Dec. 20.
Unit 21B, 21C, and 21E—1 caribou	Aug. 10–Sept. 30.
Unit 21D—north of the Yukon River and east of the Koyukuk River—1 caribou; however, 2 additional caribou may be taken during a winter season to be announced.	Aug. 10–Sept. 30. Winter season to be announced.
Unit 21D—remainder—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Moose:	
Unit 21A—1 bull	Aug. 20–Sept. 25. Nov. 1–Nov. 30.
Unit 21B—1 bull by State registration permit	Sept. 5–Sept. 25.
Unit 21C—1 antlered bull	Sept. 5–Sept. 25.
Unit 21D—Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only during Aug. 27–31 and the Mar. 1–5 season if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 27–Sept. 20 season a State registration permit is required. During the Mar. 1–5 season a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon Fish and Game Advisory Committee.	Aug. 27–Sept. 20. Dec. 1–Dec. 10 Mar. 1–5 season to be announced.
Unit 21D—that portion within the Koyukuk River Drainage west of the Koyukuk Controlled Use Area and that portion north of the Yukon River and east of the Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only during Sept. 21–25 and the March 1–5 season if authorized jointly by the Koyukuk/Nowitna National Wildlife Refuge Manager and the Northern Field Office Manager, Bureau of Land Management. Harvest of cow moose accompanied by calves is prohibited. During the Sept. 5–Sept. 25 season a State registration permit is required. During the March 1–5 season a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee.	Sept. 5–Sept. 25. Dec. 1–Dec. 10. Mar. 1–5 season to be announced.
Unit 21D—remainder—1 moose; however, antlerless moose may be taken only during Sept. 21–25 and the March 1–5 season if authorized jointly by the Koyukuk/Nowitna National Wildlife Refuge Manager and the Northern Field Office Manager, Bureau of Land Management. Harvest of cow moose accompanied by calves is prohibited. During the Mar. 1–5 season a Federal registration permit is required. Announcement for the anterless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon Fish and Game Advisory Committee.	Sept. 5–Sept. 25. Dec. 1–Dec. 10. Mar. 1–5 season to be announced.
Unit 21E—1 moose; however, only bulls may be taken from Aug. 20–Sept. 25; moose may not be taken within one-half mile of the Innoko or Yukon River during the February season.	Aug. 20–Sept. 25. Feb. 1–Feb. 10.
Beaver:	
Unit 21E—No Limit	Nov. 1–June 10.
Unit 21—remainder	No open season.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(22) *Unit 22.* (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22A consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands;

(B) Unit 22B consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage;

(C) Unit 22C consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands;

(D) Unit 22D consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York, and St. Lawrence Island;

(E) Unit 22E consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 22 during the established seasons;

(B) Coyote, incidentally taken with a trap or snare intended for red fox or wolf, may be used for subsistence purposes;

(C) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine;

(D) The taking of one bull moose and one muskox by the community of Wales is allowed for the celebration of the Kingikmiut Dance Festival under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Wales. The harvest may only occur between January 1 and March 15 in Unit 22E for a bull moose and in Unit 22E for a muskox. The harvest will count against any established quota for the area.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 22A, 22B, 22D, and 22E—1 bear by State registration permit only	Aug. 1–May 31.
Unit 22C—1 bear by State registration permit only	Aug. 1–Oct. 31. May 10–May 25.
Caribou:	
Unit 22A, 22B, 22D—that portion in the Kougaruk, Kuzitrin, Pilgrim, American, and Agiapuk River. Drainages, and 22E—that portion east of and including the Sanaguich River drainage—5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 22A—that portion north of and including the Tagoomenik and Shaktoolik River drainages B 1 bull. Federal public lands are closed to hunting except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sept. 30.
Unit 22A—that portion in the Unalakleet drainage and all drainages flowing into Norton Sound north of the Golsovia River drainage and south of the Tagoomenik and Shaktoolik River drainages—1 bull. Federal public lands are closed to the taking of moose except by residents of Unit 22A hunting under these regulations.	Aug. 15–Sept. 25.
Unit 22A—remainder—1 bull. However, during the period Dec. 1–Dec. 31, only an antlered bull may be taken. Federal public lands are closed to the taking of moose except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sept. 30. Dec. 1–Dec. 31.
Unit 22B—west of the Darby Mountains—1 bull by State registration permit. The combined State/Federal harvest may not exceed 23 moose. Quotas and any needed season changes will be announced by the area Field Office Manager of the BLM, in consultation with NPS, and ADF&G. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users hunting under these regulations.	Aug. 10–Sept. 23.
Unit 22B—west of the Darby Mountains—1 bull by either Federal or State registration permit. The total combined State/Federal harvest for both the Aug/Sept and January seasons may not exceed 30 moose. Quotas and any needed season changes will be announced by the area Field Office Manager of the BLM, in consultation with NPS, and ADF&G. Federal public lands are closed to the taking of moose except by residents of White Mountain and Golovin hunting under these regulations.	Jan. 1–Jan. 31.
Unit 22B—remainder—1 bull	Aug. 1– Jan. 31.
Unit 22C—1 antlered bull	Sept. 1–Sept. 14.

Harvest limits	Open season
Unit 22D—that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages—1 bull by Federal registration permit. The combined State/Federal harvest may not exceed 33 moose. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Aug. 20–Sept. 30.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. The combined State/Federal harvest may not exceed 8 moose.	Aug. 20–Sept. 30.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. The combined State/Federal harvest in Aug./Sept. and Dec. may not exceed 8 moose. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Dec. 1–Dec. 31.
Unit 22D—remainder—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users hunting under these regulations.	Aug. 1–Jan. 31.
Unit 22E—1 bull. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users hunting under these regulations.	Aug. 1–Dec. 31.
Muskox:	
Unit 22B—1 bull by Federal permit or State Tier II permit. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug.1–Mar. 15.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Sept.1–Mar. 15.
Unit 22D—remainder—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug.1–Mar. 15
Unit 22E—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 22—remainder	No open season.
Beaver:	
Unit 22A, 22B, 22D, and 22E–50 beaver	Nov. 1–June 10.
Unit 22—remainder	No open season.
Coyote: Federal public lands are closed to all taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit	Sept. 1–Apr. 15.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Marten:	
Unit 22A and 22B—No limit	Nov. 1–Apr. 15.
Unit 22—remainder	No open season.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 15.
Wolverine: 3 wolverines	Sept. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 22A and 22B east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22E—20 per day, 40 in possession	July 15–May 15.
Unit 22—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver:	
Unit 22A, 22B, 22D, and 22E–50 beaver	Nov. 1–June 10.
Unit 22C	No open season.
Coyote: Federal public lands are closed to all taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(23) *Unit 23.* (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in the Noatak Controlled Use Area, which consists of that portion of Unit 23 in a corridor extending five miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek, is closed for the period August 25–September 15. This does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service.

(B) [Reserved]

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 23;

(B) In addition to other restrictions on method of take found in this § ____.26, you may also take swimming caribou with a firearm using rimfire cartridges;

(C) If you have a trapping license, you may take beaver with a firearm in all of Unit 23 from Nov. 1–Jun. 10;

(D) For the Baird and DeLong Mountain sheep hunts—A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipients' harvest limits in his/her possession at the same time;

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 23—1 bear by State registration permit	Aug. 1–May 31.
Caribou: 15 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 23—south of Rabbit Creek, Kyak Creek, and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep is 21, of which 15 may be rams and 6 may be ewes. Federal public lands are closed to the taking of sheep except by Federally-qualified subsistence users hunting under these regulations.	Aug. 10–April 30. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.
Unit 23—north of Rabbit Creek, Kyak Creek, and the Noatak River, and west of the Aniuk River (DeLong Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep for the DeLong Mountains is 8, of which 5 may be rams and 3 may be ewes.	Aug. 10–April 30. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.
Unit 23, remainder (Schwatka Mountains)—1 ram with ⅞ curl or larger horn	Aug. 10–Sept. 20.
Unit 23, remainder (Schwatka Mountains)—1 sheep	Oct. 1–Apr. 30.
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 moose; no person may take a cow accompanied by a calf.	July 1–Mar. 31.
Unit 23—that portion lying within the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Nov. 1–Mar. 31; no person may take a cow accompanied by a calf.	Aug. 1–Sept. 15. Oct. 1–Mar. 31.
Unit 23—remainder—1 moose; no person may take a cow accompanied by a calf	Aug. 1–Mar. 31.
Muskox:	
Unit 23—south of Kotzebue Sound and west of and including the Buckland River drainage—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 23—Cape Krusenstern National Monument—1 bull by Federal permit. Annual harvest quotas and any needed closures will be announced by the Superintendent of Western Arctic National Parklands. Cape Krusenstern National Monument is closed to the taking of muskoxen except by resident zone community members with permanent residence within the Monument or the immediately adjacent Napaktuktuk Mountain area, south of latitude 67°05′ N and west of longitude 162°30′ W hunting under these regulations..	Aug. 1–Mar. 15.

Harvest limits	Open season
Unit 23—remainder	No open season.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare: (Snowshoe and Tundra) No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Oct. 1–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	July 1–June 30.
Unit 23—remainder—30 beaver	July 1–June 30.
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(24) *Unit 24*. (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles, or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, and Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area;

(C) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Koyukuk Controlled Use Area, which consists of those portions of Unit 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N. lat., 157°43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N. lat., 157°44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N. lat., 156°41 W. long.) at 65°56.66′ N. lat., 156°40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N. lat., 156°12.71′ W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N. lat., 155°18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N. lat., 154°52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N. lat., 156°06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N. lat., 157°21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears. However, this prohibition does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25;

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 24—1 bear by State registration permit	Aug. 10–June 30.
Caribou:	
Unit 24— that portion south of the south bank of the Kanuti River, upstream from and including that portion of the Kanuti-Kilolitna River drainage, bounded by the southeast bank of the Kodosin-Nolitna Creek, then downstream along the east bank of the Kanuti-Kilolitna River to its confluence with the Kanuti River—1 caribou.	Aug. 10–Mar. 31.
Unit 24—remainder—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 24—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 24—(excluding Anaktuvuk Pass residents)—that portion within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except for Gates of the Arctic National Park—1 ram with 7/8 curl or larger horn by Federal registration permit only.	Aug. 20–Sept. 30.
Unit 24—remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 24—Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only during Aug. 27–31 and the Mar. 1–5 season if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 27–Sept. 20 season a State registration permit is required. During the Mar. 1–5 season a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon Fish and Game Advisory Committee.	Aug. 27–Sept. 20. Dec. 1–Dec. 10. Mar. 1–Mar. 5 season to be announced.
Unit 24—that portion west of the Hogatza River Drainage and the Koyukuk Controlled Use Area and that portion east of the Dakli River Drainage and the Koyukuk Controlled Use Area and west of the Kanuti Controlled Use Area, the Tanana-Allakaket Winter Trail and the Alatna River Drainage; 1 moose; however, antlerless moose may be taken only during the March 1–5 season only on Koyukuk National Wildlife Refuge lands if authorized by the Koyukuk/Nowitna National Wildlife Refuge Manager. Harvest of cow moose accompanied by calves is prohibited. During Sept. 5–Sept. 25 a State registration permit is required. During the March 1–5 season a Federal registration permit is required. Announcement for the antlerless moose season and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee.	Aug. 25–Sept.25. Mar. 1–Mar. 5 season to be announced.
Unit 24—that portion that includes the John River drainage—1 moose	Aug. 1–Dec. 31.
Unit 24—all drainages to the north of the Koyukuk River upstream from and including the Alatna River to and including the North Fork of the Koyukuk River, except the John River drainage—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Mar. 1–Mar. 5 if authorized jointly by the Kanuti NWR Manager, the BLM Northern Field Office Manager, and the Gates of the Arctic National Park Superintendent. Harvest of cows accompanied by calves is prohibited. The announcement will be made after consultation with the ADF&G Area Biologist and the Chairs of the Western Interior Regional Advisory Council, the Gates of the Arctic Subsistence Resource Commission, and the Koyukuk River Fish and Game Advisory Committee.	Aug. 25–Sept. 25. Mar. 1–Mar. 5 to be announced.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except for Gates of the Arctic National Park—1 antlered bull by Federal registration permit only.	Aug. 25–Sept. 25.
Unit 24—remainder—1 antlered bull. Public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by eligible rural Alaska residents hunting under these regulations.	Aug. 25–Sept. 25.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit.	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 15 wolves; however, no more than 5 wolves may be taken prior to Nov. 1	Aug. 10–Apr. 30.
Wolverine: 5 wolverine; however, no more than 1 wolverine may be taken prior to Nov. 1	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(25) *Unit 25.* (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25A consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage

upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage;

(B) Unit 25B consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River;

(C) Unit 25C consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20E boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage;

(D) Unit 25D consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(B) The Arctic Village Sheep Management Area consists of that portion of Unit 25A north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into 2 roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the head waters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30 and between August 1 and September 25;

(B) You may take caribou and moose from a boat moving under power in Unit 25;

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25D west provided that:

(*1*) The person organizing the religious ceremony or cultural event contact the Refuge Manager, Yukon Flats National Wildlife Refuge prior to taking or attempting to take bull moose and provide to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, the general area in which the taking will occur;

(*2*) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s);

(3) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in Unit 25D west;

(4) Any moose taken under this provision counts against the annual quota of 60 bulls.

Harvest limits	Open season
HUNTING	
Black Bear:	
3 bears	July 1–June 30.
or 3 bears by State community harvest permit	July 1–June 30.
Brown Bear:	
Unit 25A and 25B—1 bear	Aug. 10–June 30.
Unit 25C—1 bear	Sept. 1–May 31.
Unit 25D—1 bear	July 1–June 30.
Caribou:	
Unit 25C—that portion west of the east bank of the mainstem of Preacher Creek to its confluence with American Creek, then west of the east bank of American Creek—1 caribou; however cow caribou may be taken only from Nov. 1–March 31. However, during the November 1–March 31 season, a State registration permit is required.	Aug. 10–Sept. 20. Nov. 1–Mar. 31.
Unit 25C—remainder—1 caribou by joint State/Federal registration permit only. Up to 600 caribou may be taken under a State/Federal harvest quota. The season closures will be announced by the Northern Field Office Manager, Bureau of Land Management, after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 25D—that portion of Unit 25D drained by the west fork of the Dall River west of 150° W. long.—1 bull	Aug. 10–Sept. 30. Dec. 1–Dec. 31.
Unit 25A, 25B, and Unit 25D—remainder—10 caribou	July 1–Apr. 30.
Sheep:	
Unit 25A—that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25A—Arctic Village Sheep Management Area—2 rams by Federal registration permit only. Public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik, and Chalkyitsik hunting under these regulations.	Aug. 10–Apr. 30.

Harvest limits	Open season
Unit 25A remainder 3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Moose:	
Unit 25A—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 10.
Unit 25B—that portion within Yukon-Charley National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 25B—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Sept. 30. Dec. 1–Dec. 10.
Unit 25B—that portion, other than Yukon-Charley National Preserve, draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sept. 5–Sept. 30. Dec. 1–Dec. 15.
Unit 25B—remainder—1 antlered bull	Aug. 25–Sept. 25. Dec. 1 Dec. 15.
Unit 25C 1 antlered bull	Sept. 1–Sept. 15.
Unit 25D(west)—that portion lying west of a line extending from the Unit 25D boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek and Lower Mouth of Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzic River, then upstream along the west bank of the Hadweenzic River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25D boundary—1 bull by a Federal registration permit. Permits will be available in the following villages: Beaver (25 permits). Birch Creek (10 permits), and Stevens Village (25 permits). Permits for residents of 25D(west) who do not live in one of the three villages will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician. Moose hunting on public land in Unit 25D(west) is closed at all times except for residents of Unit 25D(west) hunting under these regulations. The moose season will be closed when 60 moose have been harvested in the entirety (from Federal and non Federal lands) of Unit 25D(west).	Aug. 25–Feb. 28.
Unit 25D—remainder—1 antlered moose.	Aug. 25–Sept. 25. Dec. 1–Dec. 20.
Beaver:	
Unit 25A, 25B, and 25D—1 beaver per day; 1 in possession	Apr. 16–Oct. 31.
Unit 25C	No Federal open season.
Coyote: 10 coyotes.	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx:	
Unit 25C—2 lynx	Dec. 1–Jan. 31.
Unit 25—remainder—2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 25A—No limit	Aug. 10–Apr. 30.
Unit 25—remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharptailed):	
Unit 25C—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 25—remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 25C—those portions within 5 miles of Route 6 (Steese Highway) 20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver:	
Unit 25C—No limit	Nov. 1 Apr. 15.
Unit 25—remainder—50 beaver	Nov. 1–Apr. 15.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1 Apr. 30.
Wolverine:	
Unit 25C—No limit	Nov. 1–Feb. 28.
Unit 25—remainder—No limit	Nov. 1–Mar. 31.

(26) *Unit 26.* (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border, including the Firth River drainage within Alaska:

(A) Unit 26A consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26B consists of that portion of Unit 26 east of Unit 26A, west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26C consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose from July. 1–Sept. 14 and from Jan. 1–Mar. 31 in Unit 26A; however, this does not apply to transportation of moose hunters, their gear, or moose parts by aircraft between publicly owned airports;

(B) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(iii) You may hunt brown bear in Unit 26A by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 26;

(B) In addition to other restrictions on method of take found in this § ____.26, you may also take swimming caribou with a firearm using rimfire cartridges;

(C) In Kaktovik, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep or muskox on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(D) For the DeLong Mountain sheep hunts—A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipients' harvest limits in his/her possession at the same time.

Harvest limits	Open season
HUNTING	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 26A—1 bear by State registration permit	Sept. 1–May 31.
Unit 26B—1 bear	Sept. 1–May 31.
Unit 26 C—1 bear	Aug. 10–June 30.
Caribou:	
Unit 26A—10 caribou per day; however, cow caribou may not be taken May 16–June 30. Federal lands south of the Colville River and east of the Killik River are closed from Aug. 1–Sept. 30 to the taking of caribou except by Federally qualified subsistence users huntingunder these regulations.	July 1–June 30.
Unit 26B—10 caribou per day; however, cow caribou may be taken only from Oct. 1–Apr. 30	July 1–June 30.
Unit 26C—10 caribou per day	July 1–Apr. 30.
(You may not transport more than 5 caribou per regulatory year from Unit 26 except to the community of Anaktuvuk Pass.)	
Sheep:	
Unit 26A and 26B—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 26A—(excluding Anaktuvuk Pass residents)—those portions within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 26A—that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep for the DeLong Mountains is 8, of which 5 may be rams and 3 may be ewes.	Aug. 10–April 30. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.
Unit 26B—that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8 curl or larger horn by Federal registration permit only.	Aug. 10–Sept. 20.
Unit 26A—remainder and 26B—remainder—including the Gates of the Arctic National Preserve—1 ram with 7/8 curl or larger horn.	Aug. 10–Sept. 20.
Unit 26C—3 sheep per regulatory year; the Aug. 10–Sept. 20 season is restricted to 1 ram with 7/8 curl or larger horn. A Federal registration permit is required for the Oct. 1–Apr. 30 season.	Aug. 10–Sept. 20. Oct. 1–Apr. 30.
Moose:	

Harvest limits	Open season
Unit 26A—that portion of the Colville River drainage downstream from and including the Chandler River—1 bull. Federal public lands are closed to the taking of moose except by Federally qualified users hunting under these regulations.	Aug. 1–Sept. 14.
Unit 26A—that portion of Unit 26A west of 156°00′ W. longitude and north of 69°20′ N. latitude. 1 moose; however, antlerless moose may only be taken July 1–August 31. You may not at any time take a calf or a cow accompanied by a calf.	July 1–Sept. 14.
Unit 26A—remainder—1 bull	Sept. 1–Sept. 14.
Unit 26B and 26C—1 moose by Federal registration permit by residents of Kaktovik only. The harvest quota is 3 moose (2 bulls and 1 of either sex), provided that no more than 2 bulls may be harvested from Unit 26C and cows may not be harvested from Unit 26C. You may not take a cow accompanied by a calf. Only 3 Federal registration permits will be issued. Federal public lands are closed to the taking of moose except by a Kaktovik resident holding a Federal registration permit and hunting under these regulations.	July 1–Mar. 31.
Muskox: Unit 26C—1 bull by Federal registration permit only. The number of permits that may be issued only to the residents of the village of Kaktovik will not exceed three percent (3%) of the number of muskoxen counted in Unit 26C during a pre-calving census. Public lands are closed to the taking of muskox, except by rural Alaska residents of the village of Kaktovik hunting under these regulations.	July 15–Mar. 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 26A and 26B—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Unit 26C—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Aug. 10– Apr. 30.
Wolverine: 5 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

Dated: May 20, 2005.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board.

Dated: May 20, 2005.

Steve Kessler,

Subsistence Program Leader, USDA-Forest Service.

[FR Doc. 05–12160 Filed 6–21–05; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

Federal Register

Wednesday,
June 22, 2005

Part V

Department of Housing and Urban Development

Request for Comments on HUD's Draft Section 504 Self-Evaluation Report on HUD-Conducted Programs and Activities; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4994–N–01; HUD–2005–0012]

Request for Comments on HUD's Draft Section 504 Self-Evaluation Report on HUD-Conducted Programs and Activities

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD solicits public comment on its draft self-evaluation report of HUD-conducted programs and activities and regional office facilities. The draft report was prepared consistent with HUD's responsibilities under section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations. The draft report consists of two phases. Phase I assesses HUD's current policies and practices (including regulations, handbooks, notices, and other written guidance) and the effects of those policies and practices on the ability of persons with disabilities to access and use all HUD-conducted programs and activities. Phase II assesses the accessibility of HUD regional office facilities. The draft report also discusses the methodology HUD used to conduct the self-evaluation, and contains recommendations for addressing identified barriers. HUD will issue a final self-evaluation report after consideration of the public comments received on the draft report.

DATES: *Comments Due Date:* July 22, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this notice 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, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the public comments by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Copies of the public comments are also available for inspection and downloading at *http://www.epa.gov/feddocket.*

FOR FURTHER INFORMATION CONTACT: Milton Turner, Director, Compliance and Disability Rights Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5240, Washington, DC 20410–2000; telephone (202) 708–2333, extension 7057 (this is not a toll free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. HUD Section 504 Self-Evaluation

HUD has conducted a self-evaluation of its regional office facilities and its policies and practices, consistent with HUD's responsibilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 504 prohibits discrimination on the basis of disability in federally assisted programs and activities. In 1978, Section 504 was amended to extend its coverage to programs and activities conducted by federal executive agencies, including HUD. The Department's regulations implementing Section 504 for its programs and activities are codified at 24 CFR part 9 (entitled ''Enforcement of Nondiscrimination on the Basis of Disability in Programs and Activities conducted by the Department of Housing and Urban Development'').

The objective of the self-evaluation is two-fold: (1) To determine whether current HUD policies and practices (including regulations, handbooks, notices, and other written guidance) discriminate, or have the effect of discriminating, on the basis of disability; and (2) to determine if HUD facilities are accessible to persons with disabilities. The types of disability discrimination the self-evaluation seeks to disclose include those situations where:

1. Otherwise qualified persons are excluded from participation in, or denied benefits of, HUD programs and activities on the basis of disability;

2. HUD policies that, although neutral on their face, in operation limit the ability of persons with disabilities to benefit from program opportunities (*e.g.*, requiring a person to make a written request for information on HUD's assisted housing programs); and

3. Separate or different benefits or services are provided to persons on the basis of disability where such action is not required to provide a benefit or service as effective as those provided to others (*e.g.*, holding a separate training program for persons with hearing impairments is discriminatory when the training can be effectively held in an integrated setting with the provision of interpreters).

II. Draft Self-Evaluation Report

HUD has prepared a draft report presenting the results of its self-evaluation. The draft report also discusses the methodology HUD used to conduct the self-evaluation, and contains recommendations for addressing identified barriers. The HUD draft report is located at *http://www.hud.gov/offices/fheo/disabilities/index.cfm.*

HUD seeks public comment on the draft report from interested parties, including persons with disabilities, or organizations representing individuals with disabilities. Comments must be submitted to HUD no later than July 22, 2005 and must be submitted to the address specified in the **ADDRESSES** section of this notice. HUD will issue a final self-evaluation report after consideration of the public comments received on the draft report.

Dated: June 14, 2005.

Roy A. Bernardi,

Deputy Secretary.

[FR Doc. 05–12242 Filed 6–21–05; 8:45 am]

BILLING CODE 4210–28–P

Federal Register

Wednesday,
June 22, 2005

Part VI

Department of Homeland Security

Transportation Security Administration

Privacy Act of 1974; Systems of Records: Secure Flight Test Records; Privacy Impact Assessment; Secure Flight Test Phase; Notice

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2004–19160]

Privacy Act of 1974; Systems of Records: Secure Flight Test Records; Privacy Impact Assessment; Secure Flight Test Phase

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice to supplement and amend existing system of records and privacy impact assessment.

SUMMARY: The Transportation Security Administration is amending the Privacy Act System of Records for the Secure Flight Test Records system (DHS/TSA 017) and the Privacy Impact Assessment for the Secure Flight Test Phase.

DATES: This action will be effective upon publication.

FOR FURTHER INFORMATION CONTACT: Lisa S. Dean, Privacy Officer, Office of Transportation Security Policy, TSA Headquarters, TSA–9, 601 S. 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3947.

SUPPLEMENTARY INFORMATION:

Background

The Transportation Security Administration (TSA) established the Secure Flight Test Records system (DHS/TSA 017) on September 24, 2004 (69 FR 57345), to cover records obtained or created in the course of testing the Secure Flight program. TSA also published on the same day a notice setting forth the Privacy Impact Assessment (PIA) prepared for the testing phase of the Secure Flight program (69 FR 57352). The Secure Flight program will implement the mandate of section 4012(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458) requiring the Transportation Security Administration to assume from air carriers the function of conducting pre-flight comparisons of airline passenger information to Federal Government watch lists.

TSA has described the testing of Secure Flight in previously-published documents (69 FR 57345, 57352, Sept. 24, 2004). TSA is issuing these revised versions of the System of Records Notice and PIA to provide additional detail regarding the Secure Flight testing program.

In addition, TSA is amending the Secure Flight Test Records system to reflect the fact that TSA will not assert any Privacy Act exemptions for the system. In the system of records notice published on September 24, 2004, TSA stated that it was claiming exemptions for portions of the system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G) and (H), and (f) pursuant to 5 U.S.C. 552a(k)(1) and (k)(2). TSA has not initiated a rulemaking to implement these exemptions from the Privacy Act, however, because it became clear from the nature of the records in the system that the exemptions were not necessary. Rather than claiming Privacy Act exemptions to withhold this information, TSA has released passenger name records (PNR) to individuals who have requested them under the Privacy Act and will continue to respond to such records requests, to the extent permitted by law. Therefore, TSA is amending the system of records and the PIA to reflect this practice.

Finally, TSA is making a change to the system of records to reflect the change of the name of TSA's Office of National Risk Assessment to the Office of Transportation Vetting and Credentialing.

Summary of Amendments to the Secure Flight Test Records System and the PIA

TSA is amending the scope of the system of records notice and the PIA to clarify and describe with greater particularity the categories of records and categories of individuals covered by the Secure Flight Test Records system. The categories of records include PNRs enhanced with certain elements of commercial data that were provided to TSA for purposes of testing the Secure Flight program and include commercial data purchased and held by a TSA contractor, EagleForce Associates, Inc. (EagleForce), for purposes of the commercial data test. In addition, the categories of individuals covered by the system include individuals identified in commercial data purchased and held by EagleForce. Finally, TSA is clarifying that part of the Secure Flight test involves testing whether watch list matching could be more effective if the Government were to use certain limited additional data elements derived from commercial data to enhance PNRs.

1. The complete revised Secure Flight Test records system follows:

DHS/TSA 017

SYSTEM NAME:

Secure Flight Test Records.

SECURITY CLASSIFICATION:

Classified, sensitive.

SYSTEM LOCATION:

Records are maintained at: the Office of Transportation Vetting and Credentialing (OTVC), Transportation Security Administration (TSA), Department of Homeland Security, P.O. Box 597, Annapolis Junction, MD 20701–0597; the OTVC assessment facility in Colorado Springs, Colorado; and at EagleForce Associates, Inc., McLean, VA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals traveling within the United States by passenger air transportation on certain domestic flights completed in June 2004;

(b) Individuals identified in commercial data purchased and held by a TSA contractor for purposes of comparing such data with the June 2004 Passenger Name Records and testing the Secure Flight program;

(c) Individuals known or reasonably suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Passenger Name Records (PNRs) for certain passenger air transportation flights completed in June 2004 provided by aircraft operators in response to the Transportation Security Administration Order issued November 15, 2004 (69 FR 65625), (the June 2004 PNRs), the specific contents of which often vary by aircraft operator;

(b) Information obtained from the Terrorist Screening Center about individuals known or reasonably suspected to be or to have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism;

(c) Authentication scores and codes obtained from commercial data providers;

(d) PNRs that were enhanced with certain fields of information obtained from commercial data—full name, address, date of birth, gender—and that were provided to TSA for purposes of testing the Secure Flight program;

(e) Commercial data purchased and held by a TSA contractor for purposes of comparing such data with June 2004 PNRs and testing the Secure Flight program;

(f) Results of comparisons of individuals identified in PNRs to watch lists obtained from the Terrorist Screening Center.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114, 44901, and 44903.

PURPOSE(S):

The system will be used to test the Secure Flight program. The purpose of

the program is to enhance the security of domestic air travel by identifying passengers who warrant further scrutiny prior to boarding an aircraft. The purposes of testing the Secure Flight program are: (1) To test the Government's ability to process and compare passenger information against terrorist watch list information held by the Terrorist Screening Center (TSC) in the Terrorist Screening Database (TSDB); (2) to test the Government's ability to operate a streamlined version of the rule set used under the existing computer-assisted passenger prescreening system (CAPPS) currently used by aircraft operators; and (3) to test the Government's ability to verify the identities of passengers using commercial data and to improve the efficacy of watch list comparisons by making passenger information more complete and accurate using commercial data. For more detail on the purposes and conduct of the Secure Flight testing, please see the revised PIA for the Secure Flight Test Phase, which is published below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the Federal Bureau of Investigation where TSA becomes aware of information that may be related to an individual identified in the Terrorist Screening Database as known or reasonably suspected to be or having been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism.

(2) To contractors, grantees, experts, consultants, or other like persons when necessary to perform a function or service related to the Secure Flight program or the system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(3) To the Department of Justice (DOJ) or other Federal agency in the review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving matters over which TSA exercises jurisdiction or when conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA; or (b) any employee of TSA in his/her official capacity; or (c) any employee of TSA in his/her individual capacity, where DOJ or TSA has agreed to represent the employee; or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(4) To the National Archives and Records Administration (NARA) or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(5) To a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of the individual.

(6) To an agency, organization, or individual for the purposes of performing authorized audit or oversight operations.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored electronically in a secure facility at the Office of Transportation Vetting and Credentialing (OTVC), Transportation Security Administration (TSA), Department of Homeland Security, P.O. Box 597, Annapolis Junction, MD 20701–0597; the OTVC assessment facility in Colorado Springs, Colorado; and at EagleForce, Inc., McLean, VA. The records are stored on magnetic disc, tape, digital media, and CD–ROM, and may also be retained in hard copy format in secure file folders.

RETRIEVABILITY:

Data are retrievable by the individual's name or other identifier, as well as non-identifying information.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable rules and policies, including any applicable OTVC, TSA, and DHS automated systems security and access policies. Access to computer systems containing the records in this system of records is limited and can be accessed only by those individuals who require it to perform their official duties. Safeguards also include a real time auditing function of individuals who access computer systems containing the records in this system of records. Classified information, if any, will be appropriately stored in a secured facility, in secured databases and containers, and in accordance with other applicable requirements, including those pertaining to classified information.

RETENTION AND DISPOSAL:

TSA has determined that the records contained in the Secure Flight Test records system are covered by NARA General Records Schedule (GRS) 20, which applies to electronic records. It covers electronic files or records created solely to test system performance, as well as hard-copy printouts and related documentation for the electronic files/records. Under GRS 20, an agency may delete or destroy such records when the agency determines that they are no longer needed for administrative, legal, audit, or other operational purposes. In accordance with GRS 20, TSA has destroyed certain copies of the original PNRs provided by the air carriers. In addition, in accordance with applicable law, TSA plans to direct and document the destruction of the remaining PNRs and commercial data in its possession or in the possession of EagleForce as testing activities and analyses are completed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator, Secure Flight/Registered Traveler, Transportation Security Administration, P.O. Box 597, Annapolis Junction, MD 20701–0597.

NOTIFICATION PROCEDURE:

See ''Record Access Procedure''.

RECORD ACCESS PROCEDURE:

DHS has determined that all persons may request access to information about them contained in the system by sending a written request to the TSA Privacy Officer, Transportation Security Administration (TSA–9), 601 South 12th Street, Arlington, VA 22202.

To the extent permitted by law, such access will be granted. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)). Individuals must submit their full name, current address, and date and place of birth. Individuals must sign the request and the signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

2. The complete revised PIA follows:

Secure Flight Test Phase Privacy Impact Assessment

I. Introduction

Pursuant to the authority granted by the Aviation and Transportation Security Act of 2001 (ATSA) and

section 4012(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) (Pub. L. 108–458, 118 Stat. 3638, Dec. 17, 2004), TSA is developing a new program for screening domestic airline passengers in order to enhance the security and safety of domestic airline travel. Under this program, Secure Flight, the Transportation Security Administration (TSA) will assume from air carriers the function of conducting pre-flight comparisons of airline passenger information to the expanded and consolidated watch lists held in the Terrorist Screening Database (TSDB) maintained by the Terrorist Screening Center (TSC).[1] On November 15, 2004, TSA issued an order directing U.S. aircraft operators to provide to TSA, by November 23, 2004, a limited set of historical passenger name records (PNRs) for testing of the Secure Flight program.

Because the test involves existing watch lists that are being consolidated and expanded in the TSC, the E-Government Act of 2002 requires that a Privacy Impact Assessment (PIA) be conducted. The previously published PIA is being clarified and expanded to reflect more closely actual experience as the testing program has been conducted, refined and modified since September 2004. After the testing has been concluded and the results analyzed, TSA will update the PIA as necessary prior to actual implementation of the Secure Flight program.

System Overview

- What information is to be collected and used for testing Secure Flight?

In order to conduct testing, TSA obtained historic PNRs for individuals who completed domestic flight segments during the month of June 2004. PNR varies according to airline, but generally includes the following information fields: Full name, contact phone number, mailing address and travel itinerary. Also for purposes of the test, a TSA contractor, EagleForce Associates, Inc. (EagleForce), obtained commercial data from three commercial data aggregators. EagleForce contracted with each commercial data aggregator to identify records in its data bases associated with names in a sample set of PNRs and provide such records to EagleForce, but to provide only certain data elements associated with the names. Specifically, EagleForce requested the following data elements: First name; last name; middle name; home address; home phone number; date of birth; name suffix; second surname; spouse first name; gender; second address; third address; plus-four portion of Zip code; address type (residence, business, or mailing address); latitude of address; and longitude of address. In some cases the commercial data aggregators provided information that EagleForce did not request, such as social security numbers, due to the way the commercial data aggregators packaged their product. Although EagleForce loaded the commercial data provided by the commercial data aggregators onto a database, EagleForce has not queried or used any of the data elements that the commercial data aggregators provided over and above the specific data elements that EagleForce had specifically requested.

- Why is the information being collected and who will be affected by the collection of the data?

TSA collected the information described above to test the Secure Flight program, the purpose of which is to enhance the security of domestic air travel by identifying only those passengers who warrant further scrutiny. TSA's test of the Secure Flight program has three objectives. The first objective is to test the Government's ability to process and compare passenger information against terrorist watch list information held by the TSC in the TSDB. The second objective is to test the Government's ability to operate a streamlined version of the rule set used under the existing computer-assisted passenger prescreening system (CAPPS) currently used by aircraft operators. The third objective is to test the Government's ability to verify the identities of passengers using commercial data and to improve the efficacy of watch list comparisons by making passenger information more complete and accurate using commercial data to enhance PNRs with elements such as full name, address, date of birth, and gender. TSA, through its contractor IBM, has compared the PNR with data maintained in the TSDB regarding individuals known or reasonably suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism. TSA is continuing watch list match testing through it contractor, Mitre, using the original PNRs provided by the air carriers. TSA also continues to conduct internal system testing of the watch list matching processes through Mitre and IBM.

To prepare for the commercial data test, two statistically significant samples of the PNR data were extracted. One sample consisted of approximately 17,000 PNRs representing a cross section of air carriers and indicative of a typical PNR. A second sample was also developed that consisted of approximately 24,000 PNRs that contained dates of birth.

The sample data sets, which represent PNRs from eight U.S. air carriers, were stored on CD–ROMs. These data sets are used to perform watch list match testing in connection with the first objective of the program described above.

In addition, TSA hand delivered duplicates of the CD–ROMs containing the two sample PNR data sets to EagleForce. TSA also provided to EagleForce unparsed copies of other electronically stored June 2004 PNR data from the air carriers whose PNRs were included in the representative samples.

In preparing for the commercial test, for each of the approximately 42,000 names in the two sample sets of PNRs, EagleForce created up to twenty variations of a person's first and last names. Accordingly, EagleForce generated approximately 240,000 name variations derived from the approximately 42,000 names in the sample data sets. The original PIA and system of records notice did not discuss this process, because TSA had not developed its test plan with this level of detail at the time the documents were published.

EagleForce submitted the original names and name variations to three commercial data aggregators: Insight America, Acxiom, and Qsent. Upon receipt of the information provided by the commercial data aggregators, EagleForce loaded the records into a database. In order to accomplish the third test objective identified above, Secure Flight undertook two steps. First, EagleForce compared information in the sample PNRs with certain data elements contained in the information in the commercial data records to attempt to identify instances when the data in the PNRs was incorrect or inaccurate. In the course of this activity, EagleForce used only those data elements that it had asked the commercial data aggregators to provide. EagleForce did not use any of the data elements that the commercial data aggregators had provided beyond the specific data elements that EagleForce had specifically requested.

Second, to further test accuracy through verification testing, EagleForce used certain records obtained from the three commercial data aggregators to enhance the sample PNR data in cases

[1] The Terrorist Screening Center (TSC), established in December 2003, maintains a consolidated, comprehensive watch list of known or suspected terrorists. This database can be used by Government agencies in screening processes to identify individuals known to pose or are suspected of posing a risk to the security of the United States.

where PNRs were missing data. If a PNR in the sample data did not have complete information on a subject's full name, date of birth, address, gender, or one of the other categories of data that EagleForce specifically requested from the commercial data aggregators, EagleForce attempted to incorporate that data from the commercial data records, thereby ''enhancing'' the PNRs with these specific elements. However, EagleForce did not use the following data elements to enhance PNRs: spouse first name; latitude of address; and longitude of address. EagleForce then produced CD–ROMs containing the PNRs enhanced with the additional data elements and provided those CD–ROMs to TSA for use in watch list match testing. TSA currently retains the CD–ROMs containing the enhanced PNRs and stores these CD–ROMS when they are not in use in a controlled access safe. TSA provided for a limited period of time the CD–ROMs containing the enhanced PNRs to employees of TSA's contractor charged with conducting watch list testing (IBM), to determine whether using commercial data to enhance passenger information could lower the number of instances in which a person appears to be a match to the TSDB, but is not (a false positive) or appears not to be a match, but in fact is (a false negative).

The categories of individuals covered by the data collection are: individuals who traveled within the United States during June 2004 by passenger air transportation and whose PNRs were provided by aircraft operators in response to the Transportation Security Administration Order issued November 15, 2004 (69 FR 65625); individuals identified in commercial data purchased and held by a TSA contractor for purposes of testing the Secure Flight program; and individuals known or reasonably suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism.

TSA has not and will not use the results of its testing for any purpose other than analysis of the efficacy of the program unless there is an indication during the testing of terrorist or possible terrorist activity. In such a case, appropriate action will be taken, which may include providing information in the system of records to relevant law enforcement agencies. To date no such action has been warranted.

• What notice or opportunities for consent are provided to individuals regarding the information that is collected and shared?

The original Privacy Act System of Records Notice and PIA, as well as the revised versions of each document, provide notice of the scope, purposes, and effect of the test phase of the Secure Flight program. Because the test phase uses historical PNR from the month of June 2004 for flights that were completed by the end of that month, as well as data residing in commercial databases that already had been collected prior to the test, the notice given did not afford the opportunity for these individuals to provide consent in advance of this collection. Nevertheless, Secure Flight has been the subject of Congressional testimony, public statements by TSA officials, and numerous media reports that convey additional notice, including information that appears on the TSA Web site at *http://www.tsa.gov/public/.*

The information collected has been shared with TSA employees and contractors who have a ''need to know'' in order to conduct the required test comparisons. All TSA contractors involved in the testing of Secure Flight are contractually and legally obligated to comply with the Privacy Act in their handling, use and dissemination of personal information in the same manner as TSA employees.

If a comparison using the test data indicates that an individual is suspected of terrorism, TSA will refer the information to appropriate law enforcement personnel for further action. Referrals will only occur, however, in this limited circumstance because the basic purpose of this information collection is to test the Secure Flight program. To date, no such referrals have been warranted.

• What security protocols are in place to protect the information?

TSA has employed data security controls, developed with the TSA Privacy Officer, to protect the data used for Secure Flight testing activities. Information in TSA's record systems is safeguarded in accordance with the Federal Information Security Management Act of 2002 (Pub. L. 107–347), which established Government-wide computer security and training standards for all persons associated with the management and operation of Federal computer systems. The systems on which the tests are or have been conducted were assessed for security risks, have implemented security policies and plans consistent with statutory, regulatory and internal DHS guidance.

Prior to accepting custody of the PNR data, TSA established chain-of-custody procedures for the receipt, handling, safeguarding, and tracking of access to the PNR data and TSA maintained the data at its secure facility in Annapolis Junction, Maryland. Access to the data was limited to individuals with a need for access in order to conduct testing activities.

Records of transmission of PNR data to EagleForce were maintained by TSA's security officers. EagleForce had measures in place to control access and handling of PNR data. In addition, EagleForce employees completed training for handling sensitive information and entered into non-disclosure agreements covering all data provided by the Government for use during the test. Copies of these agreements are maintained by TSA's security office.

TSA and its contractors maintain the PNRs and the limited commercial data collected for the test in a secure facility on electronic media and in hard copy format. The information is protected in accordance with rules and policies established by both TSA and DHS for automated systems and for hard copy storage, including password protection and secure file cabinets. Moreover, access is strictly controlled; only TSA employees and contractors with proper security credentials and passwords will have permission to use this information to conduct the required tests, on a need-to-know basis. Additionally, a real time audit function is part of this record system to track who accesses the information resident on electronic systems during testing. Any infractions of information security rules will be dealt with severely. None has occurred to date. All TSA and assigned contractor staff receive DHS-mandated privacy training on the use and disclosure of personal data. The procedures and policies that are in place are intended to ensure that no unauthorized access to records occurs and that operational safeguards are firmly in place to prevent system abuses.

• Does this program create a new system of records under the Privacy Act?

On September 24, 2004, TSA established a new Privacy Act system of records, known as the Secure Flight Test Records system of records, DHS/TSA 017, for purposes of Secure Flight testing activities (69 FR 57345). TSA has amended and supplemented that system of records to clarify the original system of records notice with additional detail on the Secure Flight testing activities.

• What is the intended use of the information?

The information collected by TSA and TSA contractors has been and will be used solely for the purpose of testing the Secure Flight program, as described in this PIA, and will be maintained in a Privacy Act system of records in

accordance with the published system of records notice for DHS/TSA 017.

• Will the information be retained and, if so, for what period of time?

TSA has determined that the records contained in the Secure Flight Test Records system are covered by NARA General Records Schedule (GRS) 20, which applies to electronic records. It covers electronic files or records created solely to test system performance, as well as hard-copy printouts and related documentation for the electronic files/records. Under GRS 20, an agency may delete or destroy such records when the agency determines that they are no longer needed for administrative, legal, audit, or other operational purposes. In accordance with GRS 20, TSA has destroyed certain copies of the original PNRs provided by the air carriers. In addition, TSA, in accordance with applicable law, plans to direct the destruction of the remaining PNRs and commercial data in its possession or in the possession of EagleForce as testing activities and analyses are completed.

• How will the passenger be able to seek redress?

During the test phase individuals may request access to information about themselves contained in the PNR subject to Secure Flight test phase by sending a written request to TSA. To the extent permitted by law, access will be granted. If an individual wishes to contest or amend the records received in this manner, he or she may do so by sending that request to TSA. The request should conform to DHS requirements for contesting or amending Privacy Act records, and should be sent TSA Privacy Officer, Transportation Security Administration (TSA–9), 601 South 12th Street, Arlington, VA 22202. Before implementing a final program, however, TSA will create a robust redress mechanism to resolve disputes concerning the Secure Flight program.

• What databases will the names be compared to?

TSA has compared the names against the TSDB, which is a consolidated, comprehensive watch list of known or suspected terrorists. This database can be used by Government agencies in screening processes to identify individuals known to pose or are suspected of posing a risk to the security of the United States. This consolidated database contains information contributed by the Departments of Homeland Security, Justice, and State and by the intelligence community. Because information related to terrorists is consolidated in the TSDB, TSA believes that the TSDB provides the most effective and secure system against which to run airline passenger names for purposes of identifying whether or not they are known or reasonably suspected to be engaged in terrorism or terrorist activity. TSA's contractor has compared names with information provided by commercial data aggregators to identify commercial data records from which to enhance PNRs for purposes of the Secure Flight test.

• Privacy Effects and Mitigation Measures.

The decision to initiate Secure Flight followed completion of a thorough review of the TSA's next generation passenger prescreening program and the mandate of section 4012(a)(1) of the IRTPA.

Testing has been and continues to be governed by strict privacy and data security protections. TSA will defer any decision on how commercial data might be used in its prescreening programs, as Secure Flight, until the completion of the test period, assessment of the test results and publication of a subsequent System of Records Notice under the Privacy Act announcing the intended use of such commercial data.

TSA has taken action to mitigate privacy risk by designing its test activities to address concerns expressed by privacy advocates, foreign counterparts and others. Under the Secure Flight testing phase, TSA did not require air carriers to collect any additional information from their passengers than was already collected by such carriers and maintained in passenger name records. TSA has adopted and carried out stringent data security and privacy protections, including contractual prohibitions on commercial entities' maintenance or use of airline-provided PNR information for any purposes other than testing under TSA parameters; real time auditing procedures to determine when data within the Secure Flight system has been accessed and by whom; and strict rules prohibiting the accessing or use of commercial data by TSA employees.

TSA will assess test results prior to any operational use of commercial data in TSA programs to determine whether its use is effective in verifying passenger identity or enhancing watch list comparisons, justifies the associated costs, does not result in disparate treatment of any class of individuals, and that data security protections and privacy protections are robust and effective.

TSA also recognizes that there is a privacy risk inherent in the design of any new system which could result from design mistakes. By testing the proposed Secure Flight program, TSA has had the opportunity to modify the program design in ways to enhance protection of individuals' privacy interests before the program becomes fully operational, ensuring a better program. TSA is purposely testing the Secure Flight system and will be carefully scrutinizing the performance of the system during the test phase—and conducting further analysis upon completion—to determine the effectiveness of Secure Flight both for passenger prescreening as well as for protecting the privacy of the data on which the program is based. By following strict rules for oversight and training of personnel handling the data as well as strong system auditing to detect potential abuse and a carefully planned and executed redress process, TSA will continue to ensure that privacy is an integral part of the program once it becomes operational, as it has been during testing. TSA's efforts have been and continue to be thoroughly examined internally, including review by the TSA Privacy Officer and the DHS Chief Privacy Officer. In this process, TSA will carefully review constructive feedback it receives from the public on this important program.

Issued in Arlington, Virginia, on June 17, 2005.

Lisa S. Dean,

TSA Privacy Officer.

[FR Doc. 05–12405 Filed 6–17–05; 5:02 pm]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

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H.R. 1760/P.L. 109–15
To designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the "Robert M. La Follette, Sr. Post Office Building". (June 17, 2005; 119 Stat. 337)

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