AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

6–23–05 Thursday
Vol. 70 No. 120 June 23, 2005

Pages 36325–36466

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Washington, DC 20002

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Printed on recycled paper.

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

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Federal Policy for the Protection of Human Subjects

AGENCIES: Department of Agriculture; Department of Energy; National Aeronautics and Space Administration; Department of Commerce; Consumer Product Safety Commission; Agency for International Development; Department of Justice; Department of Defense; Department of Education; Department of Veterans Affairs; Environmental Protection Agency; Department of Health and Human Services; National Science Foundation; and Department of Transportation.

ACTION: Final rule; technical amendments.

SUMMARY: The agencies listed in this document are amending the Federal Policy for the Protection of Human Subjects, which was published in the **Federal Register** on June 18, 1991, to change all references to the Office for Protection from Research Risks (OPRR) to the Office for Human Research Protections (OHRP); revise the footnote found at the end of § __.101(i) by deleting references to research involving fetuses, pregnant women, or human in vitro fertilization and subpart B of 45 CFR part 46; and update the Control Number for the approval by the Office of Management and Budget (OMB) of the information collection requirements of this Federal Policy.

DATES: Effective Date: June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Michael A. Carome, M.D., OHRP, The Tower Building, Suite 200, 1101 Wootton Parkway, Rockville, MD 20852; telephone: 301–496–7005; facsimile: 301–402–2071; e-mail: *mcarome@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Policy for the Protection of Human Subjects (hereafter referred to as the Federal Policy) was promulgated by 15 Federal departments and agencies on June 18, 1991 (56 FR 28003). The Central Intelligence Agency also is required to comply with this policy under Executive Order 12333. On July 10, 1996, the Department of Housing and Urban Development revised its codification of the Federal Policy at 24 CFR part 60 to cross-reference the provisions of the Department of Health and Human Services (HHS) regulations at 45 CFR part 46, subpart A (61 FR 36462).

Except for research that is exempt under § ____.101(b), the Federal Policy applies to all research involving human subjects conducted, supported or otherwise subject to regulation by any Federal department or agency which has taken appropriate administrative action to make the Federal Policy applicable to such research. The basic provisions of the Federal Policy include, among other things, requirements related to the review of human subjects research by an institutional review board, the obtaining and documenting of informed consent of human subjects, and the submission of a written assurance of institutional compliance with the Federal Policy.

II. Description of Changes to the Federal Policy

The Federal Policy has several provisions that reference OPRR. For example, the Federal Policy includes provisions that require submission of certain reports and notices to OPRR (see § ____.101(i), § ____.103(a), and § ____.103(b)(3)). At the time the Federal Policy was promulgated, OPRR was a unit of the National Institutes of Health, HHS, and was responsible for fulfilling responsibilities set forth in section 491 of the Public Health Service Act (42 U.S.C. 289). On June 18, 2000, OPRR was dissolved, OHRP was established, and all responsibilities and authorities for human subject protections held by OPRR were transferred to OHRP (65 FR 37136, June 13, 2000). The Federal Policy is being amended throughout to reflect this name and organizational change from OPRR to OHRP.

At the time the Federal Policy was promulgated, the HHS regulations for the protection of human subjects at 45 CFR part 46 included the following

three subparts that provided additional protections for specific groups of vulnerable subjects: subpart B (Additional Protections Pertaining to Research, Development, and Related Activities Involving Fetuses, Pregnant Women, and Human In Vitro Fertilization); subpart C (Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects); and subpart D (Additional Protections for Children Involved as Subjects in Research). These subparts are not part of the Federal Policy. However, the Federal Policy includes a footnote at the end of § ____.101(i) which states, in part, that ''the exemptions at 45 CFR 46.101(b) do not apply to research involving * * * fetuses, pregnant women, or human in vitro fertilization, subparts B * * *.''

On November 13, 2001, HHS published a revised version of 45 CFR part 46, subpart B (Additional Protections for Pregnant Women, Human Fetuses and Neonates Involved in Research) after soliciting public comment through a Notice of Proposed Rulemaking (66 FR 56775; 66 FR 35576). The revised subpart B, which became effective on December 13, 2001, states that the exemptions at 45 CFR 46.101(b)(1) through (6) are applicable to this subpart. In order to make the footnote at the end of § ____.101(i) of the Federal Policy consistent with the revised subpart B of 45 CFR part 46, references to research involving fetuses, pregnant women, or human in vitro fertilization and subpart B are being deleted from the footnote.

Finally, the information collection requirements of the Federal Policy (see §§ ____.103, 109, 113, 115, 116, and 117) were approved by OMB on July 30, 1991 under Control Number 9999–0020. OMB approval under Control Number 9999–0020 expired on December 31, 1997. The current OMB approval of the information collection requirements of the Federal Policy is under Control Number 0990–0260. Therefore, all references to Control Number 9999–0020 are being changed to Control Number 0990–0260.

III. Implementation

Pursuant to 5 U.S.C. 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 551–559, the agencies find that there is good cause to issue these amendments without advance notice and an opportunity for public comment. Because these amendments merely (i) change references in the Federal Policy from the OPRR to the OHRP, to reflect the organizational change that already dissolved OPRR and moved its responsibilities to OHRP; (ii) delete references to research involving fetuses, pregnant women, or human in vitro fertilization and to subpart B of 45 CFR part 46 to conform the Federal Policy to recent amendments to subpart B of 45 CFR part 46; and (iii) update the Control Number for the approval by OMB of the information collection requirements of the Federal Policy, public comment is unnecessary. Pursuant to 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, the agencies also find there is good cause to make these amendments effective immediately because the changes in the Federal Policy are merely conforming amendments to reflect changes that have already been made and are in effect with respect to OHRP and 45 CFR part 46.

IV. Legal Authority

Department of Agriculture, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Department of Energy, 5 U.S.C. 301; 42 U.S.C. 7254; 42 U.S.C. 300v–1(b). National Aeronautics and Space Administration, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Department of Commerce, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Consumer Product Safety Commission, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Agency for International Development, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Department of Justice, 5 U.S.C. 301; 28 U.S.C. 509–510; 42 U.S.C. 300v–1(b). Department of Defense, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Department of Education, 5 U.S.C. 301; 20 U.S.C. 1221e-3, 3474; 42 U.S.C. 300v–1(b). Department of Veterans Affairs, 5 U.S.C. 301; 38 U.S.C. 501, 7331, 7334; 42 U.S.C. 300v–1(b). Environmental Protection Agency, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Department of Health and Human Services, 5 U.S.C. 301; 42 U.S.C. 289; 42 U.S.C. 300v–1(b). National Science Foundation, 5 U.S.C. 301; 42 U.S.C. 300v–1(b). Department of Transportation, 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

V. Executive Order 12866

Executive Order 12866 requires that all regulatory actions of Executive Branch departments and agencies reflect consideration of the costs and benefits that they generate and that they meet certain standards, such as avoiding imposition of unnecessary burdens on the affected public. If an action is deemed to fall within the scope of the definition of the term ''significant regulatory action'' contained in Sec. 3(f) of the order, a pre-publication review by OMB's Office of Information and Regulatory Affairs (OIRA) is necessary. OMB deemed these amendments of the Federal Policy not to be a significant regulatory action. Therefore, these amendments were not submitted to OIRA for review prior to publication.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), an agency is generally required to review proposed regulations to analyze whether they create a significant impact on a substantial number of small entities unless the agency can certify that there is no such impact. Agencies must similarly analyze any final rules that were preceded by proposed rules. Because these technical amendments did not require the agencies to publish a proposed rule, they are not required to prepare a Regulatory Flexibility Act analysis for this final rule. However, even if the agencies were required to consider that impact, the agencies would certify that there was no impact at all on small entities because these amendments make no substantive change to the Federal Policy.

VII. Paperwork Reduction Act of 1995

These amendments to the Federal Policy do not contain any new information collection requirements which are subject to OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

VIII. Federalism

These amendments to the Federal Policy have been analyzed in accordance with the principles set forth in Executive Order 13132. These amendments to the Federal Policy do not contain policies that have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the departments and agencies that have promulgated the Federal Policy have concluded that these amendments do not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

Department of Agriculture

7 CFR Part 1c

RIN 0518–AA02

List of Subjects in 7 CFR Part 1c

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Agriculture amends 7 CFR part 1c, as set forth at the end of this document.

The authority for part 1c continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: August 18, 2004.

Ann M. Veneman,

Secretary of Agriculture.

Department of Energy

10 CFR Part 745

RIN 1901–AB14

List of Subjects in 10 CFR Part 745

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Energy amends 10 CFR part 745, as set forth at the end of this document.

The authority for part 745 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 7254; 42 U.S.C. 300v–1(b).

Dated: April 5, 2005.

Samuel W. Bodman,

Secretary of Energy.

National Aeronautics and Space Administration

14 CFR Part 1230

RIN 2700–AC99

List of Subjects in 14 CFR Part 1230

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the National Aeronautics and Space Administration amends 14 CFR part 1230, as set forth at the end of this document.

The authority for part 1230 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: February 18, 2005.

Richard S. Williams,

Chief Health and Medical Officer, Office of Health and Medical Systems.

Department of Commerce

15 CFR Part 27

RIN 0605–AA17

List of Subjects in 15 CFR Part 27

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Commerce amends 15 CFR part 27, as set forth at the end of this document.

The authority for part 27 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: February 18, 2005.

Michael S. Sade,

Director, Office of Acquisition Management.

Consumer Product Safety Commission

16 CFR Part 1028

RIN 3041–AC21

List of Subjects in 16 CFR Part 1028

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Consumer Product Safety Commission amends 16 CFR part 1028, as set forth at the end of this document.

The authority for part 1028 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: July 22, 2004.

Harold D. Stratton,

Chairman.

Agency for International Development

22 CFR Part 225

RIN 0412–AA53

List of Subjects in 22 CFR Part 225

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Agency for International Development amends 22 CFR part 225, as set forth at the end of this document.

The authority for part 225 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: June 10, 2004.

James D. Shelton,

Cognizant Human Subjects Officer.

Department of Justice

28 CFR Part 46

RIN 1121–AA70

List of Subjects in 28 CFR Part 46

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Justice amends 28 CFR part 46, as set forth at the end of this document.

The authority for part 46 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509–510; 42 U.S.C. 300v–1(b).

Dated: March 14, 2005.

Alberto R. Gonzales,

Attorney General.

Department of Defense

32 CFR Part 219

RIN 0790–AH79

List of Subjects in 32 CFR Part 219

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Defense amends 32 CFR part 219, as set forth at the end of this document.

The authority for part 219 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: August 4, 2004.

Ronald M. Sega,

Director, Defense Research and Engineering.

Department of Education

34 CFR Part 97

RIN 1890–AA08

List of Subjects in 34 CFR Part 97

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Education amends 34 CFR part 97, as set forth at the end of this document.

The authority for part 97 continues to read as follows:

Authority: 5 U.S.C. 301; 20 U.S.C. 1221e–3, 3474; 42 U.S.C. 300v–1(b).

Dated: June 30, 2004.

Rod Paige,

Secretary of Education.

Department of Veterans Affairs

38 CFR Part 16

RIN 2900–AL99

List of Subjects in 38 CFR Part 16

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 16, as set forth at the end of this document.

The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301; 38 U.S.C. 501, 7331, 7334; 42 U.S.C. 300v–1(b).

Dated: August 27, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

Environmental Protection Agency

40 CFR Part 26

RIN 2080–AA10

List of Subjects in 40 CFR Part 26

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 26, as set forth at the end of this document.

The authority for part 26 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: May 16, 2005.

Stephen L. Johnson,

Acting Administrator.

Department of Health and Human Services

45 CFR Part 46

RIN 0940–AA10

List of Subjects in 45 CFR Part 46

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR part 46, as set forth at the end of this document.

The authority for part 46 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 289; 42 U.S.C. 300v–1(b).

Dated: June 15, 2005.

Ann Agnew,

Executive Secretary to the Department.

National Science Foundation

45 CFR Part 690

RIN 3145–AA42

List of Subjects in 45 CFR Part 690

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the National Science Foundation amends 45 CFR part 690, as set forth at the end of this document.

The authority for part 690 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

Dated: June 30, 2004.

Lawrence Rudolph,

General Counsel.

Department of Transportation

49 CFR Part 11

RIN 2105–XX97

List of Subjects in 49 CFR Part 11

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Department of Transportation amends 49 CFR part 11, as set forth at the end of this document.

The authority for part 11 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v-1(b).

Dated: September 18, 2004.

Norman Y. Mineta,

Secretary of Transportation.

Editorial Note: This document was received at the Office of the Federal Register on June 17, 2005.

■ Accordingly, the Federal Policy for the Protection of Human Subjects is amended as follows:

§ ____.101 [Amended]

■ 1. Amend § ____.101 as follows:

■ a. In paragraph (i), remove the words ''Office for Protection from Research Risks, Department of Health and Human Services (HHS),''and add, in their place, ''Office for Human Research Protections, Department of Health and Human Services (HHS), or any successor office,''.

■ b. In footnote 1 at the end of paragraph (i), remove the words ''prisoners, fetuses, pregnant women, or human in vitro fertilization, subparts B and C.'' and add, in their place, ''prisoners, subpart C.''.

§ ____.103 [Amended]

■ 2. Amend § ____.103 as follows:

■ a. In paragraph (a), in the second and last sentences, remove the words, ''Office for Protection from Research Risks, HHS'' and add, in their place, ''Office for Human Research Protections, HHS, or any successor office''.

■ b. In paragraph (b)(3), remove the words ''Office for Protection from Research Risks, HHS'' and add, in their place, ''Office for Human Research Protections, HHS, or any successor office''.

■ c. Revise the parenthetical at the end of the section to read as follows:

§ ____.103 Assuring compliance with this policy—research conducted or supported by any Federal Department or Agency.

* * * * *

(Approved by the Office of Management and Budget under Control Number 0990–0260.)

■ 3. Revise the parenthetical at the end of § ____.109 to read as follows:

§ ____.109 IRB review of research.

* * * * *

(Approved by the Office of Management and Budget under Control Number 0990–0260.)

§ ____.110 [Amended]

■ 4. In paragraph (a), remove the words ''Office for Protection from Research Risks, National Institutes of Health, HHS, Bethesda, Maryland 20892.'' and add, in their place, ''Office for Human Research Protections, HHS, or any successor office.''.

■ 5. Revise the parenthetical at the end of § ____.113 to read as follows:

§ ____.113 Suspension or termination of IRB approval of research.

* * * * *

(Approved by the Office of Management and Budget under Control Number 0990–0260.)

■ 6. Revise the parenthetical at the end of § ____.115 to read as follows:

§ ____.115 IRB records.

* * * * *

(Approved by the Office of Management and Budget under Control Number 0990–0260.)

■ 7. Revise the parenthetical at the end of § ____.116 to read as follows:

§ ____.116 General requirements for informed consent.

* * * * *

(Approved by the Office of Management and Budget under Control Number 0990–0260.)

■ 8. Revise the parenthetical at the end of § ____.117 to read as follows:

§ ____.117 Documentation of informed consent.

* * * * *

(Approved by the Office of Management and Budget under Control Number 0990–0260.)

[FR Doc. 05–12394 Filed 6–22–05; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 05–005–2]

Citrus Canker; Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the citrus canker regulations by updating the list of areas in the State of Florida quarantined because of citrus canker. The interim rule expanded one established quarantined area, added several new quarantine areas, and removed a portion of one quarantined area. These actions were necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that were no longer warranted.

DATES: The interim rule became effective on February 25, 2005.

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

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on February 25, 2005 (70 FR 9207–9210, Docket No. 05–005–1), we amended the regulations in ''Subpart—Citrus Canker'' (7 CFR 301.75 through 301.75–16) by updating the list in § 301.75–4 of areas in the State of Florida quarantined because of citrus canker. Specifically, to reflect the detection of citrus canker in an area adjacent to, but outside of, one current quarantined area in Florida, as well as in three additional areas, we expanded the boundaries of one existing quarantined area in DeSoto County and added several new areas in Charlotte, Collier, and Hendry Counties to the list of quarantined areas. We also removed portions of Manatee County from the list of quarantined areas because regular surveys showed them to have been free of citrus canker for at least 2 years. These actions were necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that were no longer warranted.

Comments on the interim rule were required to be received on or before April 26, 2005. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866, Executive Orders 12372 and 12988, and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by updating the list of areas in the State of Florida quarantined because of citrus canker. The interim rule added three new quarantined areas based on the disease's discovery in the Burnt Store and the Farabee Grade quarantined areas in Charlotte County and the Collier quarantined area in Collier and Hendry Counties. The interim rule also expanded the area covered by the DeSoto B quarantined area in DeSoto County. The interim rule imposed certain restrictions on the interstate movement of regulated articles from and through these quarantined areas. The interim rule also removed the quarantined area in Manatee County from the list of areas quarantined for citrus canker. Therefore, the interim rule was necessary to prevent the spread of citrus canker into noninfested areas of the United States and to remove unnecessary restrictions. The following analysis addresses the economic effect of the interim rule on small entities, as required by the Regulatory Flexibility Act.

Citrus canker is a bacterial disease causing lesions on the leaves, stems and fruit of citrus trees. The lesions allow the bacterium to reproduce in moisture-enriched environments. The bacteria that cause citrus canker can seep from the lesions and spread to other trees and, ultimately, other groves. The main contributing factors in the spread of citrus canker are contact by grove workers and equipment and wind-driven rain. Citrus varieties have varying degrees of susceptibility to the disease. For example, grapefruit varieties are more vulnerable to the spread of citrus canker than some varieties of oranges, such as Valencia oranges.

Costs incurred because of citrus canker derive both from the damage caused by the disease as well as from private, State, and Federal funds expended on control measures. Among the reported costs are public expenditures for eradication and for compensation of affected growers. Approximately $600 million has been devoted to eradicating citrus canker. Compensation payments by APHIS to affected growers over the past 4 fiscal years have totaled $105.2 million. The first round of payments for fiscal years 2000 and 2001 totaled $76.8 million. Payments for fiscal years 2003 and 2004 were $11.8 million and $16.6 million, respectively. The interim rule expanded the list of quarantined areas in an effort to thwart the spread of citrus canker to other citrus-producing areas of the United States. The objective is to control the spread of citrus canker and thereby minimize its costs to private and public entities, as described above.

The small business size standard identified by the Small Business Association (SBA), based upon the North American Industry Classification System (NAICS) codes 111310 (orange groves) and 111320 (other citrus not oranges), is $750,000 or less in annual receipts. The interim rule affected a total of eight growers and six harvesters. One grower and four harvesters are located in the Collier quarantined area. In the Burnt Store quarantined area, the interim rule affected two growers and two harvesters; however, they are not harvesting this year. In the DeSoto B quarantine expansion, five growers are included in the quarantine expansion; three of these growers, however, were already affected by the same or other quarantine zones. No packinghouses or other affected businesses are located within this expanded quarantined area. Although the size of these affected entities is unknown, it is reasonable to assume that most are small in size according to the SBA's standards.

Based on the experiences of citrus growers and harvesters in areas previously placed under quarantine, APHIS does not expect compliance with these restrictions on the movement of regulated fruit from the newly quarantined areas to have a significant economic effect on small entities in the three newly quarantined areas. An alternative to this rule would be to leave the regulations unchanged. However, failing to include these new areas in the regulations would be an unsatisfactory decision. As citrus canker can be transmitted by human means and via wind-driven rain, choosing to leave the regulations unchanged would likely lead to the spread of the disease from these areas to other citrus-producing areas.

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

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 70 FR 9207–9210 on February 25, 2005.

Done in Washington, DC, this 17th day of June 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–12436 Filed 6–22–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 301 and 305

[Docket No. 04–092–2]

Phytophthora Ramorum; Vacuum Heat Treatment for Bay Leaves

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the phytosanitary treatments regulations to allow leaves of the California bay laurel (*Umbellularia californica*) to be treated with vacuum heat before being moved interstate from any area quarantined because of *Phytophthora ramorum.* This action will provide an alternative to the hot water dip that had been the only approved treatment for the greenery of host plants, which include California bay laurel leaves, but that ruined the suitability of the leaves for use as a dried spice.

DATES: Effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. James Writer, Assistant *P. ramorum* Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–7121.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart-Phytophthora Ramorum'' (7 CFR 301.92 through 301.92–11, referred to below as the regulations) list 10 counties in California and a portion of Curry County in Oregon as quarantined areas due to the presence of *Phytophthora ramorum* and restrict the interstate movement of regulated articles from those areas. Regulated articles are identified in § 301.92–2 of the regulations.

In subsequent Federal Orders, the Animal and Plant Health Inspection Service (APHIS) expanded the list of quarantined areas to include Contra Costa, Humboldt, Lake, and San Francisco Counties, CA, as well as another portion of Curry County, OR, and expanded the list of regulated articles to include additional confirmed hosts of *P. ramorum.*

The regulations in § 301.92–10 provide treatments that may be used to qualify regulated articles for interstate movement from quarantined areas. For unprocessed wreaths, garlands, and greenery of host plants, the only approved treatment has consisted of a hot water dip for 1 hour at a sustained temperature of at least 160 °F. However, this treatment is not a viable option for treating leaves from the California bay laurel (*Umbellularia californica*), as it ruins the leaves for their intended use as a dried spice.

On February 8, 2005, we published in the **Federal Register** (70 FR 6596–6598, Docket No. 04–092–1) a proposal to amend the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual), which was incorporated by reference in the Code of Federal Regulations, to allow leaves of the California bay laurel to be treated with vacuum heat before being moved interstate from any area quarantined because of *P. ramorum.* In addition to adding this vacuum heat treatment schedule, which we would have designated as T101-m-2–1–2, to the PPQ Treatment Manual, we also proposed amending the PPQ Treatment Manual's incorporation by reference in 7 CFR part 300.1 to reflect the date of the treatment's inclusion in the manual, and the list of accepted treatments in § 301.92–10 to include any treatments authorized for use on *P. ramorum* that are listed in the PPQ Treatment Manual.

We solicited comments concerning our proposal for 60 days ending April 11, 2005. We received one comment by that date, from a spice trade association. The commenter was in favor of amending the regulations to allow California bay laurel leaves to be treated with vacuum heat before moving interstate from areas quarantined because of *P. ramorum.*

In the proposed rule, we proposed adding the vacuum heat treatment for bay leaves to the PPQ Treatment Manual. However on June 7, 2005, we published in the **Federal Register** a final rule (70 FR 33264–33326, Docket No. 02–019–1) that removed the PPQ Treatment Manual's incorporation by reference and relocated the portions of the PPQ Treatment Manual that prescribe treatment schedules, instructions for administering the treatments, and requirements for certification of facilities that administer the treatments to 7 CFR part 305, ''Phytosanitary Treatments.'' Therefore, in this final rule, we are adding the vacuum heat treatment for bay leaves to part 305 rather than the PPQ Treatment Manual.

In addition, in the proposed rule, the vacuum heat treatment for use on bay leaves was given the designation T101-m-2–1–2, but the T101 numbering series is used to refer to fumigation treatments. As the vacuum heat treatment described in the proposed rule and this final rule is not a fumigation treatment, we are designating the treatment as T111-a-1 and are adding it to the regulations as a new § 305.29 in the ''Heat Treatments'' subpart.

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

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. The regulations have required that the greenery of *P. ramorum* host plants, which include California bay laurel, grown in a quarantined area be treated with a hot water dip before being moved interstate from a quarantined area. Making this rule effective immediately will provide entities that produce and market spices with an alternative treatment for bay laurel leaves produced in areas quarantined because of *P. ramorum* that will not render the leaves unsuitable for their intended use as a dried spice. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

This final rule amends the phytosanitary treatments regulations to allow leaves of the California bay laurel to be treated with vacuum heat before being moved interstate from any area quarantined because of *P. ramorum.* This action will provide an alternative

to the currently approved hot water dip used to treat California bay laurel leaves, which ruins the suitability of the leaves for use as a dried spice.

Vacuum heat treatment costs are similar to costs of vapor heat and hot-air treatment systems. All three treatments require substantial initial capital investments ranging from $55,000 to $200,000 for larger commercial facilities. By comparison, hot water immersion treatment systems can be assembled for less than $8,000. Clearly, hot-water immersion treatment is less expensive, but in this case it is not feasible because it renders the treated article—bay leaves—unsuitable for its use as a dried spice.

Table 1 shows that representative unit costs for hot air or vapor heat treatments total less than $30 per ton of commodities treated. The cost of vacuum heat treatment is comparable. This cost is higher than the unit cost of hot water immersion, given the large difference in capital costs indicated above, but is relatively minor when compared to the value of the commodity being treated.

TABLE 1.—REPRESENTATIVE COSTS OF HOT AIR OR VAPOR HEAT TREATMENT OF A PERISHABLE COMMODITY

Capital costs	$4.41/metric ton of commodity treated.
Operating costs [1]	$25.00/metric ton of commodity treated.
Total cost	$29.41/metric ton of commodity treated.

[1] Labor, energy, maintenance, and insurance.

One pound of dried bay leaves sells for $3.75, that is, $8,267.33 per metric ton. Thus, the representative cost shown in table 1 is equal to less than 0.4 percent of the sales price of the spice. Compared to other costs, such as harvesting, storage, processing, packaging, and transport, the cost of the vacuum heat treatment is relatively insignificant overall.

We also note that use of the vacuum heat treatment would be on a voluntary basis to qualify dried bay leaves for interstate movement from the quarantined counties.

According to the 2002 Agricultural Census, there were approximately 600 nurseries in the 14 California counties operating under quarantine for *P. ramorum.* The 600 nurseries reported approximately $882 million in annual sales. A small nursery, according to Small Business Administration size standards (SBA), is one with $750,000 or less in annual receipts. APHIS does not have information on the size distribution of the nurseries in the 14 counties, in terms of annual receipts. We also do not have information on the number of these nurseries that have bay laurel trees and seedlings for sale, or of the quantity of bay laurel leaves they produce and the percentage sold to customers outside the quarantined area.

It is expected that, primarily, producers/processors of bay leaves will conduct the vacuum heat treatment. According to the 2002 Economic Census, there were approximately 44 spice and extract manufacturing establishments (NAICS 311942) in California, employing 1,521 people (or an average of 34 persons per entity). No data are available for California by county. According to SBA's criteria, the size standard for a small entity in this industry is 500 or fewer employees. However, information on the size distribution of these establishments was unavailable. Even though the number and size of the entities that could be affected by the final rule is unknown, we have no evidence indicating that there would be a significant economic impact on any entity, large or small.

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

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects

7 CFR Part 301

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

7 CFR Part 305

Agricultural commodities, Chemical treatment, Cold treatment, Garbage treatment, Heat treatment, Imports, Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Quick freeze, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR parts 301 and 305 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

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

■ 2. Section 301.92–10 is revised to read as follows:

§ 301.92–10 Treatments.

Treatment schedules listed in part 305 of this chapter to destroy *Phytophthora ramorum* are authorized for use on certain regulated articles. The following treatments also may be used for the regulated articles indicated:

(a) *Soil*—Heat to a temperature of at least 180 °F for 30 minutes in the presence of an inspector.

(b) *Wreaths, garlands, and greenery of host material*—Dip for 1 hour in water that is held at a temperature of at least 160 °F.

PART 305—PHYTOSANITARY TREATMENTS

■ 3. The authority citation for part 305 continues to read as follows:

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

■ 4. In § 305.1, a definition for *vacuum heat treatment* is added, in alphabetical order, to read as follows:

§ 305.1 Definitions.

* * * * *

Vacuum heat treatment. The treated commodity is held in a gas-tight enclosure and heated to a specified temperature for a specific time period to kill targeted pests.

* * * * *

■ 5. Section 305.2 is amended as follows:

■ a. In the introductory text of paragraph (h)(2), by adding the words ''§ 305.29 for vacuum heat (VCH),'' after the word ''(FHA),''.

■ b. In paragraph (h)(2)(ii), the table is amended by adding, under ''Areas in the United States under Federal Quarantine for the listed pest'', an entry for bay leaves to read as follows:

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(ii) * * *

Location	Commodity	Pest	Treatment schedule
* *	* *	* *	*
	Bay leaves	*Phytophthora ramorum*	VCH T111–a–1
* *	* *	* *	*

* * * * *

■ 6. A new § 305.29 is added to read as follows:

§ 305.29 Vacuum heat treatment schedule.

T111–a–1. Place bay leaves in a vacuum chamber. Starting at 0 hour, gradually reduce to 0.133 Kpa vacuum at 8 hours. Maintain the vacuum until the end of the treatment. Gradually increase the temperature in the vacuum chamber from ambient temperature at 0 hour to 60 °C at 5 hours. After 5 hours, gradually lower the temperature to 30 °C at 22 hours. The length of the treatment is 22 hours.

Done in Washington, DC, this 17th day of June, 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–12437 Filed 6–22–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 04–011–2]

Highly Pathogenic Avian Influenza; Additional Restrictions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Technical amendment.

SUMMARY: In an interim rule published in the **Federal Register** on May 10, 2004, we amended the regulations concerning the importation of animals and animal products to prohibit or restrict the importation of birds, poultry, and bird and poultry products from regions that have reported the presence of the H5N1 subtype of highly pathogenic avian influenza and to establish additional permit and quarantine requirements for U.S. origin pet birds and performing or theatrical birds and poultry returning to the United States. In the preamble of the interim rule, we specified that the additional restrictions in part 94 would apply only to unprocessed bird and poultry products, but mistakenly omitted the word ''unprocessed'' in the rule portion; in this document, we are correcting this error.

DATES: This amendment is effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: For information concerning bird and poultry products, contact Dr. Tracye Butler, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–3277. For information concerning live birds and poultry, contact Dr. Julie Garnier, Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION: In an interim rule published in the **Federal Register** on May 10, 2004 (69 FR 25820–25826, Docket No. 04–011–1), we amended the animal import regulations in 9 CFR parts 93, 94, and 95 to prohibit or restrict the importation of birds, poultry, and bird and poultry products from regions that have reported the presence of the H5N1 subtype of highly pathogenic avian influenza (HPAI) and to establish additional permit and quarantine requirements for U.S. origin pet birds and performing or theatrical birds and poultry returning to the United States.

In the May 2004 interim rule, we specified in the preamble that unprocessed bird and poultry carcasses, parts, and products from regions where HPAI subtype H5N1 exists would be eligible for importation only if accompanied by an import permit and only if they are research or educational materials destined for a museum, educational institution, or research institution. However, in the rule portion of the interim rule we mistakenly omitted the word ''unprocessed,'' thereby holding both processed and unprocessed bird and poultry products to these restrictions. Therefore, in this document we are amending § 94.6, paragraph (e), to correct this omission.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT–AND–MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.6 [Amended]

■ 2. In § 94.6, the paragraph heading and first sentence of paragraph (e) are amended by removing the word ''Carcasses'' and by adding the words ''Unprocessed carcasses'' in their place.

Done in Washington, DC, this 17th day of June 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–12435 Filed 6–22–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21588; Directorate Identifier 2005–SW–24–AD; Amendment 39–14150; AD 2005–13–13]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–92A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters. This action requires replacing a certain part-numbered tail gear box output housing that has 600 or more hours time-in-service (TIS) with an airworthy part. Also, this AD revises the Airworthiness Limitations section of the maintenance manual by reducing the life limit of the tail gear box output housing. This amendment is prompted by the premature failure of the tail gear box output housing during fatigue testing by the manufacturer. The actions specified in this AD are intended to prevent fatigue failure of the tail gear box output housing, loss of tail rotor drive, and subsequent loss of control of the helicopter.

DATES: Effective July 8, 2005.

Comments for inclusion in the Rules Docket must be received on or before 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; or
- 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.

Examining the Docket

You may examine the docket that contains the AD, any comments, and other information on the Internet at *http://dms.dot.gov,* or in person at the Docket Management System (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 the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

FOR FURTHER INFORMATION CONTACT: Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7170.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for the Sikorsky Model S–92A helicopters. This action requires, before further flight, replacing tail gear box output housing, part number (P/N) 92358–06109–043, that has 600 or more hours TIS with an airworthy gear box output housing with less than 600 hours TIS. Also, this AD revises the Airworthiness Limitations section of the maintenance manual by reducing the life limit of the tail gear box output housing from 4500 hours TIS to 600 hours TIS. This amendment is prompted by the premature failure of the tail gear box output housing during fatigue testing by the manufacturer. The follow-on investigation indicated the manufacturing process created an oxide skin defect in the housing, making it necessary to reduce the life limit of the gear box housing from 4500 hours TIS to 600 hours TIS. The manufacturer is reviewing its processes on the output housing to determine methods, including a material change, to prevent the oxide skin defect.

In Chapter 4 of the Sikorsky S–92 Maintenance Manual, SA S92A-AWL–000, the tail gear box output housing is noted as a critical part. Further, in Note 12 to those Airworthiness Limitations and Inspection Requirements, the manufacturer states to remove the Tail Gear Box Assembly, P/N 92358–06100–043, which contains the Tail Gear Box Output Housing, P/N 92358–06109–043, and send it ''to a manufacturer authorized repair center for replacement of the time limited components.'' This AD does not require you to send the gear box assembly or output housing to a manufacturer authorized repair center or to the manufacturer. However, any entity removing and replacing the gear box assembly, output housing, or the critical parts within each of those components must be qualified and have approved data to perform that maintenance.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD is being issued to prevent fatigue failure of the tail gear box output housing, loss of tail rotor drive, and subsequent loss of control of the helicopter. This AD requires, before further flight, replacing each tail gear box output housing, P/N 92358–06109–043, with 600 or more hours TIS with an airworthy part. Also, this AD revises the Airworthiness Limitations section of the maintenance manual by reducing the life limit of the tail gear box output housing from 4500 hours TIS to 600 hours TIS.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability or structural integrity of the helicopter. Some operators may have already exceeded the 600 hours TIS. Therefore, replacing each tail gear box output housing that has reached 600 or more hours TIS with an airworthy tail gear box output housing is required before further flight and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

We estimate that this AD will affect 4 helicopters of U.S. registry, and replacing the tail gear box output housing will take about 8 work hours at an average labor rate of $65 per work hour. Required parts will cost about $4291 per helicopter. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $19,244.

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 written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21588; Directorate Identifier 2005–SW–24–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, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. 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.*

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 an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to 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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2005–13–13 Sikorsky Aircraft Corporation: Amendment 39–14150. Docket No. FAA–2005–21588; Directorate Identifier 2005–SW–24–AD.

Applicability: Model S–92A helicopters, with a gear box output housing, part number (P/N) 92358–06109–043, installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of the tail gear box output housing, loss of tail rotor drive, and subsequent loss of control of the helicopter, do the following:

(a) Before further flight, replace each tail gear box output housing, P/N 92358–06109–043, with 600 or more hours time-in-service (TIS) with an airworthy tail gear box housing with less than 600 hours TIS.

Note: Sikorsky Maintenance Manual SA S92A–AWL–000, Airworthiness Limitations and Inspection Requirements, Chapter 4, dated March 3, 2005, contains the limitation for the tail gear box output housing.

(b) This AD revises the Airworthiness Limitations section of the maintenance manual by reducing the life limit of the tail gear box output housing from 4500 hours TIS to 600 hours TIS.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Boston Aircraft Certification Office, FAA, for information about previously approved alternative methods of compliance.

(d) This amendment becomes effective on July 8, 2005.

Issued in Fort Worth, Texas, on June 10, 2005.

S. Frances Cox,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 05–12417 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30449; Amdt. No. 3125]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 23, 2005. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 23, 2005.

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located;
3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For

information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

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

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on June 17, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 7 Jul 2005

Plymouth, MA, Plymouth Muni, ILS OR LOC/DME RWY 6, Orig
Plymouth, MA, Plymouth Muni, LOC/DME RWY 6, Orig, CANCELLED
Newark, NJ, Newark Liberty Intl, ILS OR LOC RWY 22R, Amdt 4
West Dover, VT, Mount Snow, NDB RWY 1, Amdt 1
West Dover, VT, Mount Snow, RNAV (GPS) RWY 1, Orig
West Dover, VT, Mount Snow, Takeoff Minimums and Textual DP, Amdt 1

Effective 1 Sep 2005

Batesville, AR, Batesville Regional, RNAV (GPS) RWY 7, Orig
Batesville, AR, Batesville Regional, RNAV (GPS) RWY 25, Orig
Batesville, AR, Batesville Regional, LOC RWY 7, Orig
Batesville, AR, Batesville Regional, NDB OR GPS RWY 7, Amdt 5D, CANCELLED
Batesville, AR, Batesville Regional, Takeoff Minimums and Textual DP, Amdt 2
Fort Huachuca-Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, VOR RWY 26, Amdt 4
Fort Huachuca-Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, NDB RWY 26, Amdt 4
Fort Huachuca-Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, ILS OR LOC RWY 26, Amdt 3
Fort Huachuca-Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, RNAV (GPS) RWY 8, Orig
Fort Huachuca-Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, RNAV (GPS) RWY 26, Orig

Fort Huachuca-Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, GPS RWY 8, Orig-B, CANCELLED
Fort Huachuca-Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, GPS RWY 26, Orig-A, CANCELLED
Yuma, AZ, Yuma MCAS-Yuma Intl, VOR RWY 17, Amdt 5A, CANCELLED
Yuma, AZ, Yuma MCAS-Yuma Intl, VOR/DME OR TACAN–1 RWY 17, Amdt 1B, CANCELLED
Yuma, AZ, Yuma MCAS-Yuma Intl, VOR/DME RNAV RWY 21R, Amdt 4A, CANCELLED
Yuma, AZ, Yuma MCAS-Yuma Intl, ILS RWY 21R, Amdt 5A, CANCELLED
Yuma, AZ, Yuma MCAS-Yuma Intl, GPS RWY 17, Orig-B, CANCELLED
Yuma, AZ, Yuma MCAS-Yuma Intl, GPS RWY 21R, Orig-A, CANCELLED
Yuma, AZ, Yuma MCAS-Yuma Intl, Takeoff Minimums and Textual DP, Amdt 2, CANCELLED
Los Angeles, CA, Los Angeles Intl, Takeoff Minimums and Textual DP, Amdt 11
Visalia, CA, Visalia Muni, NDB RWY 30, Amdt 3B, CANCELLED
Aspen, CO, Aspen-Pitkin County/Sardy Field, LOC/DME–E, Orig
Washington, DC, Washington Dulles Intl, ILS OR LOC RWY 1R, ILS RWY 1R (CAT II), ILS RWY 1R (CAT III), Amdt 23
Washington, DC, Washington Dulles Intl, ILS OR LOC RWY 19L, Amdt 12
Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 19L, Amdt 6
Caldwell, ID, Caldwell Industrial, NDB RWY 30, Amdt 1
Caldwell, ID, Caldwell Industrial, RNAV (GPS) RWY 12, Orig
Caldwell, ID, Caldwell Industrial, RNAV (GPS) RWY 30, Orig
Caldwell, ID, Caldwell Industrial, GPS RWY 12, Orig-A, CANCELLED
Caldwell, ID, Caldwell Industrial, GPS RWY 30, Orig-A, CANCELLED
Caldwell, ID, Caldwell Industrial, Takeoff Minimums and Textual DP, Amdt 5
Terre Haute, IN, Terre Haute International-Hulman Field, RNAV (GPS) RWY 14, Orig
Terre Haute, IN, Terre Haute International-Hulman Field, RNAV (GPS) RWY 32, Orig
Terre Haute, IN, Terre Haute International-Hulman Field, GPS RWY 32, Orig, CANCELLED
Terre Haute, IN, Terre Haute International-Hulman Field, VOR/DME RNAV RWY 32, Amdt 8, CANCELLED
Slidell, LA, Slidell, RNAV (GPS) RWY 36, Orig-A
Jefferson City, MO, Jefferson City Meml, LOC BC RWY 12, Amdt 6D, CANCELLED
Joplin, MO, Joplin Regional, RNAV (GPS) RWY 13, Orig
Joplin, MO, Joplin Regional, RNAV (GPS) RWY 18, Orig
Joplin, MO, Joplin Regional, RNAV (GPS) RWY 31, Orig
Joplin, MO, Joplin Regional, RNAV (GPS) RWY 36, Orig
Joplin, MO, Joplin Regional, ILS OR LOC/DME RWY 18, Amdt 2
Joplin, MO, Joplin Regional, ILS OR LOC/NDB RWY 13, Orig
Joplin, MO, Joplin Regional, ILS RWY 13, Amdt 23B, CANCELLED
Joplin, MO, Joplin Regional, LOC BC RWY 31, Amdt 21
Joplin, MO, Joplin Regional, GPS RWY 13, Orig, CANCELLED
Joplin, MO, Joplin Regional, GPS RWY 18, Orig, CANCELLED
Joplin, MO, Joplin Regional, GPS RWY 36, Orig-A, CANCELLED
Joplin, MO, Joplin Regional, NDB RWY 13, Amdt 25
Joplin, MO, Joplin Regional, Takeoff Minimums and Textual DP, Amdt 4
Billings, MT, Billings Logan Intl, RNAV (GPS) RWY 10L, Amdt 1
Billings, MT, Billings Logan Intl, RNAV (GPS) RWY 28R, Amdt 1
Berlin, NH, Berlin Muni, NDB RWY 18, Orig-C, CANCELLED
Blairstown, NJ, Blairstown, VOR RWY 25, Amdt 2
Blairstown, NJ, Blairstown, RNAV (GPS) RWY 7, Orig
Blairstown, NJ, Blairstown, RNAV (GPS) RWY 25, Orig
Blairstown, NJ, Blairstown, GPS RWY 7, Orig, CANCELLED
Middletown, NY, Randall, RNAV (GPS) RWY 8, Orig
Middletown, NY, Randall, RNAV (GPS) RWY 26, Orig
Middletown, NY, Randall, GPS RWY 8, Orig, CANCELLED
Middletown, NY, Randall, GPS RWY 26, Orig, CANCELLED
Tulsa, OK, Richard Lloyd Jones Jr, RNAV (GPS) RWY 1L, Orig
Tulsa, OK, Richard Lloyd Jones Jr, ILS OR LOC RWY 1L, Amdt 1
Tulsa, OK, Richard Lloyd Jones Jr, GPS RWY 1L, Orig-A, CANCELLED
Eugene, OR, Mahlon Sweet Field, VOR/DME OR TACAN RWY 34L, Amdt 4D
Eugene, OR, Mahlon Sweet Field, VOR/DME OR TACAN RWY 16R, Amdt 4C
Eugene, OR, Mahlon Sweet Field, NDB RWY 16R, Amdt 29D
Eugene, OR, Mahlon Sweet Field, ILS OR LOC RWY 16R, ILS RWY 16R (CAT II), Amdt 34C
St. Marys, PA, St. Marys Muni, RNAV (GPS) RWY 10, Orig
St. Marys, PA, St. Marys Muni, VOR/DME RNAV RWY 10, Amdt 5B, CANCELLED
Rapid City, SD, Rapid City Regional, RNAV (GPS) RWY 14, Amdt 1
Millington, TN, Millington Muni, GPS RWY 4, Orig-A, CANCELLED
Millington, TN, Millington Muni, RNAV (GPS) RWY 4, Orig

The FAA published an Amendment in Docket No. 30447, Amdt No. 3124 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 115, pages 34992–34993; dated June 16, 2005) under section 97.33 effective 7 JUL 2005, which is hereby rescinded:

Castroville, TX, Castroville Muni, RNAV (GPS) RWY 15, Orig
Raton, NM, Raton Municipal/Crews Field, NDB RWY 2, Amdt 5

[FR Doc. 05–12362 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Embutramide, Chloroquine, and Lidocaine Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Phoenix Scientific, Inc. The NADA provides for veterinary prescription use of a solution containing embutramide, chloroquine phosphate, and lidocaine by intravenous injection for euthanasia of dogs.

DATES: This rule is effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7543, e-mail: *melanie.berson@fda.gov*.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Ter., St. Joseph, MO 64503, filed NADA 141 245 that provides for veterinary prescription use of TRIBUTAME Euthanasia Solution (embutramide; chloroquine phosphate, U.S.P.; and lidocaine, USP) by intravenous injection for euthanasia of dogs. The NADA is approved as of May 20, 2005, and the regulations are amended in 21 CFR part 522 by adding § 522.810 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning May 20, 2005.

FDA has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subject in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 522.810 is added to read as follows:

§ 522.810 Embutramide, chloroquine, and lidocaine solution.

(a) *Specifications*. Each milliliter (mL) of solution contains 135 milligrams (mg) embutramide; 45 mg chloroquine phosphate, U.S.P.; and 1.9 mg lidocaine, U.S.P.

(b) *Sponsor*. See No. 059130 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount*. One mL per 5 pounds of body weight.

(2) *Indications for use*. For euthanasia.

(3) *Limitations*. Not for use in animals intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: June 10, 2005.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 05–12422 Filed 6–22–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 556

New Animal Drugs; Moxidectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Fort Dodge Animal Health. The NADA provides for use of an injectable moxidectin solution for the treatment and control of various internal and external parasites of cattle.

DATES: This rule is effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7571, e-mail: *jgotthar@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, Division of Wyeth, 800 Fifth St. NW., Fort Dodge, IA 50501, filed NADA 141–220 that provides for use of CYDECTIN (moxidectin) Injectable Solution for Beef and Nonlactating Dairy Cattle for the treatment and control of various internal and external parasites. The NADA is approved as of May 20, 2005, and the regulations are amended in part 522 (21 CFR part 522) by adding § 522.1450 and in part 556 (21 CFR part 556) by revising § 556.426 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning May 20, 2005.

The agency has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 522.1450 is added to read as follows:

§ 522.1450 Moxidectin solution.

(a) *Specifications*. Each milliliter of solution contains 10 milligrams (mg) moxidectin.

(b) *Sponsor*. See No. 000856 in § 510.600(c) of this chapter.

(c) *Related tolerances*. See § 556.426 of this chapter.

(d) *Conditions of use in beef and nonlactating dairy cattle*.—(1) *Amount*. 0.2 mg/kilogram body weight (0.2 mg/2.2 pound) as a single subcutaneous injection.

(2) *Indications for use*. For treatment and control of gastrointestinal roundworms: *Ostertagia ostertagi* (adults and inhibited fourth-stage larvae), *Haemonchus placei* (adults), *Trichostrongylus axei* (adults), *T. colubriformis* (fourth-stage larvae), *Cooperia oncophora* (adults), *C. punctata* (adults and fourth-stage larvae), *C. surnabada* (adults and fourth-stage larvae), *Oesophagostomum radiatum* (adults and fourth-stage larvae), *Trichuris* spp. (adults); lungworms: *Dictyocaulus viviparus* (adults and fourth-stage larvae); grubs: *Hypoderma bovis* and *H. lineatum*; mites: *Psoroptes ovis* (*P. communis* var. *bovis*); lice: *Linognathus vituli* and *Solenopotes capillatus*; for protection of cattle from reinfection with *D. viviparus* and *O. radiatum* for 42 days after treatment, with *H. placei* for 35 days after treatment, and with *O. ostertagi* and *T. axei* for 14 days after treatment.

(3) *Limitations*. Do not slaughter cattle within 21 days of treatment. Because a withholding time for milk has not been established, do not use in female dairy

cattle of breeding age. A withdrawal period has not been established for preruminating calves. Do not use in calves to be processed for veal.

§ 522.1451 [Amended]

■ 3. Section 522.1451 is amended by revising the section heading to read ''Moxidectin for suspension.''

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 4. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

■ 5. Section 556.426 is amended by redesignating paragraphs (b)(1)(i) through (b)(1)(iii) as paragraphs (b)(1)(ii) through (b)(1)(iv); by revising newly redesignated paragraphs (b)(1)(ii) and (b)(1)(iv); and by adding new paragraphs (b)(1)(i) and (c) to read as follows:

§ 556.426 Moxidectin.

* * * * *

(b) * * *

(1) * * *

(i) *Fat* (*the target tissue*). The tolerance for parent moxidectin (the marker residue) is 900 parts per billion (ppb).

(ii) *Liver*. The tolerance for parent moxidectin (the marker residue) is 200 ppb.

(iii) * * *

(iv) *Milk*. The tolerance for parent moxidectin (the marker residue) is 40 ppb.

* * * * *

(c) *Related conditions of use*. See § 522.1451 of this chapter.

Dated: June 10, 2005.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 05–12421 Filed 6–22–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Gentamicin Sulfate, Mometasone Furoate, Clotrimazole Otic Suspension; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for a new container size, a 7.5-gram dropper bottle, from which gentamicin sulfate, mometasone furoate, clotrimazole otic suspension may be administered for the treatment of otitis externa in dogs. The regulations are also being amended to correct the description of a previously approved container size. This action is being taken to improve the accuracy of the regulations.

DATES: This rule is effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: *melanie.berson@fda.gov*.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., Union, NJ 07083, filed a supplement to NADA 141–177 for use of MOMETAMAX (gentamicin sulfate, U.S.P.; mometasone furoate monohydrate; and clotrimazole, U.S.P.) Otic Suspension for the treatment of otitis externa in dogs. The supplement provides for a new container size, a 7.5-gram dropper bottle. The supplemental NADA is approved as of June 1, 2005, and the regulations are amended in 21 CFR 524.1044h to reflect the approval.

The regulations are also being amended to correct the description of a previously approved container size. This action is being taken to improve the accuracy of the regulations.

The agency has determined under 21 CFR 25.33(a)(4) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subject in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 524.1044h is amended by revising paragraphs (b) and (c)(1) to read as follows:

§ 524.1044h Gentamicin sulfate, mometasone furoate, clotrimazole otic suspension.

* * * * *

(b) *Sponsor*. See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount*. For dogs weighing less than 30 pounds (lb), instill 4 drops from the 7.5-, 15-, or 30-gram (g) bottle into the ear canal (2 drops from the 215-g bottle) or, for dogs weighing 30 lb or more, instill 8 drops from the 7.5-, 15-, or 30-g bottle into the ear canal (4 drops from the 215-g bottle), once or twice daily for 7 days.

* * * * *

Dated: June 15, 2005.

Steven D. Vaugh,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 05–12402 Filed 6–22–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301 and 1306

[Docket No. DEA–202F]

RIN 1117–AA68

Authority for Practitioners To Dispense or Prescribe Approved Narcotic Controlled Substances for Maintenance or Detoxification Treatment

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: DEA is amending its regulations to allow qualified practitioners not otherwise registered as a narcotic treatment program to dispense and prescribe to narcotic dependent persons Schedule III, IV, and V narcotic controlled drugs approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment. This Final Rule is in response to amendments to the Controlled Substances Act by the Drug Addiction Treatment Act of 2000 (DATA) that are designed to expand and

improve treatment of narcotic addiction. This Final Rule is intended to accomplish the goals of DATA while preventing the diversion of Schedule III, IV, and V narcotic controlled drugs approved by the Food and Drug Administration specifically for maintenance/detoxification treatment.

DATES: *Effective Date:* July 25, 2005.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Technical Modification Regarding This Final Rule

In its Notice of Proposed Rulemaking (NPRM) proposing amendment of the regulations to implement the Drug Addiction Treatment Act of 2000, DEA proposed a new § 1301.27 of Title 21 of the Code of Federal regulations. Subsequent to publication of that NPRM, DEA published a Final Rule entitled ''Preventing the Accumulation of Surplus Controlled Substances at Long Term Care Facilities'' (70 FR 25462, May 13, 2005; Docket No. DEA–240, RIN 1117–AA75) which amended Title 21 by adding a new § 1301.27. Therefore, amendments regarding the Drug Addiction Treatment Act of 2000 which were proposed to be included in new § 1301.27 are being finalized at § 1301.28.

Background

On October 17, 2000, Congress passed the Drug Addiction Treatment Act of 2000 (DATA), amending the Controlled Substances Act (CSA) to establish ''waiver authority for physicians who dispense or prescribe certain narcotic drugs for maintenance treatment or detoxification treatment'' (Pub. L. 106–310, title XXXV; 114 Stat. 1222). Prior to DATA, the Controlled Substances Act and DEA regulations required practitioners who wanted to conduct maintenance or detoxification treatment using narcotic controlled drugs to be registered as a Narcotic Treatment Program (NTP) in addition to the practitioner's personal registration. The separate NTP registration authorized the practitioner to dispense or administer, but not prescribe, narcotic drugs.

With passage of DATA, DEA published a notice of proposed rulemaking (68 FR 37429, June 24, 2003) to amend the regulations affecting maintenance and detoxification treatment for narcotic treatment by establishing an exemption from the separate registration requirement.

This Final Rule will permit the following:

(1) Qualifying physicians to dispense and prescribe Schedule III, IV, and V narcotic controlled drugs approved by the Food and Drug Administration (FDA) specifically for use in maintenance or detoxification treatment.

(2) Narcotic dependent patients to have one-on-one consultations with a practitioner in a private practice setting.

(3) Pharmacies to fill prescriptions for Schedule III, IV, and V narcotic controlled drugs approved by FDA specifically for use in maintenance or detoxification treatment.

(4) Practitioners to offer maintenance and detoxification treatment to a limited number of patients in their private practices without having a second registration as a NTP.

The exemption and other amendments established by this Final Rule apply to individual practitioners working in traditional NTPs as well as any other practice setting. This rule does not affect the existing prohibition against prescribing any Schedule II narcotic controlled drugs for maintenance or detoxification treatment.

Conditions for Qualifying for an Exemption Under Section 1301.28

A practitioner who wishes to qualify for the exemption in new § 1301.28 must submit a notification of intent to dispense or prescribe narcotic controlled drugs to opiate-dependent patients to the U.S. Department of Health and Human Services (DHHS). In the notification the practitioner must certify that all of the following are true:

(1) The practitioner is a ''qualifying physician.'' A practitioner is a ''qualifying physician'' if he or she is licensed under State law and has specific medical certification, training, or experience in maintenance or detoxification treatment. The Secretary of DHHS has established criteria to be used for determining whether a practitioner is a ''qualifying physician.''

(2) The practitioner has the capacity to refer the patients, to whom the practitioner will provide specifically approved narcotic drugs or combinations of narcotic drugs, for appropriate counseling and other appropriate ancillary services.

(3) The total number of patients treated for opiate dependence by the practitioner who is not a member of a group practice will not exceed 30 at any one time, unless modified by regulation by the Secretary of DHHS.

(4) If the practitioner is a member of a group practice, the total number of patients treated for opiate dependence by the group practice of which the practitioner is a member will not exceed 30 at any one time, unless modified by regulation by the Secretary of DHHS.

The Schedule III, IV or V narcotic drugs or combination of narcotic drugs dispensed or prescribed by the practitioner must meet the following two conditions:

(1) The drugs are approved by FDA specifically for use in maintenance treatment or detoxification treatment.

(2) The drugs have not been the subject of an adverse determination by DHHS that their use requires additional standards respecting the qualifications of practitioners or the quantities of the drugs that may be provided for unsupervised use.

Agency Response To Notification and the Issuance of an Identification Number

When DHHS receives a notification of intent to dispense or prescribe narcotic controlled drugs for maintenance or detoxification treatment it will forward a copy of the notification to DEA. From the date DHHS receives the notification it will have up to 45 days to review the practitioner's qualifications and make a determination as to whether the practitioner meets all of the requirements for the exemption. While DHHS is conducting its determination, DEA will conduct its own review to determine if the practitioner has the appropriate DEA registration in accordance with 21 U.S.C. 823(f).

Once DHHS has made its determination, it will send the findings to DEA. If DEA determines that the practitioner has the appropriate DEA registration in accordance with 21 U.S.C. 823(f), then DEA will issue the practitioner an identification number as soon as either of the following conditions occurs: (1) DEA receives the positive determination from DHHS before the conclusion of the 45-day review period, or (2) the 45-day review period has concluded and no DHHS determination has been received.

If HHS denies certification to a practitioner or withdraws a certification once it is issued, then DEA will not issue the practitioner an identification number or will withdraw the identification number if one has been issued. Under § 1301.28(d) the practitioner is required to include the identification number on all records when dispensing and on all prescriptions when prescribing Schedule III, IV, or V narcotic controlled drugs for use in maintenance or detoxification treatment.

Exception to the 45-Day Review Period

The practitioner does not have to wait for receipt of an identification number from DEA if the practitioner is in compliance with § 1301.28(e). The practitioner can begin dispensing or prescribing during the 45-day review period if all of the following requirements are met:

(1) The practitioner has submitted, in good faith, a written notification under § 1301.28(b).

(2) The practitioner reasonably believes that the conditions specified in § 1301.28(b) and (c), regarding the practitioner and the narcotic drugs, have been met.

(3) The practitioner reasonably believes that prescribing or dispensing the narcotic drugs would facilitate the treatment of an individual patient.

(4) The practitioner has notified both DHHS and DEA of the intent to do so.

(5) DHHS has not notified the registrant that he or she is not a qualifying physician.

(6) The practitioner has the appropriate DEA registration under 21 CFR 1301.13.

The practitioner may satisfy the fourth requirement by including within the notification required by § 1301.28(b) a statement of his or her intent to immediately commence prescribing or dispensing. If DHHS refuses to certify a practitioner or withdraws a certification once it is issued, then DEA will not issue the practitioner an identification number or will withdraw the identification number if one has been issued.

Violation of Section 1301.28(b)

If a practitioner dispenses or prescribes Schedule III, IV, or V narcotic drugs in violation of any of the conditions specified in § 1301.28(b), then DEA may revoke the practitioner's DEA registration in accordance with § 1301.36.

Due to the potential for diversion, and in an effort to verify compliance with these regulations, DEA intends to conduct at least two regulatory investigations per field office per year of practitioners dispensing and prescribing to narcotic dependent persons Schedule III, IV, and V narcotic controlled drugs approved by the FDA specifically for use in maintenance or detoxification treatment.

Practitioners in Traditional NTPs Treated the Same as Practitioners in Other Practice Settings

This Final Rule affects practitioners working in traditional NTPs the same as any other practitioners. Prior to this final rule, practitioners, whether in a traditional NTP or any other setting, were not permitted to prescribe Schedule III, IV, and V narcotic controlled drugs for use in maintenance or detoxification treatment. This Final Rule applies to any ''qualifying physician,'' working in a NTP or other setting, who wants to dispense or prescribe Schedule III, IV, and V narcotic controlled drugs approved by FDA specifically for use in maintenance or detoxification treatment. However, as discussed further below, since narcotic treatment programs are not permitted to prescribe controlled substances, if a physician working at a narcotic treatment program wishes to prescribe Schedule III, IV, and V narcotic controlled drugs approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment, then the physician must register separately as an individual practitioner with DEA and obtain a waiver pursuant to 21 CFR 1301.28 to conduct such treatment. The practitioner would not issue such prescriptions under the narcotic treatment program's DEA registration.

Additional Requirements

Section 1306.05(a) requires the practitioner to include on the prescription the identification number (issued under § 1301.28(d)) or written notice that the practitioner is acting under the good faith exception of § 1301.28(e). These prescriptions will be subject to all of the existing requirements of part 1306 that apply to prescriptions for controlled substances. To be valid, a prescription must be written for a legitimate medical purpose by a practitioner acting in the usual course of his or her professional practice (§ 1306.04(a)). The prescription must be dated as of, and signed on, the day issued, must contain the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address, and registration number of the practitioner (§ 1306.05(a)).

Under existing law practitioners are not normally required to keep records of prescriptions issued. However, DEA regulations (§ 1304.03(c)) do require records to be kept by practitioners prescribing controlled substances listed in any schedule for maintenance or detoxification treatment of an individual.

For conformity § 1306.04, Purpose of issue of prescription, and § 1306.07, Administering or dispensing of narcotic drugs, have been amended by this Final Rule. This Final Rule amends § 1306.04(c) to permit prescriptions for Schedule III, IV, and V narcotic controlled drugs approved by FDA specifically for maintenance or detoxification treatment by practitioners who are in compliance with § 1301.28.

Section 1306.07(a) permits the administering and dispensing (but not prescribing) of narcotic drugs for detoxification or maintenance treatment only by practitioners who are separately registered as a Narcotic Treatment Program. This Final Rule adds paragraph (d) to § 1306.07 to permit a practitioner to administer or dispense (including prescribe) any Schedule III, IV, or V narcotic controlled drug approved by FDA specifically for use in maintenance or detoxification treatment if the practitioner is in compliance with § 1301.28. This Final Rule also revises § 1306.07(a) to improve the clarity of the language, as discussed in the Public Comments on the NPRM section below.

Refills

DEA regulations allow practitioners to authorize refills for Schedule III, IV, or V controlled substance prescriptions. Prescriptions for Schedule III, IV, and V controlled substances are subject to the requirements in §§ 1306.22 and 1306.23, regarding the refilling and partial filling of prescriptions. In addition, practitioners prescribing Schedule III, IV, or V narcotic drugs for use in maintenance or detoxification treatment are subject to all relevant State and Federal requirements that apply to prescriptions for controlled drugs.

Other Relevant Requirements Not Affected by the Final Rule

Practitioners who administer or dispense (other than by prescription) Schedule III, IV, or V narcotic drugs approved by FDA specifically for maintenance or detoxification treatment must maintain records and provide security for the controlled drugs in their possession. Records required to be maintained include inventories, records of receipt, reports of theft or loss, destruction of controlled drugs, and records of dispensing. These records must be maintained for two years.

The regulations also require practitioners to safeguard controlled drugs (§ 1301.75(b)). The Schedule III, IV, or V narcotic controlled drugs approved by FDA specifically for maintenance or detoxification treatment must be stored in a securely locked, substantially constructed cabinet.

Regulations on prescribing allow the use of a written prescription signed by a practitioner, or a facsimile of a written prescription signed by a practitioner, transmitted by the practitioner, or the practitioner's agent, to the pharmacy

(§ 1306.21). In addition, a practitioner may telephone the pharmacy with an oral prescription. The pharmacist must immediately reduce the oral prescription to writing, including all information required in § 1306.05, except for the signature of the practitioner (§ 1306.21(a)).

Public Comments on the NPRM

DEA received six comments in response to the proposed rule. Commenters included community health centers, hospitals, an industry association, and the Center for Substance Abuse Treatment of the Department of Health and Human Services (CSAT). While the commenters supported the general intent of the rule, they also requested changes to certain aspects of the rule. The following discussion summarizes the issues raised by commenters and DEA's response to these issues.

Practitioners Other Than Physicians

Three commenters requested that the rule be modified to permit mid-level practitioners, including physician assistants, nurse practitioners and, where states permit, pharmacists, who meet the appropriate training and certification criteria to be deemed ''qualifying physicians'' and, thus, to be able to prescribe Schedule III, IV and V narcotic controlled drugs for maintenance or detoxification treatment.

DEA Response: The final rule has not been modified to allow mid-level practitioners, such as pharmacists, nurse practitioners, and physician assistants to prescribe Schedule III, IV, and V substances for substance abuse treatment. In DATA Congress specified that physicians may prescribe these substances. This final rule is also consistent with the rules and policies of CSAT.

30 Patient Limit

One commenter expressed concern regarding the 30 patient limit, stating that it was difficult to treat all patients served by the facility without experiencing problems with this limit.

DEA Response: The 30 patient limit is specifically referenced in the law (21 U.S.C. 823(g)(2)(iii) and (iv)) where it is referred to as the ''applicable number''. The law specifically grants the Secretary of Health and Human Services the authority to change, by regulation, the applicable number. DEA does not have authority regarding the 30 patient limit, and, thus, is leaving the regulations unchanged.

Pharmacist Responsibilities

One commenter was concerned that pharmacists have the necessary information to ensure that a physician has made the good faith effort to obtain an identification number. The commenter also questioned whether the pharmacist is responsible for ensuring that only one patient is treated by the physician prior to receipt of the identification number. The commenter requested that DEA clarify in the final rule that pharmacists are not responsible for ensuring the ''one patient'' rule other than patients that the pharmacy serves.

Further, the same commenter questioned how the pharmacist will know if a physician goes over the 30 patient limit, and requested DEA clarify whether pharmacists would be responsible for enforcing this limit.

DEA Response: Pharmacists only need to be sure that the practitioner either has received an identification number or is claiming the good faith exception. Pharmacists are not responsible for ensuring that only one patient is treated by the practitioner prior to receipt of the identification number. The language in § 1301.28(e)(3) has been revised in the Final Rule to make this clear.

Pharmacists are also not covered by the 30-patient rule. Pharmacists are not required to investigate the validity of the practitioners' good faith claim nor their compliance with the 30-patient rule.

DEA wishes to note, however, that if a pharmacy becomes aware of circumstances in which it has reason to believe that a qualifying physician is violating either the good faith exception or the limit regarding the applicable number of patients which a qualifying physician is permitted to treat, DEA would expect the pharmacy to report this information to DEA as a matter of public interest.

The individual practitioner (physician) is responsible for compliance with the requirements of § 1301.28. The practitioner must submit to DHHS a separate notification letter for each patient the practitioner plans to treat under § 1301.28(e).

Physicians With Waivers

CSAT stated that it has received several inquiries from physicians with ''waivers'' who intend to treat patients in NTPs as well as other settings, including ''drug-free'' treatment programs. CSAT requested that the final rule should clarify that physicians with waivers do not need to register as NTPs to dispense buprenorphine products under the conditions set forth in DATA.

DEA Response: Individual practitioners with waivers do not need to register as NTPs to dispense buprenorphine products under the conditions set forth in DATA. These practitioners may treat patients in NTPs or other settings just as any other practitioner would in accordance with this Final Rule. Practitioners also must comply with all state requirements related to buprenorphine products, which may be more than DEA requirements.

DEA wishes to reiterate that narcotic treatment programs may administer or dispense directly, but not prescribe, narcotic drugs approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment to narcotic dependent persons for maintenance or detoxification treatment. Thus, narcotic treatment programs may administer or dispense directly Schedule III, IV, and V narcotic controlled drugs approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment. Narcotic treatment programs are not limited in the number of patients to whom they may administer or dispense directly these controlled substances. Such controlled substances, however, may not be prescribed. If a physician working at a narcotic treatment program wishes to prescribe Schedule III, IV, and V narcotic controlled drugs approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment, then the physician must register separately as an individual practitioner with DEA and obtain a waiver pursuant to 21 CFR 1301.28 to conduct such treatment. The practitioner would not issue such prescriptions under the narcotic treatment program's DEA registration.

Records

CSAT stated that since the CSA defines practitioners to include pharmacies, it was unclear from the NPRM (68 FR 37432) whether pharmacies are required to maintain records of dispensation.

DEA Response: In the preamble to the NPRM the use of the word practitioners was referring to the individual practitioners (physicians) who administer or dispense Schedule III, IV, or V narcotic drugs approved by the FDA specifically for maintenance or detoxification treatment. In addition, pharmacies are required to maintain records of all controlled substance dispensing.

Written Notification

CSAT requested that the Final Rule should clarify when a written notification is necessary. CSAT recommended allowing all forms of notification submission for ''good faith'' waivers.

DEA Response: The Final Rule has been modified to clarify the circumstances in which notification must be provided in writing. The requirement for written notification is contained in the law and DEA, therefore, has no authority to permit other forms of notification.

Issuance of an Order

CSAT questioned the requirement in § 1301.28(e)(5), that states that DEA will issue a practitioner an identification number if ''the Secretary has not issued an order indicating that the registrant is not qualified under paragraph (d) of this section.'' CSAT stated that the limited review period does not permit sufficient time to issue ''an order'' to each physician with incomplete or deficient notifications. CSAT believed it should be sufficient to inform physicians of deficiencies by phone, fax, or letter. CSAT recommended that the language be revised to reflect ''the Secretary has not notified the registrant that they are not qualified under paragraph (d) of this section.''

DEA Response: The Final Rule has been modified to remove the language specifying that the Secretary must issue an order indicating that the registrant is not qualified. The revised language states that the Secretary has not notified the registrant that he or she is not qualified.

Administering or Dispensing of Narcotic Drugs

CSAT indicated that the language in § 1306.07(a) should clarify that qualifying physicians would only be able to administer or dispense directly those schedule III, IV, or V narcotic drugs that meet the legislated criteria under DATA. This would not include narcotic drugs listed in schedule II.

DEA Response: DEA agrees with this comment and has clarified the language of § 1306.07(a)(2) to remove the reference to § 1301.28 so that paragraph (a)(2) now states that the practitioner is in compliance with DEA regulations regarding treatment qualifications, security, records, and unsupervised use of the drugs.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator, Office of Diversion Control, has reviewed this regulation and hereby certifies that it has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and that it will not have a significant economic impact on a substantial number of small entities. This rule permits practitioners to prescribe Schedule III, IV, and V narcotic controlled drugs approved by FDA specifically for use in maintenance or detoxification treatment without being separately registered with DEA as a NTP. Although virtually all entities affected would be small, the cost of determining eligibility and applying for a waiver is negligible. Further, the ability to prescribe Schedule III, IV and V narcotic controlled substances specifically approved by FDA for maintenance/detoxification treatment to narcotic dependent persons is not required; physicians choosing to conduct this treatment do so voluntarily and choose to apply for the waiver.

Executive Order 12866

The Deputy Assistant Administrator further certifies that this rule has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). DEA has determined that this is not a significant rulemaking action. Therefore, this action has not been reviewed by the Office of Management and Budget. As noted above, this rule permits practitioners to prescribe Schedule III, IV, and V narcotic controlled drugs approved by FDA specifically for use in maintenance or detoxification treatment without being separately registered with DEA as a NTP.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132

This rule does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have Federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $115,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

List of Subjects

21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

21 CFR Part 1306

Drug traffic control, Prescription drugs.

■ For the reasons set out above, 21 CFR Parts 1301 and 1306 are amended as follows:

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877, 951, 952, 953, 956, 957.

■ 2. Part 1301 is amended by adding § 1301.28 to read as follows:

§ 1301.28 Exemption from separate registration for practitioners dispensing or prescribing Schedule III, IV, or V narcotic controlled drugs approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment.

(a) An individual practitioner may dispense or prescribe Schedule III, IV, or V narcotic controlled drugs or combinations of narcotic controlled drugs which have been approved by the Food and Drug Administration (FDA) specifically for use in maintenance or detoxification treatment without obtaining the separate registration required by § 1301.13(e) if all of the following conditions are met:

(1) The individual practitioner meets the conditions specified in paragraph (b) of this section.

(2) The narcotic drugs or combination of narcotic drugs meet the conditions specified in paragraph (c) of this section.

(3) The individual practitioner is in compliance with either paragraph (d) or paragraph (e) of this section.

(b)(1) The individual practitioner must submit notification to the Secretary of Health and Human Services stating the individual practitioner's intent to dispense or prescribe narcotic drugs under paragraph (a) of this section. The notice must contain all of the following certifications:

(i) The individual practitioner is registered under § 1301.13 as an individual practitioner and is a ''qualifying physician'' as defined in section 303(g)(2)(G) of the Act (21 U.S.C. 823(g)(2)(G)).

(ii) The individual practitioner has the capacity to refer the patients to whom the individual practitioner will provide narcotic drugs or combinations of narcotic drugs for appropriate counseling and other appropriate ancillary services.

(iii) Where the individual practitioner is not a member of a group practice, the total number of such patients of the individual practitioner will not exceed 30 at any one time, unless regulations promulgated by the Secretary of Health and Human Services are modified.

(iv) Where the individual practitioner is a member of a group practice, the total number of such patients of the group practice will not exceed 30 at any one time, unless regulations promulgated by the Secretary of Health and Human Services are modified.

(2) If an individual practitioner wishes to prescribe or dispense narcotic drugs pursuant to paragraph (e) of this section, the individual practitioner must provide the Secretary of Health and Human Services the following:

(i) Notification as required under paragraph (b)(1) of this section in writing, stating the individual practitioner's name and DEA registration number issued under § 1301.13.

(ii) If the individual practitioner is a member of a group practice, the names of the other individual practitioners in the group and the DEA registration numbers issued to the other individual practitioners under § 1301.13.

(c) The narcotic drugs or combination of narcotic drugs to be dispensed or prescribed under this section must meet all of the following conditions:

(1) The drugs or combination of drugs have been approved for use in ''maintenance treatment'' or ''detoxification treatment'' under the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act.

(2) The drugs or combination of drugs have not been the subject of an adverse determination by the Secretary of Health and Human Services, after consultation with the Attorney General, that the use of the drugs or combination of drugs requires additional standards respecting the qualifications of practitioners or the quantities of the drugs that may be provided for unsupervised use.

(d)(1) After receiving the notification submitted under paragraph (b) of this section, the Secretary of Health and Human Services will forward a copy of the notification to the Administrator. The Secretary of Health and Human Services will have 45 days from the date of receipt of the notification to make a determination of whether the individual practitioner involved meets all requirements for a waiver under section 303(g)(2)(B) of the Act (21 U.S.C. 823(g)(2)(B)). Health and Human Services will notify DEA of its determination regarding the individual practitioner. If the individual practitioner has the appropriate registration under § 1301.13, then the Administrator will issue the practitioner an identification number as soon as one of the following conditions occurs:

(i) The Administrator receives a positive determination from the Secretary of Health and Human Services before the conclusion of the 45-day review period, or

(ii) The 45-day review period has concluded and no determination by the Secretary of Health and Human Services has been made.

(2) If the Secretary denies certification to an individual practitioner or withdraws such certification once it is issued, then DEA will not issue the individual practitioner an identification number, or will withdraw the identification number if one has been issued.

(3) The individual practitioner must include the identification number on all records when dispensing and on all prescriptions when prescribing narcotic drugs under this section.

(e) An individual practitioner may begin to prescribe or dispense narcotic drugs to a specific individual patient under this section before receiving an identification number from the Administrator if the following conditions are met:

(1) The individual practitioner has submitted a written notification under paragraph (b) of this section in good faith to the Secretary of Health and Human Services.

(2) The individual practitioner reasonably believes that the conditions specified in paragraphs (b) and (c) of this section have been met.

(3) The individual practitioner reasonably believes that the treatment of an individual patient would be facilitated if narcotic drugs are prescribed or dispensed under this section before the sooner of:

(i) Receipt of an identification number from the Administrator, or

(ii) Expiration of the 45-day period.

(4) The individual practitioner has notified both the Secretary of Health and Human Services and the Administrator of his or her intent to begin prescribing or dispensing the narcotic drugs before expiration of the 45-day period.

(5) The Secretary has not notified the registrant that he/she is not qualified under paragraph (d) of this section.

(6) The individual practitioner has the appropriate registration under § 1301.13.

(f) If an individual practitioner dispenses or prescribes Schedule III, IV, or V narcotic drugs approved by the Food and Drug Administration specifically for maintenance or detoxification treatment in violation of any of the conditions specified in paragraphs (b), (c) or (e) of this section, the Administrator may revoke the individual practitioner's registration in accordance with § 1301.36.

PART 1306—PRESCRIPTIONS

■ 3. The authority citation for Part 1306 continues to read as follows:

Authority: 21 U.S.C. 821, 829, 871(b), unless otherwise noted.

■ 4. Section 1306.04 is amended by revising paragraph (c) to read as follows:

§ 1306.04 Purpose of issue of prescription.

* * * * *

(c) A prescription may not be issued for ''detoxification treatment'' or ''maintenance treatment,'' unless the prescription is for a Schedule III, IV, or V narcotic drug approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment and the practitioner is in compliance with requirements in § 1301.28 of this chapter.

■ 5. Section 1306.05 is amended by revising paragraph (a) to read as follows:

§ 1306.05 Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner. In addition, a prescription for a Schedule III, IV, or V narcotic drug approved by FDA specifically for

''detoxification treatment'' or ''maintenance treatment'' must include the identification number issued by the Administrator under § 1301.28(d) of this chapter or a written notice stating that the practitioner is acting under the good faith exception of § 1301.28(e). Where a prescription is for gamma-hydroxybutyric acid, the practitioner shall note on the face of the prescription the medical need of the patient for the prescription. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (*e.g.*, J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist, including a pharmacist employed by a central fill pharmacy, who fills a prescription not prepared in the form prescribed by DEA regulations.

* * * * *

■ 6. Section 1306.07 is amended by revising the section heading and paragraph (a) and adding paragraph (d) to read as follows:

§ 1306.07 Administering or dispensing of narcotic drugs.

(a) A practitioner may administer or dispense directly (but not prescribe) a narcotic drug listed in any schedule to a narcotic dependant person for the purpose of maintenance or detoxification treatment if the practitioner meets both of the following conditions:

(1) The practitioner is separately registered with DEA as a narcotic treatment program.

(2) The practitioner is in compliance with DEA regulations regarding treatment qualifications, security, records, and unsupervised use of the drugs pursuant to the Act.

* * * * *

(d) A practitioner may administer or dispense (including prescribe) any Schedule III, IV, or V narcotic drug approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment to a narcotic dependent person if the practitioner complies with the requirements of § 1301.28 of this chapter.

Dated: June 16, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 05–12440 Filed 6–22–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF STATE

22 CFR Part 62

RIN 1400–AC01

[Public Notice 5117]

Participation in the Exchange Visitor Program as Professor and Research Scholar; Correction

AGENCY: State Department.

ACTION: Correction to final rule.

SUMMARY: The Department of State published a document in the **Federal Register** of May 19, 2005, concerning a final rule on regulations for professors and research scholars in the Exchange Visitor Program. The document contained incorrect information regarding the 12-month bar, and this document corrects that error.

DATES: This correction becomes effective on the later of June 20, 2005, or the date upon which the Department of Homeland Security publishes a notice in the **Federal Register** announcing that it has completed the technical computer updates to its electronic Student and Exchange Visitor Information System (SEVIS) that are necessary to implement this rule.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Office of Exchange Coordination, Bureau of Educational and Cultural Affairs, Department of State 202–203–5029; Fax 202–203–5087.

PART 62—[AMENDED]

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

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451–2460; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp., p. 200; E.O. 12048 of March 27, 1978, 3 CFR, 1978 Comp., p. 168.

■ 2. Section 62.20 (d)(2) introductory text is revised to read as follows:

§ 62.20 Professors and research scholars.

* * * * *

(d)* * * (2) The participant has not been physically present in the United States as a nonimmigrant pursuant to the provisions of 8 U.S.C. 1101(a)(15)(J) for all or part of the twelve-month period immediately proceeding the date of program commencement set forth on his or her Form DS–2019, unless:

* * * * *

Dated: June 17, 2005.

Stanley S. Colvin,

Director, Acting, Office of Exchange Coordination, Department of State.

[FR Doc. 05–12456 Filed 6–22–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9186]

RIN 1545–BD42

Qualified Amended Returns; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to temporary regulations (TD 9186) which were published in the **Federal Register** on Wednesday, March 2, 2005 (70 FR 10037). The temporary regulations modify the rules relating to qualified amended returns by providing additional circumstances that end the period within which a taxpayer may file an amended return that constitutes a qualified amended return.

DATES: This correction is effective March 2, 2005.

FOR FURTHER INFORMATION CONTACT: Nancy M. Galib at (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (TD 9186) that are the subject of these corrections are under section 6227 of the Internal Revenue Code.

Need for Correction

As published, TD 9186 contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

§ 1.6664–2T [Corrected]

■ 1. Section 1.6664–2T(c)(3)(i)(B) is amended by removing ''of an activity'' and adding ''for an activity'' in its place.

■ 2. Section 1.6664–2T(c)(3)(ii)(A) is amended by removing ''§ 1.6664–2(c)(3)(i)'' and adding ''§ 1.6664–2T(c)(3)(i)'' in its place.

■ 3. Section 1.6664–2T(c)(3)(ii)(C) is amended by removing ''who is a material advisor (within the meaning of section 6111)'' and adding ''from any person who gave the taxpayer material aid, assistance, or advice as described in section 6111(b)(1)(A)(i)'' in its place.

■ 4. Section § 1.6664–2T(c)(5) *Example 3.*, is redesignated as § 1.6664–2T(c)(5) *Example 3* (i).

■ 5. Newly designated § 1.6664–2T(c)(5) *Example 3.* (i) is amended by removing ''2003'' and adding ''2004'' each place it appears.

■ 6. The undesignated text in § 1.6664–2T(c)(5) *Example 3.* is designated as § 1.6664–2T(c)(5) *Example 3.* (ii).

■ 7. Section 1.6664–2T(c)(5) *Example 4.,* the first sentence is amended by removing ''2003'' and adding ''2004'' in its place.

■ 8. Section 1.6664–2T(c)(5) *Example 7.*, is redesignated as § 1.6664–2T(c)(5) *Example 7.* (i).

■ 9. The undesignated text in § 1.6664–2T(c)(5) *Example 7.* is designated as § 1.6664–2T(c)(5) *Example 7.* (ii).

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 05–12385 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9186]

RIN 1545–BD42

Qualified Amended Returns; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations (TD 9186) which were published in the **Federal Register** on Wednesday, March 2, 2005 (70 FR 10037). The temporary regulations modify the rules relating to qualified amended returns by providing additional circumstances that end the period within which a taxpayer may file an amended return that constitutes a qualified amended return.

DATES: This correction is effective March 2, 2005.

FOR FURTHER INFORMATION CONTACT: Nancy M. Galib, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (TD 9186) that are the subject of these corrections are under section 6227 of the Internal Revenue Code.

Need for Correction

As published, TD 9186 contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (TD 9186), that were the subject of FR Doc. 05–3950, is corrected as follows:

1. On page 10038, column 2, in the preamble under the paragraph heading ''Background'', first full paragraph, line 14, the language, ''announced in Notice 2004–38, 2004–24'' is corrected to read ''announced in Notice 2004–38, 2004–21''.

2. On page 10039, column 1, in the preamble under the paragraph heading ''Effect on Other Documents'', first line, the language, ''Notice 2004–38 (2004–24 I.R.B. 949)'' is corrected to read ''Notice 2004–38 (2004–21 I.R.B. 949)''.

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 05–12386 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9206]

RIN 1545–BE12

Information Returns by Donees Relating to Qualified Intellectual Property Contributions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to temporary regulations (TD 9206) that was published in the **Federal Register** on Monday, May 23, 2005 (70 FR 29450) providing guidance for the filing of information returns by donees relating to qualified intellectual property contributions.

DATES: This correction is effective May 23, 2005.

FOR FURTHER INFORMATION CONTACT: Donnell M. Rini-Swyers, (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulation (TD 9206) that is the subject of this correction is under section 6050 of the Internal Revenue Code.

Need for Correction

As published, TD 9206, contains an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

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

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

§ 1.6050L–2T [Corrected]

■ Section 1.6050L–2T(c)(3) is amended by removing the language ''the 90th day

following May 23, 2005.'' and adding the language ''August 22, 2005.'' in its place.

Cynthia Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 05–12384 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9206]

RIN 1545–BE12

Information Returns by Donees Relating to Qualified Intellectual Property Contributions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains a correction to TD 9206 which was published in the **Federal Register** on Monday, May 23, 2005 (70 FR 29450) providing guidance for the filing of information returns by donees relating to qualified intellectual property contributions.

DATES: This correction is effective May 23, 2005.

FOR FURTHER INFORMATION CONTACT: Donnell M. Rini-Swyers, (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulation (TD 9206) that is the subject of this correction is under section 6050 of the Internal Revenue Code.

Need for Correction

As published, TD 9206, contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

■ Accordingly, the publication of the temporary regulations (TD 9206), that was the subject of FR Doc 05–10229, is corrected as follows:

■ On page 29451, column 2, in the preamble under the paragraph heading ''*Explanation of Provisions*'', third full paragraph, line 8, the language, ''Notice 2005–XX issued thereunder.'' is corrected to read ''Notice 2005–41, 2005–23, I.R.B. 1203, issued thereunder.''.

Cynthia Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 05–12403 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

RIN 1219–AB33

30 CFR Parts 72 and 75

Emergency Evacuations

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; correcting amendments.

SUMMARY: This document makes correcting amendments to four existing standards that are affected by an MSHA rulemaking concerning emergency evacuations in underground coal mines. The rule revised and renumbered an existing standard, but did not update cross-references to that standard. This document updates these cross-references, and makes a non-substantial correction to the wording in a separate reference.

DATES: Effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Rebecca J. Smith, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209–3939, *smith.rebecca@dol.gov,* (202) 693–9440 (telephone), (202) 693–9441 (facsimile). This document is available at *http://www.msha.gov.*

SUPPLEMENTARY INFORMATION:

Administrative Procedure Act

MSHA has determined that public notice and comment is unnecessary for this action. The correcting amendments contained in this final rule replace outdated references to § 75.1101–23, which no longer exists, with correct references to § 75.1502 and are non substantive in nature. Accordingly, for ''good cause'' under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), MSHA finds that notice and comment procedures are unnecessary in this action. For the same reason, it has been determined that in accordance with 5 U.S.C. 553(d), there is good cause to make these changes effective on the date of publication in the **Federal Register**.

Background

On December 12, 2002 (67 FR 76658), MSHA published an emergency temporary standard (ETS) to address dangers to which underground coal miners are exposed during mine fire, explosion, and gas or water inundation emergencies.

Section 101(b) of the Federal Mine Safety and Health Act of 1977 specifies that an ETS also serves as a proposed rule, and requires publication of the final rule within nine months after the ETS is published. The final rule, published on September 9, 2003 (68 FR 53037), created §§ 75.1501 (Emergency evacuations) and 75.1502 (Mine emergency evacuation and firefighting program of instruction); amended § 48.8 (Annual refresher training of miners; minimum courses of instruction; hours of instruction), and removed § 75.1101–23 (Program of instruction; location and use of fire fighting equipment; location of escapeways, exits and routes of travel; evacuation procedures; fire drills).

Section 75.1502 was derived from § 75.1101–23 and applies to all mine emergencies resulting from fire, explosion, or gas or water inundation. Additionally, § 75.1502 provides that before any MSHA-approved revision to the emergency evacuation and firefighting program of instruction is implemented, persons affected by the revision must be instructed about any new provisions.

Cross-references to formerly existing § 75.1101–23 are still contained in §§ 72.502(c), (Requirements for nonpermissible light-duty diesel-powered equipment other than generators and compressors); 75.383(c), (Escapeway maps and drills); 75.1908(d), (Nonpermissible diesel-powered equipment; categories); and 75.1912(c), (Fire suppression systems for permanent underground diesel fuel storage facilities). The updates to these cross-references were inadvertently omitted from the rule. On February 23, 2004 a **Federal Register** notice (69 FR 8107) corrected § 75.1714–2(e), (Self-rescue devices; use and location requirements) by replacing the outdated cross-reference to § 75.1101–23 with a cross-reference to § 75.1502. This document updates the remaining cross-references.

Additionally, this document revises § 72.502(a) by replacing the word ''part'' with the word ''chapter'' to correctly identify the reference to § 75.1908(d).

Discussion of Changes

Section 72.502(c) Requirements for Nonpermissible Light-Duty Diesel-Powered Equipment Other than Generators and Compressors

Section 72.502 establishes diesel particulate matter emission limits for certain light-duty diesel-powered equipment in underground coal mines. Paragraph (c) exempts all diesel-powered ambulances and fire fighting equipment being used in accordance with the required fire fighting and evacuation plan, and cites § 75.1101–23 as the authority for the plan. This document replaces the reference to § 75.1101–23 with the correct reference to existing § 75.1502 and has no substantive impact on § 72.502(c).

Section 75.383(c) Escapeway Maps and Drills

Section 75.383 establishes requirements for posting escapeway maps and conducting escapeway drills underground. Paragraph (c) states that these drills ''may be used to satisfy the evacuation specifications of the fire drills required by § 75.1101–23.'' This document replaces the reference to § 75.1101–23 with the correct reference to § 75.1502 and has no substantive impact on § 75.383(c).

Section 75.1908(d) Nonpermissible Diesel-Powered Equipment; Categories

Section 75.1908 categorizes non-permissible diesel-powered equipment used in underground coal mines for the purpose of determining engine performance and exhaust emissions requirements under part 7 and design requirements under §§ 75.1909 and 75.1910. Paragraph (d) exempts diesel-powered ambulances and other rescue equipment from these requirements, provided this equipment is used only for rescue activities in accordance with the mine's emergency evacuation and fire fighting plan, and cites § 75.1101–23 as the authority for this plan. This document replaces the reference to § 75.1101–23 with the correct reference to existing § 75.1502 and has no substantive impact on § 75.1908(d).

Section 75.1912(c) Fire Suppression Systems for Permanent Underground Diesel Fuel Storage Facilities

Section 75.1912 establishes requirements for fire suppression systems on permanent underground diesel fuel storage facilities. Paragraph (c) requires audible and visual alarms at the protected area and at the surface to warn of fire and system faults. These alarms are intended primarily to warn people in the immediate area and to alert persons at the surface who are monitoring the fire suppression system. Paragraph (c) reflects this intent by specifying that in the event of a mine fire ''personnel shall be warned in accordance with the provisions set forth in § 75.1101–23.'' This document replaces the reference to § 75.1101–23 with the correct reference to existing § 75.1502 and has no substantive impact on § 75.1912(c).

Dated: June 16, 2005.

David G. Dye,

Acting Assistant Secretary of Labor for Mine Safety and Health.

List of Subjects in 30 CFR Parts 72 and 75

Coal mines, Underground coal mining, Fire prevention, Mine safety and health.

■ Accordingly, 30 CFR parts 72 and 75 are corrected by the following correcting amendments:

PART 72—HEALTH STANDARDS FOR COAL MINES

■ 1. The authority citation for part 72 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), 957, 961.

§ 72.502 [Corrected]

■ 2. In paragraph (a), in the first sentence, remove the word ''part'' and add ''chapter'' in its place.

■ 3. In paragraph (c), in the last sentence, remove the term ''§ 75.1101–23'' and add ''§ 75.1502'' in its place.

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

■ 4. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

§ 75.383 [Corrected]

■ 5. In paragraph (c), remove the term ''§ 75.1101–23'' and add ''§ 75.1502'' in its place.

§ 75.1908 [Corrected]

■ 6. In paragraph (d), remove the term ''§ 75.1101–23'' and add ''§ 75.1502'' in its place.

§ 75.1912 [Corrected]

■ 7. In paragraph (c), remove the term ''§ 75.1101–23'' and add ''§ 75.1502'' in its place.

[FR Doc. 05–12371 Filed 6–22–05; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 88, 101, 117, 151, 154, 155, 159, and 161

USCG–2005–21531

RIN 1625–ZA04

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable water regulations. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective June 23, 2005.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2005–21531 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Ray Davis, Coast Guard, telephone 202–267–6826. If you have questions on viewing the docket, call Ms. Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under both 5 U.S.C. 553(b)(A) and (b)(B), the Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements because these changes involve agency organization and practices, and good cause exists for not publishing an NPRM for all revisions in the rule because they are all non-substantive changes. This rule consists only of corrections and editorial, organizational, and conforming amendments. These changes will have

no substantive effect on the public; therefore, it is unnecessary to publish an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Each year Title 33 of the Code of Federal Regulations is updated on July 1. This rule, which becomes effective June 23, 2005, makes other technical and editorial corrections throughout title 33. This rule does not create any substantive requirements.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. As this rule involves internal agency practices and procedures and non-substantive changes, it will not impose any costs on the public.

Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(a) and (b), of the Instruction from further environmental documentation because this rule involves editorial, procedural, and internal agency functions. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 88

Navigation (water), Waterways.

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 117

Bridges.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 159

Alaska, Reporting and recordkeeping requirements, Sewage disposal, Vessels.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 88, 101, 117, 151, 154, 155, 159, and 161.

Title 33—Navigation and Navigable Waters

PART 88—ANNEX V: PILOT RULES

■ 1. Revise the authority citation for part 88 to read as follows:

Authority: 33 U.S.C. 2071.

■ 2. Revise § 88.05 to read as follows:

§ 88.05 Copy of rules.

The operator of each self-propelled vessel 12 meters or more in length shall carry on board and maintain for ready reference a copy of the Inland Navigation Rules.

PART 101—MARITIME SECURITY: GENERAL

■ 3. The authority citation for part 101 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 101.305 [Amended]

■ 4. In 101.305(a), remove the words ''fax: 202–267–2165'' and add, in their place, the words ''fax: 202–267–1322''.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 5. Revise the authority citation for part 117 to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat.5039.

§ 117.389 [Amended]

■ 6. In § 117.389, remove the words ''The draws of the Contrail bridges, miles 1.4 and 1.5'' and add, in their place, the words ''The draws of the Norfolk Southern railroad bridges, miles 1.32 and 1.36''.

§ 117.631 [Amended]

■ 7. In § 117.631—

■ a. In paragraph (a), remove the words ''(Grosse Ile Parkway)'' and add, in their place, the words ''(Bridge Road)''; and

■ b. In paragraph (b), remove the words ''(Bridge Road)'' and add, in their place, the words ''(Grosse Ile Parkway)''.

§ 117.997 [Amended]

■ 8. In § 117.997(g)(2)(i), remove the characters ''(f)(2)(ii)'' and add, in their place, the characters ''(g)(2)(ii)''.

§ 117.1093 [Amended]

■ 9. In § 117.1093—

■ a. In paragraph (c)(3)(i), remove the words ''The Chicago and Northwestern bridge, mile 0.3,'' and add, in their place, the words ''The Union Pacific railroad bridge, mile 0.59,'';

■ b. In paragraph (d)(1), remove the value ''0.1'' and add, in its place, the value ''1.08'';

■ c. In paragraph (d)(3), remove the words ''The opening signal for the Chicago, Milwaukee, St. Paul and Pacific railroad bridge across the Menomonee River, mile 0.1,'' and add, in their place, the words ''The opening signal for the Canadian Pacific railroad bridge across the Menomonee River, mile 1.05,'';

■ d. In paragraph (e)(2), remove the words ''The draws of the Chicago, Milwaukee, St. Paul and Pacific railroad bridge, mile 1.5, and the Chicago and Northwestern Railway bridge, mile 1.52,'' and add, in their place, the words ''The draws of the Canadian Pacific railroad bridge, mile 1.67, and the Union Pacific railroad bridge, mile 1.71,''; and

■ e. In paragraph (e)(4), remove the words ''The opening signal for the Chicago and Northwestern bridge, mile 1.0,'' and add, in their place, the words ''The opening signal for the Union Pacific railroad bridge, mile 1.19,''.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 10. Revise the authority citation for part 151 to read as follows:

Authority: 33 U.S.C. 1321 and 1903; Pub. L. 104–227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. p. 351.

PART 151—[AMENDED]

■ 11. In Part 151, Subpart D, Appendix, in the last paragraph of the instructions titled ''Where to send this form.'', remove the value ''(2115–0598)'' and add, in its place, the value ''(1625–0069)''.

12. In Part 151, Subpart D, Appendix, in the last sentence of the appendix, remove the value ''(2115–0598)'' and add, in its place, the value ''(1625–0069)''.

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

■ 13. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C),(j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1; Subpart F is also issued under 33 U.S.C. 2735.

■ 14. In Part 154, Appendix C, Table 5, in the ''Tier 1'' column, remove the value ''6.35K'' and add, in its place, the value ''6.25K''.

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 15. The authority citation for part 155 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Pub. L. 101–380.

§ 155.1035 [Amended]

■ 16. In § 155.1035(c)(5)(i), remove the word ''marine'' and add, in its place, the word ''Marine''.

■ 17. In Part 155 Appendix B, Table 6, in the ''Tier 2'' column, remove the value ''12.3K'' and add, in its place, the value ''12.5K''.

PART 159—MARINE SANITATION DEVICES

■ 18. Revise the authority citation for part 159 to read as follows:

Authority: 33 U.S.C. 1322(b)(1); 49 CFR 1.45(b). Subpart E also issued under authority of sec. 1(a)(4), Pub. L. 106–554, 114 Stat. 2763; Department of Homeland Security Delegation No. 0170.1.

§ 159.309 [Amended]

■ 19. In § 159.309(b)(4), remove the words ''milligrams per liter (mg/l);'' and add, in their place, the words ''micrograms per liter (μg/l);''.

PART 161—VESSEL TRAFFIC MANAGEMENT

■ 20. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70117; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§ 161.5 [Amended]

■ 21. In § 161.5(b), in the first and third sentences of paragraph (b), remove the words ''Commanding Officer'' and add, in their places, the word ''Director''.

Dated: June 17, 2005.

Stefan G. Venckus,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 05–12441 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7927–1]

Vermont: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Vermont has applied to EPA for Final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments that oppose this authorization during the comment period, the decision to authorize Vermont's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document published today in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This Final authorization will become effective on August 22, 2005, unless EPA receives adverse written comment by July 25, 2005. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. E-mail: *leitch.sharon@epa.gov.*
3. Mail: Sharon Leitch, Hazardous Waste Unit, EPA Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023.
4. Hand Delivery or Courier: Deliver your comments to Sharon Leitch, Hazardous Waste Unit, EPA Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023.

Instructions: We must receive your comments by July 25, 2005. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy the State of Vermont's revision application and the materials which the EPA used in evaluating the revision at the following two locations: (i) EPA Region 1 Library, One Congress Street–11th Floor, Boston, MA 02114–2023; business hours Monday through Thursday 10 a.m.–3 p.m., tel: (617) 918–1990; and (ii) the Agency of Natural Resources, 103 South Main Street–West Office Building, Waterbury, Vermont 05671–0404; tel. (802) 241–3888; Business Hours: 7:45 a.m. to 4:30 p.m. Monday through Friday. These documents are available for inspection during these business hours.

FOR FURTHER INFORMATION CONTACT: Sharon Leitch, Hazardous Waste Unit, EPA Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; tel: (617) 918–1647, e-mail: *leitch.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We have concluded that Vermont's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Vermont Final authorization to operate its hazardous waste program with the changes described in the authorization application. Vermont has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement any such requirements and prohibitions in Vermont, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Vermont subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Vermont has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its full authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports.
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions.

This action does not impose additional requirements on the regulated community because the regulations for which Vermont is being authorized by today's action are already effective under state law, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect adverse comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens If EPA Receives Comments that Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule based upon this proposed rule that also appears in today's **Federal Register**. You may not have another opportunity to comment. If you want to comment on this authorization, you should do so at this time.

If we receive adverse comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Vermont Previously Been Authorized For?

The State of Vermont initially received Final authorization on January 7, 1985, effective January 21, 1985 (50 FR 775) to implement the RCRA hazardous waste management program. The Region published an immediate final rule for certain revisions to Vermont's program on May 3, 1993 (58 FR 26242) and reopened the comment period for these revisions on June 7, 1993 (58 FR 31911). This authorization became effective August 6, 1993 (58 FR 31911). The Region granted authorization for further revisions to Vermont's program on September 24, 1999 (64 FR 51702), effective November 23, 1999. On October 18, 1999 (64 FR 46174) the Region published a correction to the immediate final rule that was published on September 24, 1999. The Region granted authorization for further revisions to Vermont's program on October 26, 2000, effective December 26, 2000 (65 FR 64164). That **Federal Register** also made a technical correction.

G. What Changes Are We Authorizing With Today's Action?

On May 13, 2005, Vermont submitted a final complete program revision application, seeking authorization for their changes in accordance with 40 CFR 271.21. In particular, Vermont is seeking authorization for updated state regulations addressing federal requirements through June 30, 2003, for changes to Vermont's base program for which they had been previously authorized, and for the extension of the New England Universities' Laboratories project XL expiration date. Specifically, we are now authorizing a Vermont regulation to extend the XL project expiration date by three years, to September 30, 2006. EPA amended its federal regulations so as to allow such a state extension through a separate federal rulemaking. See 69 FR 11811. The Vermont Project XL regulations were originally authorized by the EPA and became part of the federally enforceable VT RCRA program on October 26, 2000. See 65 FR 64164. The reason for this extension is to allow the participating universities, the State and EPA additional time to evaluate the project. EPA has received an updated Final Project Agreement (FPA) modification which has been signed by the EPA, the Vermont Department of Environmental Conservation, and the University of Vermont, Burlington.

We are now making an immediate final decision, subject to receipt of written comments that oppose this action, that Vermont's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization. Therefore, we grant Vermont Final authorization for the following program changes:

Description of Federal Requirement Checklist Reference Number	Analogous State Authority [1]
Updated State Regulations	
(140) Carbamate Production Identification and Listing of Hazardous Waste (60 FR 7824, 2/9/95; as amended at 60 FR 19165, 4/17/95 and 60 FR 25619, 5/12/95).	No State analog for the exclusions included in this checklist; the State is more stringent.
(148) RCRA Expanded Public Participation Rule (60 FR 63417, 12/11/95).	Appendix I, Appendix II, Appendix III, Appendix IV.
(152) Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (61 FR 16290, 4/12/96).	Sections: 7–503(b)(5); 7–505(b)(3); 7–506(b)(2); 7–506(f)(2), (3) & (4); 7–511(a) & (d).
	Section 7–103 (definition of "generator"); Section 7–107 (10 V.S.A. §§ 6610a, 6612 & 8010/See Checklist II); Sections 7–109(a), 7–203(r), 7–204(g), & 301(a)(1), 7–402(b), 7–504(e), & 7–510(c), 7–705(b)(2), 7–705(c), 7–705(d), 7–706(c), 7–708(c), 7–912(k), 7–913(g), 7–915, and 7–915(d).
(156) Military Munitions Rule (62 FR 6622, 2/12/97)	Section 7–103; Section 7–103 (see "discarded"); Sections 7–105(a)(5), 7–109(a), 7–109(b)(2), 7–301(c), 7–401(c)(7), 7–501(d), 7–502(p), 7–504(e), 7–507(f)(1), 7–510(c), and 7–702(c)(2).
(159) Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions: Conformance With the Carbamate Vacatur (62 FR 32974, 6/17/97).	Appendix I, Appendix II, Appendix III, Appendix IV, Sections 7–106(a) and 7–109(a).

Description of Federal Requirement Checklist Reference Number	Analogous State Authority [1]
(164) Kraft Mill Steam Stripper Condensate Exclusion (63 FR 18504, 4/15/98).	No State analog for this exclusion; the State is more stringent.
(167D) Mineral Processing Secondary Material Exclusion;(63 FR 28556, 5/26/98 and 63 FR 31266, 6/8/98).	No State analog for this exclusion; the State is more stringent.
(167F) Exclusion of Recycled Wood Preserving Wastewaters (63 FR 28556, 5/26/98 and 63 FR 31266, 6/8/98).	Sections 7–204(b) & (c).
(168) Hazardous Waste Combustors Revised Standards (63 FR 33782, 6/19/98).	No State analog for this exclusion; the State is more stringent.
(169) Petroleum Refining Process Wastes (63 FR 42110, 8/6/98)	No State analog for the exclusions included in this checklist; the State is more stringent. Appendix I, Appendix IX, Sections 7–106(a), 7–109(a) & 7–109(b)(1).
(178) Petroleum Refining Process Wastes—Leachate Exemption (64 FR 6806, 2/11/99).	No State analog for this exclusion; the State is more stringent.
(181) Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps (64 FR 36466, 7/6/99).	Sections: 7–103; 7–106; 7–203(s); 7–502(j); 7–901; 7–902; 7–903; 7–904; 7–906(a) & (b); 7–910(a) & (b); 7–911; 7–912(a); 7–912(c)(3)(D); 7–912(c)(3)(E); 7–912(d)(5); 7–912(e)(6); 7–913(a); 7–914(a)(1); 7–916(b)(1).
(184) 180-Day Accumulation Time Under RCRA for Waste Water Treatment Sludges From the Metal Finishing Industry (65 FR 12378, 3/8/00).	Sections 7–307; 7–308; 7–308(b)(2)(C); 7–308(b)(2)(C) ''Note''.
(187) Petroleum Refining Process Wastes— Clarification (64 FR 36365, 6/8/00).	Section 7–106(a).
(189) Chlorinated Aliphatics Listing and LDRs for Newly identified Wastes (65 FR 67068, 11/8/00).	Sections–106(a) & 109(a), Appendix I, II, IX.
(190) Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil (65 FR 81373, 12/26/00).	Sections 7–106(a) and 7–109(a).
(191) Mixed Waste Rule (66 FR 27218, 5/16/01)	Sections 7–103 and 7–109(b)(2).
(192A) Mixture and Derived-From Rules Revisions (66 FR 27266, 5/16/01).	Sections 7–202(a); 7–202(a)(3); 7–203(f); 7–203(k).
(192 B) Land Disposal Restrictions: Correction (66 FR 27266, 5/16/01)	Sections 7–106 and 7–109(a).
(193) Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections (66 FR 34374, 6/28/01).	Sections 7–109(a) and 7–219(d).
(194) Mixture and Derived-From Rules Revisions II (66 FR 50332, 10/3/01).	Sections 7–202(a); 7–203(k) & (k)(2); 7–217.
(195) Inorganic Manufacturing Wastes Identification and Listing (66 FR 58258, 11/20/01; 67 FR 17119, 4/9/02).	No State analog for the exclusions included in this Chemical checklist; the State is more stringent. Appendix I, Appendix IX, Sections 7–106(a) and 7–109(a).
(196) Amendments to the Corrective Action Management Unit Rule (67 FR 2962, 1/22/02).	Sections 7–103; 7–109(a); and 7–504(e).
(199) Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste (67 FR 11251, 3/13/02).	No State analog for this revision; the State is more stringent.
(200) Zinc Fertilizer Rule (67 FR 48393, 7/24/02)	No State analog for this exclusion; the State is more stringent.
(201) Treatment Variance for Radioactively Contaminated Batteries (67 FR 62618, 10/7/02).	Sections 7–106(a) and 7–109(a).
Changes to the State RCRA Base Program Regulations	
Exempts used oil filters that are crushed and cold drained, in addition to hot draining.	Section 7–203(o)(1)(E).
Clarifies the recycling exemptions regarding inherently waste-like material.	Section 7–204(a)(2).
Includes additional requirements for transporter transfer facilities	Section 7–404.
Allows treatment in tanks and containers by generators	Section 7–502(o).
Adds mercury containing devices and cathode ray tubes (CRTs) to the Universal Waste rule.	Sections 7–907 and 7–908.
Prohibits the intentional breaking or crushing of mercury-containing lamps.	Section 7–912(b)(2) Note.
Project XL	
Extension of the Project XL Site-specific Rulemaking for University Laboratories.	Section 7–109(c).

[1] State of Vermont's Hazardous Waste Rules, effective October 1, 2004.

Note: In addition to the regulations listed in the tables above, there are various State based program regulations to which the State has made minor changes and additions. The EPA is also proposing to authorize these minor changes. The final authorization of new State regulations and regulation changes is in addition to the previous authorization of State regulations, which have not changed and remain part of the authorized program.

H. Where Are the Revised State Rules Different From the Federal Rules?

The most significant differences between the proposed State rules and the Federal rules are summarized below. It should be noted that this summary does not describe every difference, or every detail regarding the differences that are described. Members of the regulated community are advised to read the complete regulations to ensure that they understand all of the requirements with which they will need to comply.

1. More Stringent Provisions

There are aspects of the Vermont program which are more stringent than the Federal program. All of these more

stringent requirements are, or will, become part of the federally enforceable RCRA program when authorized by the EPA, and must be complied with in addition to the State requirements which track the minimum Federal requirements.

Vermont's regulations are more stringent because they did not adopt the exclusions included in the following Federal rules: Carbamate Production Identification and Listing of Hazardous Waste; Kraft Mill Steam Stripper Condensate Exclusion; Mineral Processing Secondary Materials Exclusion; Hazardous Waste Combustors Revised Standards; Petroleum Refining Process Wastes; Inorganic Chemical Manufacturing Wastes Identification and Listing; and, the Zinc Fertilizer rule. In addition, the State did not adopt the following revision: the Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste. The State has also added additional requirements to their transporter transfer facility regulations which include requiring secondary containment for containers. These more stringent requirements are part of Vermont's authorized program and are federally enforceable.

2. Different but Equivalent Provisions

Vermont also has some regulations which differ from, but have been determined to be equivalent to, the Federal regulations. These State regulations will become part of the federally enforceable RCRA program when authorized by the EPA. These different but equivalent requirements include the following: (1) Vermont has adopted a conditional exemption for oil filters in its Rule 7–203(o)(1) which differs from the Federal exemption in 40 CFR 261.4(b)(6) by allowing cold draining and crushing of the filters whereas the Federal regulation allows only hot draining. The State regulation specifies that any cold draining must include crushing using a mechanical, pneumatic or hydraulic device designed for the purpose of crushing oil filters and effectively removing the oil. This State provision will encourage recycling of used oil by enabling filters from junked vehicles to be managed in accordance with the exemption. Junked vehicles often cannot be started and consequently filters removed from those vehicles cannot meet the hot draining criteria of the Federal regulation. Vermont presented documentation showing that as much or more used oil is removed from used oil filters through cold draining plus crushing than is removed by some of the hot draining methods allowed in the Federal regulation. Thus, while the Vermont exemption differs from the Federal exemption, the State regulation is at least as stringent as the Federal regulation in requiring the removal of the oil. We believe that the State regulation thus is legally equivalent to the Federal regulation, since it is equivalent in environmental protectiveness and effect. (2) Vermont also has adopted regulations allowing certain kinds of treatment in containers and tanks by generators without treatment permits. The Vermont regulation is equivalent to the EPA interpretation of the Federal regulations that was issued in the following **Federal Register** notice: 51 FR 10168, March 24, 1986. In that rulemaking notice, the EPA determined that no permitting would be required if a generator chose to treat its waste in the generator's accumulation tanks or containers in conformance with the applicable requirements of subpart J or I of part 265. Also in conformance with Federal guidance, the Vermont regulations do not allow thermal treatment by generators without permits. In addition, the Vermont regulations do not allow generators to treat mercury containing wastes or devices without permits. (3) In addition to certain batteries, pesticides, thermostats, and fluorescent lamps, Vermont has added mercury containing devices and CRTs to the State's universal waste rule. We deem this equivalent because the Federal Universal Waste Rule allows States the flexibility to add additional hazardous wastes to their State list of universal wastes without requiring the waste to be added at the Federal level.

I. Who Handles Permits After the Authorization Takes Effect?

Vermont will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer and enforce any RCRA and HSWA (Hazardous and Solid Waste Act) permits or portions of permits which it has issued in Vermont prior to the effective date of this authorization until the State incorporates the terms and conditions of the Federal permits into the State RCRA permits. EPA will not issue any more new permits, or new portions of permits, for the provisions listed in the table above after the effective date of this authorization. EPA will continue to implement and issue permits for any HSWA requirements for which Vermont is not yet authorized.

J. What Is Codification and Is EPA Codifying Vermont's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart UU for this authorization of Vermont's program until a later date.

K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities or tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant

regulatory actions under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action nevertheless will be effective August 22, 2005, because it is an immediate final rule.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 3, 2005.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 05–12454 Filed 6–22–05; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 70, No. 120
Thursday, June 23, 2005

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–33–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Artouste III Series Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Turbomeca Artouste III series turboshaft engines. That AD currently requires smoke emission checks after every ground engine shutdown, and if necessary, additional checks and possibly removing the engine from service. That action also requires inspection of central labyrinths not previously inspected, or not replaced after the engine logged 1,500 operating hours, and, replacement if necessary. That action also requires the removal of injection wheels at a new lower life limit. This proposed AD includes the same requirements as the existing AD, but reduces the compliance time for the initial inspection of the central labyrinth and adds repetitive inspections of the central labyrinth. This proposed AD results from reports and analyses of in-flight engine shutdowns occurring since we issued AD 2002–22–11. We are proposing this AD to prevent injection wheel cracks and excessive central labyrinth wear, which could result in an in-flight engine shutdown.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–33–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov.* Comments sent via the Internet must contain the docket number in the subject line.

Contact Turbomeca S.A., 40220 Tarnos, France; telephone 33 05 59 74 40 00, fax 33 05 59 74 45 15, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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 should 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.

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 99–NE–33–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–33–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On October 28, 2002, the FAA issued AD 2002–22–11, Amendment 39–12937 (67 FR 68022, November 8, 2002). That AD requires smoke emission checks after every ground engine shutdown. When shutting down the engine, fuel flows into the combustion chamber, which could result in a slight increase of rundown time or emission of smoke through the exhaust pipe, the air intake, or the turbine casing drain after the rotating assembly has stopped. This condition might be caused by the thermal stresses to which the injection wheel is subjected or a malfunctioning electric fuel cock. If there is smoke, that action requires inspecting for fuel flow. If there is no fuel flow, the engine might have injection wheel cracks, which would require removing the engine from service for repair. If there is fuel flow, the engine might have a malfunctioning electric fuel cock, which would require removing the electric fuel cock from service and replacing it with a serviceable part. That action also requires inspection of central labyrinths not previously inspected, or not replaced after the engine logged 1,500 operating hours, and, replacement if necessary. That action also requires the removal of injection wheels at a new lower life limit. These conditions, if not corrected, could result in injection wheel cracks, which could result in an in-flight engine shutdown.

Actions Since AD 2002–22–11 was Issued

Since AD 2002–22–11 was issued, The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition might continue to exist on Turbomeca Artouste III B, B1, and D series turboshaft engines. The DGAC advises that operators have continued to report cracks on the rear face of the injection wheels, which can lead to fuel leakage into the turbine shaft tube during operation. Turbomeca has

reviewed the latest in-service data that shows that in-flight engine shutdowns have continued to occur. As a result, this proposed AD includes the same requirements as the existing AD, but would reduce the compliance time for the initial inspection of the central labyrinth and adds a requirement for repetitive inspections of the central labyrinth.

Relevant Service Information

We have reviewed and approved the technical contents of Turbomeca Artouste III Service Bulletin (SB) No A218 72 0099, Update 1, dated June 6, 2001, that specifies procedures for smoke emission checks, and fuel flow inspections if smoke is detected. We have also reviewed and approved Turbomeca Artouste III Service Bulletin (SB) No. A218 72 00100, Update 2, dated January 23, 2004, that specifies procedures for inspection and replacement of central labyrinths. The DGAC classified these SB's as mandatory and issued AD F–2004–016, dated February 4, 2004, in order to assure the airworthiness of these Turbomeca Artouste III series engines in France.

Differences Between the Proposed AD and the Service Information

The manufacturer calls for a check for smoke emission through the exhaust pipe, air intake, or turbine casing drain during rundown and after every engine shutdown. This proposal will require the same check, except it will only be required after the last flight of the day. Also, the manufacturer calls for inspection of the central labyrinth using ratios based on cycles per hour starting with the published date of the SB. This proposal will require the same inspection ratios beginning at the effective date of the proposed AD.

Bilateral Agreement Information

This engine model is manufactured in France 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. Under this bilateral airworthiness agreement, the DGAC kept us informed of the situation described above. We have examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of the Proposed AD

Since we have identified an unsafe condition that is likely to exist or develop on other Turbomeca engines of the same type design that are used on helicopters registered in the United States, the proposed AD would require:

- Smoke emission checks after each last flight of the day.
- If there is smoke, then inspect for fuel flow.
- If there is no fuel flow, remove the engine from service for repair.
- If there is fuel flow, remove the electric fuel cock from service and replace with a serviceable part.
- Initial inspection of central labyrinths within 1,750 hours Time-Since-New or 50 hours from the effective date of this AD, whichever occurs later.
- Repetitive inspection of central labyrinths within 1,750 hours time-since-last inspection.

The proposed AD would require that you do these actions using the service information described previously.

Interim Action

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

Costs of Compliance

There are about 1,062 Turbomeca Artouste III engines of the affected design in the worldwide fleet. We estimate that 59 engines installed on helicopters of U.S. registry would be affected by this proposed AD. We also estimate that it would take about 31 work hours per engine to perform the proposed actions, and that the average labor rate is $65 per work hour. Required parts would cost about $8,100 per engine. Based on these figures, we estimate the proposed AD would cost U.S. operators $596,785.

Special Flight Permits Paragraph Removed

Paragraph (e) of the current AD, AD 2002–22–11, contains a paragraph pertaining to special flight permits. Even though this final rule does not contain a similar paragraph, we have made no changes with regard to the use of special flight permits to operate the airplane to a repair facility to do the work required by this AD. In July 2002, we published a new 14 CFR part 39 that contains a general authority regarding special flight permits and airworthiness directives; see Docket No. FAA–2004–8460, Amendment 39–9474 (69 FR 47998, July 22, 2002). Thus, when we now supersede ADs we will not include a specific paragraph on special flight permits unless we want to limit the use of that general authority granted in section 39.23.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–12937 (67 FR 68022, November 8, 2002) and by adding a new airworthiness directive, to read as follows:

Turbomeca: Docket No. 99–NE–32–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by August 22, 2005.

Applicability

(b) This AD applies to Turbomeca Artouste III B, B1, and D series turboshaft engines with injection wheels part numbers (P/Ns) 218.25.700.0, 218.25.704.0, 243.25.709.0, 243.25.713.0, 0.218.27.705.0, 0.218.27.709.0, and 0.218.27.713.0. These engines are installed on, but not limited to Eurocopter SA 315 LAMA and SA 316 Alouette III helicopters.

Compliance

(c) Compliance with this AD is required as indicated, unless already done. To prevent injection wheel cracks and excessive central labyrinth wear, which could result in an in-flight engine shutdowns, do the following:

Smoke Check

(d) Following every engine ground shutdown, do the following using Turbomeca Artouste III Service Bulletin (SB) No. 218 72 0099, dated September 14, 1998:

(1) After every flight, check for smoke emissions through the exhaust pipe, air intake, or turbine casing drain during rundown and after every engine shutdown. If a smoke emission has been noticed, check the fuel system before the next flight to identify the origin of the smoke emissions.

(2) If smoke is not detected, no action is required until the next engine ground shutdown.

(3) If smoke is detected, inspect for fuel flow in accordance with paragraph 2.B.(1) and 2.B.(2) of the referenced SB.

(i) If fuel flow is not detected, prior to further flight, remove the engine from service and replace with a serviceable engine.

(ii) If fuel flow is detected, remove the electric fuel cock from service and replace with a serviceable part in accordance with section 2.B.(4) and 2.B.(5) of the referenced SB.

(iii) Before entry into service, perform an engine ground run and check the fuel system again for smoke emissions through the exhaust pipe, air intake, or turbine casing drain during engine rundown and after shut-down; if smoke emissions still remain after replacement of the electric fuel cock, prior to further flight, remove the engine from service and replace with a serviceable engine.

(e) For the purpose of this AD, a serviceable engine is defined as an engine that does not exhibit smoke emissions.

Central Labyrinth Inspection

(f) Perform checks and inspections of the central labyrinth and, if necessary, replace the central labyrinth, using paragraph 2. of Turbomeca ASB No. A218 72 0100, Update 2, dated January 23, 2004, and the following Table 1:

TABLE 1.—INSPECTION SCHEDULE

Initial inspection	Repetitive inspection
Prior to 1,750 hours Time-Since-New or 1,750 hours Time-Since-Last Inspection (TSLI), or 50 hours from the effective date of this AD, whichever occurs later.	1,750 hours TSLI.

Alternative Methods of Compliance

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

Related Information

(h) DGAC airworthiness directive F–2004–016, dated February 4, 2004, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on June 15, 2005.

Robert E. Guyotte,

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

[FR Doc. 05–12414 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1632

Advance Notice of Proposed Rulemaking; Possible Revocation or Amendment of Standard for the Flammability of Mattresses and Mattress Pads (Cigarette Ignition)

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Consumer Product Safety Commission (''CPSC'' or ''Commission'') is considering revoking or amending its existing standard for the flammability of mattresses and mattress pads (16 CFR part 1632). The Commission recently proposed a new standard addressing the flammability of mattresses. Several commenters have suggested that if and when the new standard takes effect, continuing the cigarette ignition standard would be burdensome and unnecessary. With this advance notice of proposed rulemaking, the Commission begins to assess the need for continuing the existing mattress standard. The Commission invites comments concerning the risk of injury identified in this notice, the regulatory alternatives being considered, and other possible alternatives. The Commission also invites submission of any existing standard or statement of intention to modify or develop a voluntary standard to address cigarette ignition of mattresses and mattress pads.

DATES: Comments and submissions must be received by August 22, 2005.

ADDRESSES: Comments should be sent by e-mail to *cpsc-os@cpsc.gov*. Comments should be captioned ''Mattress ANPR (Cigarette Ignition).'' Comments may also be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments also may be filed by facsimile to (301) 504–0127.

FOR FURTHER INFORMATION CONTACT: Margaret Neily, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7530.

SUPPLEMENTARY INFORMATION:

A. Background

The Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR part 1632) was issued by the Department of Commerce in 1972 under the authority of the Flammable Fabrics Act (''FFA''), 15 U.S.C. 1191 *et seq.* When the Commission was created, the responsibility for issuing and amending flammability standards under the FFA was transferred to the Commission. 15 U.S.C. 2079(b).

The standard sets forth a test to determine the ignition resistance of a mattress or mattress pad when exposed to a lighted cigarette. Lighted cigarettes are placed at specified locations on the surface of a mattress (or mattress pad). The standard establishes pass/fail criteria for the tests. The standard also requires manufacturers to maintain records demonstrating compliance with the testing requirements.

As originally issued, the standard required manufacturers to perform both prototype and production testing. A prototype test is a test of a mattress design before it is introduced into commerce. In 1984, the Commission amended the standard to eliminate the production testing requirement and make certain other changes to the standard (49 FR 39790).

On January 13, 2005, the Commission issued a notice of proposed rulemaking (''NPR'') proposing a new flammability standard for mattresses and mattress and foundation sets (''mattress/set''). 70 FR 2470. The proposed standard requires, with certain exceptions, that mattress manufacturers test specimens representative of each mattress/set prototype before introducing a mattress/set into commerce. The test is a full scale test based on research conducted by the National Institute of Standards and Technology (''NIST''), in which a mattress specimen is exposed to a pair of ''T'' shaped propane burners and allowed to burn freely for a period of 30 minutes. Measurements are taken, and the mattress/set must meet the specified test criteria for the prototype to be acceptable. The proposed standard also contains quality assurance and recordkeeping requirements.

Also on January 13, 2005, the Commission issued an advance notice of proposed rulemaking (''ANPR'') initiating a rulemaking proceeding for bedclothes. 70 FR 2514. The Commission described ''bedclothes'' broadly in the ANPR, noting that the term can include a variety of products, such as sheets, blankets, mattress pads, pillows, comforters, and similar products that are used as covering on a bed. The Commission stated its intention to evaluate particular items that should be included in or excluded from a proposed bedclothes standard as it proceeds with the rulemaking. Thus, while mattress pads are not included in the proposed mattress flammability standard, they could be included in the bedclothes rulemaking.

The Commission has received comments suggesting that, considering the Commission's intention to issue a new mattress flammability standard, the Commission should revoke the existing mattress standard. More specifically, commenters assert that the cigarette ignition test will not be necessary once the open flame test is in place and that it would be burdensome for industry to conduct the testing required by both standards. In light of these comments, the Commission is issuing this ANPR to begin consideration of whether the existing mattress standard should be revoked or amended.

B. The Product

The mattress standard at 16 CFR part 1632 defines ''mattress'' as ''a ticking filled with a resilient material used alone or in combination with other products intended or promoted for sleeping upon.'' 16 CFR 1632.1(a). The definition further describes items that are included in and excluded from the term ''mattress.''

According to the International Sleep Products Association (''ISPA''), the top four producers of mattresses and foundations account for almost 60 percent of total U.S. production. In 2001, there were 639 establishments producing mattresses in the United States. ISPA estimated that the total number of U.S. conventional mattress shipments was 21.5 million in 2002, and is estimated to be 22.1 million in 2003 and 22.8 million in 2004. These estimates do not include futons, crib mattresses, juvenile mattresses, sleep sofa inserts, or hybrid water mattresses. These ''non-conventional'' sleep surfaces are estimated to comprise about 10 percent of total annual shipments of all sleep products. The value of mattress and foundation shipments in 2002, according to ISPA, was $3.26 and $1.51 billion respectively.

The standard defines ''mattress pad'' as ''a thin, flat mat or cushion and/or ticking filled with resilient material for use on top of a mattress.'' 16 CFR 1632.1(b). Foam mattress pads may be made with a flat surface, an ''egg crate'' design, or with ''memory foam'' that contours to the body. Industry sources estimate that perhaps 4 to 5 million egg crate pads are sold annually. Memory pads, which retail for $100 or more, sell about 3 million units annually.

C. Statutory Provisions

Section 4 of the FFA authorizes the Commission to initiate proceedings for a flammability standard when it finds that such a standard is ''needed to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage.'' 15 U.S.C. 1193(a). That section also sets forth the process by which the Commission can issue or amend a flammability standard. The Commission first must issue an advance notice of proposed rulemaking (''ANPR'') which: (1) Identifies the fabric or product and the nature of the risk associated with the fabric or product; (2) summarizes the regulatory alternatives under consideration; (3) provides information about existing relevant standards and reasons why the Commission does not preliminarily believe that these standards are adequate; (4) invites interested persons to submit comments concerning the identified risk of injury, regulatory alternatives being considered, and other possible alternatives; (5) invites submission of an existing standard or portion of a standard as a proposed regulation; and (6) invites submission of a statement of intention to modify or develop a voluntary standard to address the risk of injury. 15 U.S.C. 1193(g).

If, after reviewing comments and submissions responding to the ANPR, the Commission determines to continue the rulemaking proceeding, it will issue a notice of proposed rulemaking. This notice must contain the text of the proposed rule along with alternatives the Commission has considered and a preliminary regulatory analysis. 15 U.S.C. 1193(i). Before issuing a final rule, the Commission must prepare a final regulatory analysis, and it must make certain findings concerning any relevant voluntary standard, the relationship of costs and benefits of the rule, and the burden imposed by the regulation. *Id.* 1193(j). The Commission also must provide an opportunity for interested persons to make an oral presentation before the Commission issues a final rule. *Id.* 1193(d).

The FFA does not explicitly address requirements or findings for revoking a flammability standard or amending a standard to eliminate requirements. To issue a standard the Commission must find that the standard is needed to protect the public against an unreasonable risk of death, personal injury or significant property damage due to the occurrence of fire. *Id.* 1193(a). Thus, it appears reasonable for the Commission, when revoking an FFA standard or eliminating certain requirements, to make findings that the standard (or particular requirement) is not necessary to protect against an unreasonable risk of death or injury. In other words, elimination of the standard (or certain requirements) would not result in an unreasonable risk.

D. Risk of Injury

As reported in the recent mattress NPR (70 FR 2472), the most recent national fire loss estimates indicated that mattresses and bedding were the

first items to ignite in 19,400 residential fires attended by the fire service annually during 1995–1999 (based on data from the U.S. Fire Administration's National Fire Incident Reporting System data and the National Fire Protection Association's annual survey). These fires resulted in 440 deaths, 2,230 injuries and $273.9 million in property loss each year. Open flame ignition sources accounted for 35 percent of these fires and smoking material sources accounted for 30 percent of the fires. The remaining fires included a variety of ignition sources including heat sources too close to the bed.

The cigarette ignition test has been in effect since June of 1973. Thus, the incident data discussed above reflect the circumstances prevailing when a standard emphasizing cigarette ignition of mattresses has been in place. This is not necessarily an accurate indication of the risk of injury that would be present if there were no cigarette ignition test in the mattress standard.

The essential question for the Commission in considering whether to proceed with rulemaking to revoke the standard (or amend it by eliminating some requirements) is what effect such revocation or modification would have on the risk of death or injury from fire due to cigarette ignition of mattresses. The recently proposed mattress flammability standard with its open flame test would likely address some of the risk of death and injury that is currently prevented by the existing mattress standard with its cigarette ignition test. The question is how much of the risk from cigarette ignition would remain or recur once an open flame test standard is in effect if there were no cigarette ignition test standard.

E. Regulatory Alternatives

The Commission is issuing this ANPR as it considers alternatives for the current part 1632 standard. One possible result could be (after notice of proposed rulemaking) a final rule revoking the existing mattress standard in whole or in part (for example, leaving in place the portion of the standard applicable to mattress pads). Another possible result (also after notice of proposed rulemaking) could be a final rule amending the existing mattress standard to eliminate or modify some requirements. A third alternative would be to maintain the standard as it is.

With the issuance of this ANPR, the Commission staff begins to evaluate the continued need for the part 1632 standard and to assess the possibility of modifying the standard to eliminate unnecessary and burdensome requirements in light of the proposed open flame test mattress standard. The Commission asks for the public's input on issues relevant to this evaluation.

F. Invitation To Comment

In accordance with section 4(g) of the FFA, the Commission invites comments on this notice. Specifically, the Commission invites the following types of comments.

1. Comments concerning the risk of injury identified in this notice, the regulatory alternatives discussed above, and other alternatives to address the risk of injury;

2. The submission of an existing standard or portion of a standard as a proposed rule;

3. The submission of a statement of intention to modify or develop a voluntary standard to address the risk of injury identified in the notice along with a description of a plan to modify or develop the standard.

In addition, the Commission is interested in obtaining further information about the following issues:

1. The likelihood that a mattress conforming to the open flame test standard proposed at 70 FR 2470 would without further treatment or modification automatically conform to the existing requirements of 16 CFR part 1632, and the technical basis for such assertion.

2. Methods that could be used to identify smolder-prone materials/constructions.

3. Measurements of room conditions that could be produced by smoldering ignition of materials used in mattresses conforming to the proposed open flame test standard (*e.g.*, a very heavy cellulosic ticking or layer of ''untreated'' cotton batting).

4. The necessity of retaining cigarette ignition resistance requirements for mattress pads (since there is no open flame test standard proposed for them) and the technical basis for such assertion.

5. Any information on the material and record-keeping costs that firms (especially small firms) incur in meeting the cigarette test standard.

Dated: June 17, 2005.

Todd Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 05–12387 Filed 6–22–05; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4, 5, and 7

[Notice No. 48; Re: Notice No. 41]

RIN 1513–AB07

Labeling and Advertising of Wines, Distilled Spirits and Malt Beverages; Comment Period Extension

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: In response to industry member requests, the Alcohol and Tobacco Tax and Trade Bureau extends the comment period for Notice No. 41, Labeling and Advertising of Wines, Distilled Spirits, and Malt Beverages, an advance notice of proposed rulemaking published in the **Federal Register** on April 29, 2005, for an additional 90 days.

DATES: Written comments must be received on or before September 26, 2005.

ADDRESSES: You may send comments to any of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 41, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm.* An online comment form is posted with this notice on our Web site.
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this extension notice, Notice No. 41, the petitions, and any comments we receive by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of this extension notice, Notice No. 41, and the related comments online at *http://www.ttb.gov/alcohol/rules/index.htm.*

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 128, Morganza, MD 20660; (301) 290–1460.

SUPPLEMENTARY INFORMATION: On April 29, 2005, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published Notice No. 41, Labeling and Advertising

of Wines, Distilled Spirits, and Malt Beverages; Request for Public Comment, in the **Federal Register** (70 FR 22274). In that advance notice of proposed rulemaking, TTB requested public comment on possible changes to the labeling and advertising requirements of alcohol beverage products regulated by TTB. When published, the comment period for Notice No. 41 was scheduled to close on June 28, 2005.

After the publication of Notice No. 41, TTB received several requests from alcohol beverage industry representatives and organizations to extend the comment period for Notice No. 41 for an additional 60 to 90 days beyond the June 28, 2005, closing date. In support of the extension request, industry members note that some of the questions posed in the notice are broad and far reaching from a policy standpoint while others are very technical and require a great deal of research and coordination within the affected industries.

In response to this request, TTB extends the comment period for Notice No. 41 for an additional 90 days. Therefore, comments on Notice No. 41 are now due on or before September 26, 2005.

Drafting Information

Lisa M. Gesser of the Regulations and Procedures Division drafted this notice.

Signed: June 16, 2005.

John J. Manfreda,

Administrator.

[FR Doc. 05–12396 Filed 6–22–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[SATS No. AK–006]

Alaska Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: We are announcing the receipt of revisions pertaining to a previously proposed amendment to the Alaska regulatory program (hereinafter, the ''Alaska program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alaska proposes revisions to its rules concerning revegetation of areas with a fish and wildlife habitat, recreation, shelter belts, or forest products post mining land use; subsidence and water replacement; bond release applications; topsoil removal; the removal of siltation structures; impoundment design; coal mine waste; and mining of coal incidental to the extraction of other minerals if the coal is 16⅔ percent or less of the total tonnage of minerals removed.

Alaska intends to revise its program to be consistent with the corresponding Federal regulations and incorporate the additional flexibility afforded by the revised Federal regulations.

DATES: We will accept written comments on this amendment until 4 p.m., m.s.t. July 25, 2005.

ADDRESSES: You may submit comments, identified by docket number AK–006, by any of the following methods:

- E-mail: *jfulton@osmre.gov*. Include AK–006 in the subject line of the message.
- Mail/Hand Delivery/Courier: James F. Fulton, Chief, Denver Field Division, Western Region, Office of Surface Mining Reclamation and Enforcement, PO Box 46667, 1999 Broadway, Suite 3320, Denver, CO 80201–6667, 303–844–1400 extension 1424, *jfulton@osmre.gov*.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number AK–006. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Alaska program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document you must go to the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Office of Surface Mining Reclamation and Enforcement's (OSM) Denver Field Division. In addition, you may review a copy of the amendment during regular business hours at the following locations:

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, CO 80202–6667, 303–844–1400 extension 1424, *jfulton@osmre.gov.*

Stan Foo, Mining Chief, Division Of Mining, Land and Water, Alaska Department of Natural Resources, 550 W. 7th Avenue, Suite 900D, Anchorage, AK 99501, 907–269–8503, *stanf@dnr.state.ak.us*.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: 303–844–1400 ext. 1424. Internet: *jfulton@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Alaska Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Alaska Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Alaska program on March 23, 1983. You can find background information on the Alaska program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Alaska program in the March 23, 1983, **Federal Register** (48 FR 12274). You can also find later actions concerning Alaska's program and program amendments at 30 CFR 902.10, 902.15 and 902.16.

II. Description of the Proposed Amendment

By letter dated May 11, 2004, Alaska sent us a proposed amendment to its program, (State Amendment Tracking System (SATS) No. AK–006, administrative record No. AK–9) under SMCRA (30 U.S.C. 1201 *et seq.*). Alaska sent the amendment in response to portions of letters dated May 7, 1986, December 16, 1988, February 7, 1990, June 4, 1996, and June 19, 1997 (administrative record Nos. AK–01, AK–03, AK–06, AK–07 and AK–09), that we sent to Alaska in accordance with 30 CFR 732.17(c). Alaska also submitted the amendment in response to required program amendments codified at 30 CFR 902.16(a) and (b). Alaska submitted one provision at its own initiative. The full text of the program amendment is

available for you to read at the locations listed above under **ADDRESSES.**

We announced receipt of the proposed amendment in the July 19, 2004, **Federal Register** (69 FR 42920), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. AK–9–c). Because no one requested a public hearing or meeting, none was held. The public comment period ended on August 18, 2004. We received comments from one Federal agency.

During our review of the amendment, we identified concerns relating to the provisions of:

11 AAC (Alaska Annotated Code) 90.211(a), concerning the requirement that a permittee include in the application for each phase of bond release a *notarized* statement certifying that all applicable reclamation activities have been accomplished in accordance with appropriate rules and the approved reclamation plan;

11 AAC 90.311(g), concerning the subsection that provides the Commissioner of the Alaska Department of Natural Resources (Commissioner) the discretion to authorize an exemption from the requirements for the removal, stockpiling, and redistribution of topsoil and other materials;

11 AAC 90.336(f), concerning the need to incorporate by reference the criteria in the ''Minimum Emergency Spillway Hydrologic Criteria'' table found in the Natural Resources Conservation Service (NRCS) publication *Earth, Dams and Reservoirs* Techical Release No. 60 (TR–60) or include the ''Minimum Emergency Spillway Hydrologic Criteria'' table in its performance standards for impoundments;

11 AAC 90.457(c)(3), concerning consultation with, and approval by the State forestry and wildlife agencies with regard to the minimum planting and stocking arrangements for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products postmining land use;

11 AAC 90.461(g)(1) through (4), concerning rebuttable presumption in rules governing subsidence and water replacement; and 11 AAC 652(i), concerning the use of the word ''counties.''

We notified Alaska of our concerns by letter dated October 4, 2004 (administrative record No. AK–9–3). Alaska responded in a letter dated April 1, 2005, by submitting a revised amendment (administrative record No. AK–9–4).

Alaska requested that we withdraw from the May 11, 2004, amendment proposed revisions at (1) 11 AAC 90.457(c)(3), concerning consultation with, and approval by the State forestry and wildlife agencies with regard to the minimum planting and stocking arrangements for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products postmining land use; and (2) 11 AAC 90.461(g)(1) through (4), concerning rebuttable presumption in rules governing subsidence and water replacement.

To require a notarized statement, Alaska proposes to add to 11 AAC 90.211(a), concerning bond release procedure and criteria, the requirement that the permittee shall include in the application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of Alaska Statute 27.21, 11 AAC 90, and the approved reclamation plan. Such certification shall be submitted for each application or phase of bond release.

To remove the discretion of the Commissioner to authorize an exemption from the requirements for the removal, stockpiling, and redistribution of topsoil and other materials, Alaska proposes to delete subsection 11 AAC 90.311(g), concerning removal of topsoil which allows, in lieu of the requirements of this chapter for removal, stockpiling, and redistribution of topsoil and other materials, that the Commissioner will, in his or her discretion, authorize the handling of the material as part of the backfilling and grading process under 11 AAC 90.441 and 11 AAC 90.443.

To clarify the intent of the rule with editorial revisions, Alaska now proposes that 11 AAC 90.331(e), concerning siltation structures, require that unless removal is authorized under 11 AAC 90.232(b), a siltation structure may not be removed before the Commissioner's approval under 11 AAC 90.323(b), until after the disturbed area has been stabilized and revegetated, and no earlier than two years after the last augmented seeding. When the structure is removed, the operator must regrade and revegetate the affected land in accordance with the requirements of this chapter, unless the Commissioner approves retaining a pond, or ponds, as part of the postmining land use under 11 AAC 90.481. Any pond proposed for retention must meet all requirements for a permanent impoundment under 11 AAC 90.336–11 AAC 90.338 and 11 AAC 90.351.

To require that certain impoundments be designed according to NRCS TR–60, Alaska proposes to add a new subsection at 11 AAC 90.336(g), concerning impoundment design and construction, to require that impoundments meeting the class B or C criteria for dams in NRCS TR–60 shall comply with ''Minimum Emergency Spillway Hydrologic Criteria'' table in TR–60 and the requirements of this section.

To clarify the intent of the rule with an editorial revision, Alaska proposes that 11 AAC 90.395(a), concerning general requirements for coal mine waste, require that all coal mine waste disposed of in an area other than the mine workings or excavations shall be placed in new or existing disposal areas within a permit area, which is approved by the Commissioner for this purpose.

To require publication in a newspaper of Statewide circulation rather than circulation in a county, Alaska proposes that 11 AAC 90.652(i), concerning the requirements for the content of an application for exemption from a permit for mining of coal incidental to the extraction of other minerals if the coal is 16⅔ percent or less of the total tonnage of minerals removed, require that the application include, among other things, evidence of publication in a newspaper of Statewide circulation and in a newspaper of general circulation in the vicinity of the mining area, of a public notice that an application for exemption has been filed with the regulatory authority (the public notice must identify the persons claiming the exemption and must contain a description of the proposed operation and its locality that is sufficient for interested persons to identify the operation).

III. Public Comment Procedures

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see DATES). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Denver Field Division may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS No. AK–006'' and your name and return

address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Denver Field Division at 303–844–1400 extension 1424.

Availability of Comment

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 902

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 18, 2005.

Allen D. Klein,

Director, Western Region.

[FR Doc. 05–12439 Filed 6–22–05; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Chapter I

[USCG–2004–19615]

Exclusion Zones for Marine LNG Spills

AGENCY: Coast Guard, DHS.

ACTION: Reopening of comment period.

SUMMARY: In response to a request from the public, the Coast Guard is once again reopening the public comment period on a petition from the City of Fall River, Massachusetts. Fall River's petition asks the Coast Guard to promulgate regulations establishing thermal and vapor dispersion exclusion zones for marine spills of liquefied natural gas, similar to Department of Transportation regulations for such spills on land.

DATES: Comments and related material must reach the Docket Management Facility on or before August 22, 2005.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2004–19615 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web site: *http://dms.dot.gov.*

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) Fax: 202–493–2251.

(4) Delivery: Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Commander John Cushing at 202–267–1043 or e-mail *JCushing@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the petition for rulemaking. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG–2004–19615), and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments: To view the comments, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Background and Purpose

As we stated in the original notice and request for public comments (69 FR 63979, Nov. 3, 2004), the City of Fall River, Massachusetts, has petitioned the Coast Guard to promulgate regulations establishing thermal and vapor dispersion exclusion zone requirements for liquefied natural gas (LNG) spills on water. The City asks that these regulations be similar to Department of Transportation regulations for LNG spills on land, contained in 49 CFR 193.2057 (Thermal radiation protection) and 193.2059 (Flammable vapor-gas dispersion protection).

In our original notice, we provided a public comment period that ended February 1, 2005. Near the end of that comment period, we received a letter from the Attorney General of Rhode Island that read in part: ''* * * I wish to emphasize that my office is waiting for the completion of a Threat Analysis * * *. I am formally requesting that the public comment period in this docket remain open for an additional sixty (60) days to allow for consideration of [that] report.'' In response to that request, on March 10, 2005, the Coast Guard published the notice reopening the comment period (70 FR 11912).

The Coast Guard has since been informed that the report, ''LNG Facilities in Urban Areas'' was not released until May 9, 2005—the day the docket was scheduled to close. On May 24, 2005, the report was filed in the docket: Clark Report, Item 76 in docket USCG–2005–19615.

The Coast Guard was requested to reopen the comment period again, so that the report may be reviewed and comments on it may be submitted to the docket. In response to this request, the Coast Guard is reopening the comment period.

The public is invited to review the referenced report and other material contained in the docket and to submit relevant comments by August 22, 2005. The Coast Guard will consider the City's petition, any comments received from the public, and other information to determine whether or not to initiate the requested rulemaking.

Dated: June 13, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security & Environmental Protection.

[FR Doc. 05–12399 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Marine Corps Restricted Area; Broad River and Beaufort River and tributaries, Marine Corps Recruit Depot, Parris Island, South Carolina

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing regulations to establish a restricted area around the Marine Corps Recruit Depot (MCRD), Parris Island, South Carolina including areas within the Broad River, the Beaufort River, Battery Creek, Archers Creek, Ballast Creek and Ribbon Creek in the vicinity of the Marine Corps Recruit Depot, Parris Island, South Carolina. The MCRD restricted area will surround Parris Island and Horse Island and the causeways in between. The purpose of these regulations is to provide effective security in the vicinity of the Marine Corps Recruit Depot.

DATES: Written comments must be submitted on or before July 25, 2005.

ADDRESSES: Written comments should be sent to the U.S. Army Corps of Engineers, Attn: CECW–MVD (David B. Olson), 441 G Street NW., Washington, DC 20314–1000, or by e-mail to *david.b.olson@usace.army.mil*. Electronic comments should be submitted in ASCII format or portable document format to ensure that those comments can be read. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses. Consideration will be given to all comments received within 30 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, U.S. Army Corps of Engineers, Headquarters, Washington, DC at 202–761–4922, or Mr. Dean Herndon, U.S. Army Corps of Engineers, Charleston District, at (843) 329–8044.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps proposes to establish a restricted area around the Marine Corps Recruit Depot, Parris Island by adding § 334.485 to 33 CFR part 334. The sections of the restricted area are described in detail in the regulation below. Except for the restricted area published at 33 CFR 334.480 (restricted areas for the rifle and pistol range), the public currently has unrestricted access to navigable waters adjacent to the Marine Corps Recruit Depot, Parris Island. The Commanding General, Marine Corps Recruit Depot, Parris Island is seeking authorization from the Corps of Engineers to establish restricted areas in waters of the United States adjacent to the Marine Corps Recruit Depot, Parris Island, South Carolina. The District Engineer's preliminary review indicates that this request is not contrary to the public interest.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal, if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the district office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.485 to read as follows:

§ 334.485 Broad River and Beaufort River and tributaries surrounding Marine Corps Recruit Depot, Parris Island, South Carolina.

(a) *The areas.* (1) The area of waters within a 220 yard radius of the guarded check station entrance (latitude 32°22′29.5″ and longitude 80°43′0.5″) to the Marine Corps Recruit Depot, to include waters of Battery Creek.

(2) Beginning at the point where the radius of area (1) intersects with Malecon Drive, latitude 32°22′24″ and longitude 80°42′59″, for a waterward distance of 200 yards from each side of Malecon Drive causeway that connects Port Royal Island to Horse Island.

(3) All portions of Archers Creek, beginning at the Malecon Drive bridge crossing, latitude 32°21′42″ and longitude 80°42′47″, and traversing in a southwesterly direction to its western end confluence with the Broad River, latitude 32°21′00″ and longitude 80°44′20″, thence traversing in a southeasterly direction within the Broad River to include the following coordinates:

Latitude	Longitude
32°20′40″	80°43′55″
32°20′17″	80°43′27″
32°19′55″	80°43′17″
32°19′33″	80°42′53″
32°19′7″	80°42′34″
32°18′44″	80°42′16″
32°18′29″	80°42′01″
32°18′06″	80°41′35″
32°17′54″	80°41′10″
32°17′42″	80°40′33″

to the Broad River's confluence with the Beaufort River at latitude 32°17′28″ and longitude 80°40′00″. Thence traversing in a northerly direction within the Beaufort River to include the following coordinates:

Latitude	Longitude
32°18′00″	80°39′50″
32°18′27″	80°39′40″
32°18′57″	80°39′36″
32°19′26″	80°39′37″
32°19′58″	80°39′38″
32°20′21″	80°39′40″
32°20′52″	80°39′57″
32°21′04″	80°40′09″
32°21′17″	80°40′21″
32°21′35″	80°40′35″
32°21′48″	80°40′54″

to the Beaufort River's confluence with the eastern end of Archers Creek at latitude 32°22′03″ and longitude 80°41′20″. Then traversing in a westerly direction to encompass all of Archers Creek and ending at the Malecon Drive bridge crossing, latitude 32°21′42″ and longitude 80°42′47″.

(4) All other tidal tributaries and waters located within the interior of Parris Island and encompassed by Archers Creek to the north, the Broad River to the west and the Beaufort River to the east, to include, but not limited to, Ribbon Creek beginning at its confluence with the Broad River, latitude 32°20′22″ and longitude 80°43′20″, Ballast Creek beginning at its confluence with the Broad River, latitude 32°19′30″ and longitude 80°42′29″ and ending at its confluence with the Beaufort River, latitude 32°20′17″ and longitude 80°39′50″ and Whale Branch in its entirety, beginning at its confluence with the Broad River, latitude 32°18′48″ and longitude 80°41′57″.

(b) *The regulations.* (1) In the interest of national security, vessels and other watercraft may be restricted from using any or all of the areas described in paragraph (a) of this section at any time when deemed necessary and appropriately noticed by the Commanding General (CG), Marine Corps Recruit Depot, Parris Island, unless prior approval has otherwise been obtained from the CG.

(2) When not deemed necessary, the public shall have unrestricted access and use of the waters described in paragraph (a) of this section.

(3) All restricted areas will be marked with suitable warning signs.

(4) It is understood that none of the restrictions in this section will apply to properly marked Federal vessels performing official duties.

(5) It is further understood that unauthorized personnel will not take photographs from within the restricted areas described in paragraph (a) of this section.

(c) *Enforcement:* This section shall be enforced by the Commanding General, Marine Corps Recruit Depot, Parris Island, or persons or agencies as he/she may authorize including any Federal agency, State, local or county law enforcement agency, or private security firm in the employment of the Depot, so long as the entity undertaking to enforce this restricted area has the legal authority to do so under the appropriate Federal, State, or local laws.

Dated: June 18, 2005.

Michael B. White,

Chief, Operations, Directorate of Civil Works.

[FR Doc. 05–12461 Filed 6–22–05; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7926–9]

Maine: Proposed Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Vermont has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Vermont. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing these changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect adverse comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written adverse comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you should do so at this time.

DATES: Send your written comments by July 25, 2005.

ADDRESSES: Send written comments to Sharon Leitch, Hazardous Waste Unit, EPA Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; tel: (617) 918–1647. Comments also may be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the immediate final rule which is located in the ''Rules'' section of this **Federal Register**. You can examine copies of the State of Vermont's revision application and the materials which the EPA used in evaluating the revision at the following two locations: (i) EPA Region 1 Library, One Congress Street—11th Floor, Boston, MA 02114–2023; business hours Monday through Thursday 10 a.m.–3 p.m., tel: (617) 918–1990; and (ii) the Agency of Natural Resources, Vermont Department of Environmental Conservation, Waste Management Division, 103 South Main Street—West Office Building, Waterbury, Vermont, 05671–0404, tel: (802) 241–3888. Business Hours: 7:45 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sharon Leitch at the above address and phone number.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: June 3, 2005.

Ira Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 05–12453 Filed 6–22–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, 173, 178, and 180

[Docket No. RSPA–2005–17463 (HM–220E)]

RIN 2137–AD91

Hazardous Materials: Requirements for Cylinders; Extension of Comment Period

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: PHMSA is extending until September 6, 2005, the period for interested persons to submit comments on the March 9, 2005 notice of proposed rulemaking. In the March 9, 2005 NPRM, we proposed to amend the Hazardous Materials Regulations to adopt standards for the design, construction, maintenance and use of cylinders and multiple-element gas containers (MEGCs) based on the standards contained in the United Nations (UN) Recommendations on the Transport of Dangerous Goods. Aligning the HMR with the UN

Recommendations will promote flexibility, permit the use of technological advances for the manufacture of pressure receptacles, provide for a broader selection of pressure receptacles, reduce the need for exemptions, and facilitate international commerce in the transportation of compressed gases.

DATES: Submit comments by September 6, 2005. To the extent possible, we will consider comments received after this date in developing a final rule.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2005–17463 (HM–220E) by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov* Follow the 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 System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: To the Docket Management System; 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.

Instructions: You must include the agency name (Pipeline and Hazardous Materials Safety Administration) and docket number (PHMSA–2005–17463 (HM220E)) or the Regulatory Identification Number (RIN 2137–AD91) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail. If you wish to receive confirmation that PHMSA received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided, and will be accessible to Internet users. Please see the Privacy Act section of this document.

Docket: You may view the public docket through the Internet at *http://dms.dot.gov* or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Hattie L. Mitchell, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On March 9, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA, we) published a notice of proposed rulemaking (NPRM) under Docket No. PHMSA–2005–17463 (HM–220E) (70 FR 11768). In the NPRM, we proposed to amend the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to adopt standards for the design, construction, maintenance and use of cylinders and multiple-element gas containers (MEGCs) based on the standards contained in the United Nations (UN) Recommendations on the Transport of Dangerous Goods. Aligning the HMR with the UN Recommendations will promote flexibility, permit the use of technological advances for the manufacture of pressure receptacles, provide for a broader selection of pressure receptacles, reduce the need for exemptions, and facilitate international commerce in the transportation of compressed gases. We proposed to incorporate by reference 21 new standards developed by the International Standards Organization (ISO) that contain the design, construction, testing and requalification requirements for the new UN cylinders and MEGCs. The 120-day comment period for the proposed rule was to end on July 7, 2005.

On June 10, 2005, Mr. Lawrence W. Bierlein filed comments to the docket on behalf of Arrowhead Industrial Services, Inc., requesting an extension of the comment period of an additional 90 days, until October 6, 2005. Arrowhead stated that after ordering the ISO standards, the comment period remaining provides insufficient time for them to complete their analysis, draft comments, and coordinate with associations and others involved in the process.

We agree the comment period should be extended to allow additional time for commenters to address the proposals. Therefore, we are allowing an additional 60 days for submission of comments, until September 6, 2005. We will consider comments received after this date to the extent possible in developing a final rule.

II. Regulatory Notice

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.*

Issued in Washington, DC, on June 17, 2005, under the authority delegated in 49 CFR Part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 05–12459 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA–2005–21259]

RIN 2126–AA88

Parts and Accessories Necessary for Safe Operation; Protection Against Shifting and Falling Cargo; Correction

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM) and request for comments; Correction.

SUMMARY: The FMCSA published a notice of proposed rulemaking (NPRM) in the **Federal Register** on June 8, 2005, concerning request for comments on proposed revisions to the cargo securement requirements. The NPRM contained an incorrect docket number in which comments must be received.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Director, Office of Bus and Truck Standards and Operations (MC–PS), Federal Motor Carrier Safety Administration; (202) 366–4009.

Correction

In proposed rule document 05–11332, in the June 8, 2005 **Federal Register** [70 FR 33430], correct the **ADDRESSES** section, introductory text, to read:

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2005–21259 * * *.

Issued: June 16, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–12442 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 70, No. 120
Thursday, June 23, 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 17, 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.

Forest Service

Title: Forest Products Free Use Permit, Forest Products Removal Permit and Cash Receipt, and Forest Products Sale Permit and Cash Receipt.

OMB Control Number: 0596–0085.

Summary of Collection: Individuals or other Federal agencies that wish to remove forest products from the National Forest must request a permit. 16 U.S.C. 551 requires the promulgation of regulations to regulate forest use and prevent destruction of the forests. To obtain a permit, applicants must meet the criteria at 36 CFR 223.1, 223.2 and 223.5 through 223.13 under which free use or sale of timber or forest products is authorized. Upon receiving a permit, the permittee must comply with the terms of the permit at 36 CFR 216.6 that designate the forest products that can be harvested and under what conditions, such as limiting harvest to a designated area or permitting harvest of only specifically designated material. The collection of information is required to determine if the applicant meets the criteria under which free use or sale of forest products is authorized by the regulations and to ensure that the permittee complies with the regulations and terms of the permit. This information is also needed to allow Forest Service (FS) compliance personnel to identify permittees in the field.

Need and Use of the Information: FS will collect the name, address and tax identification number from person applying for permits. The information will be used by FS to keep a record of persons buying forest products. The information will also be used to ensure that the permittee has not received product values in excess of the amount allowed by regulation in any one fiscal year. Without the forest product removal program, achieving multiple use management programs such as reducing fire hazard and improving forest health on the National Forest would be impaired.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 303,500.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 16,973.

Ruth Brown,
Departmental Information Collection Clearance Officer.

[FR Doc. 05–12434 Filed 6–22–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant iSoy Technologies Corporation of Cary, Illinois, an exclusive license to U.S. Patent No. 6,346,236, ''Sunscreens from Vegetable Oil and Plant Phenols,'' issued on February 12, 2002. Notice of Availability of this invention for licensing was published in the **Federal Register** on March 13, 2001.

DATES: Comments must be received within thirty (30) calendar days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as iSoy Technologies Corporation has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 05–12398 Filed 6–22–05; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comment; Evaluating Community Knowledge, Beliefs, Attitudes and Preferences Concerning Fire and Fuels Management in Southwestern Forest, Woodland and Grassland Ecosystems

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on a new, one-time information collection, Evaluating Community Knowledge, Beliefs, Attitudes and Preferences Concerning Fire and Fuels Management in Southwestern Forest, Woodland and Grassland Ecosystems. This collection effort is necessary to obtain information from the citizens of Arizona and New Mexico. The information provided by this study will allow USDA Forest Service land managers to better understand the public's knowledge, beliefs, attitudes and preferences regarding fire and fuels management issues in Region 3 of the USDA Forest Service. This information will assist Forest Service land managers in their efforts to interact more effectively with the public and manage the risks associated with wildland fire.

DATES: Comments must be received in writing on or before August 22, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Dr. Carol Raish, USDA Forest Service, Rocky Mountain Research Station, 333 Broadway, SE., Suite 115, Albuquerque, New Mexico 87102–3497.

Comments also may be submitted via facsimile to (505) 724–3688 or by e-mail to: *craish@fs.fed.us.* The public may inspect comments received at USDA Forest Service, Rocky Mountain Research Station, 333 Broadway SE, Albuquerque, NM 87102–3497 during normal business hours. Visitors are encouraged to call ahead to (505) 724–3666 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Dr. Carol Raish, (505) 724–3666. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Evaluating Community Knowledge, Beliefs, Attitudes and Preferences Concerning Fire and Fuels Management in Southwestern Forest, Woodland and Grassland Ecosystems.

OMB Number: 0596–New.

Expiration Date of Approval: New.

Type of Request: New.

Abstract: Although fire is increasingly recommended as a fuels reduction tool on both public and private lands, controversy often inhibits its use. Insufficient communication and understanding between land managers and the public frequently contribute to these difficulties. If managers do not have adequate information concerning public attitudes and actions concerning wildfire risk reduction behaviors (for example, creating defensible space on their properties by clearing brush and trees from a 30-foot area around the residence), then managers may not make well-informed decisions concerning appropriate communication techniques and needed public education information. In order to design and implement successful, socially acceptable fire and fuels management policies and programs, managers need to better understand the public's knowledge, attitudes and practices concerning wildfire. This project will collect information from the general public residing in Arizona and New Mexico. This type of information from these two states is important given the fire and fuels management decisions facing land managers in this area.

The information will be collected using a mail survey of households located in Arizona and New Mexico. Households will be randomly selected based upon addresses in the two states. Participation in the survey is strictly voluntary.

The survey will be administered by a firm operating under a Research Joint Venture with the USDA Forest Service, Rocky Mountain Research Station in Albuquerque, New Mexico.

The type of information collected will include: (1) Attitudes and preferences toward wildfire and fire management alternatives for public lands, (2) risk reduction behaviors that homeowners and individuals have undertaken to minimize wildfire risk, (3) sources of information regarding wildfires and wildfire risk reduction, and (4) socio-economic information. The data collected will then be analyzed by researchers at the Rocky Mountain Research Station and cooperators. The results will be made available to land managers, the surveyed public, and other interested parties. This information will enhance the ability of decision makers to communicate and understand the public and their preferences regarding fire and fuels management in Arizona and New Mexico. Without this type of information decision makers and the public will continue to interact on the issues without a broad-based understanding of the factors that are important to the general public of Arizona and New Mexico.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Individuals residing in Arizona and New Mexico.

Estimated Annual Number of Respondents: 2000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 667 hours.

Comment is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

Dated: June 16, 2005.

Bov B. Eav,

Associate Deputy Chief for Research & Development.

[FR Doc. 05–12408 Filed 6–22–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–588–824)

Rescission of Antidumping Duty Administrative Review: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the Nucor Corporation (''Nucor''), the Department of Commerce (''the Department'') initiated an administrative review of the antidumping duty order on certain corrosion–resistant carbon steel flat products from Japan. This review covers imports of subject merchandise from Kawasaki Steel Corporation (''Kawasaki'') (and any alleged successor–in-interest including JFE Steel Corporation (''JFE Steel'')), and Nippon Steel Corporation (''Nippon Steel''), for the period of review (''POR'') August 1, 2003, through July 31, 2004. On May 20, 2005, Nucor withdrew its request for an administrative review. The Department is now rescinding this administrative review.

EFFECTIVE DATE: June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–4161 or 202–482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on certain corrosion–resistant carbon steel flat products from Japan on August 19, 1993. *See Antidumping Duty Order: Certain Corrosion–Resistant Carbon Steel Flat Products from Japan*, 58 FR 44163 (August 19, 1993). On August 31, 2004, Nucor, a domestic producer of the subject merchandise, requested an administrative review of the antidumping order referenced above. *See Letter from Nucor Corporation, re: Request for Administrative Review*. On September 22, 2004, the Department published a notice of initiation of antidumping and countervailing duty administrative reviews and request for revocation in part. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation, In Part*, 69 FR 56745 (September 22, 2004).

On May 9, 2005, the Department extended the preliminary results deadline to June 2, 2005. *See Certain Corrosion–Resistant Carbon Steel Flat Products from Japan; Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 24393 (May 9, 2005).

On May 20, 2005, Nucor asked the Department to extend the deadline for withdrawing its request for review, pursuant to 351.213(d)(1) of the Department's regulations, and asked the Department to rescind the administrative review. *See Letter from Nucor Corporation*.

On June 2, 2005, United States Steel Corporation (''U.S. Steel'') submitted a letter objecting to Nucor's request to rescind the administrative review. *See Letter from U.S. Steel, re; Objection to Rescission*. On June 2, 2005, the Department further extended the preliminary results to June 30, 2005. *See Certain Corrosion–Resistant Carbon Steel Flat Products from Japan; Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review*. 70 FR 33448 (June 8, 2005).

On June 8, 2005, U.S. Steel withdrew its objection to Nucor's request to rescind the administrative review. *See Letter from U.S. Steel*.

Scope of Order

The products subject to this order include flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 mm, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness, or if of a thickness of 4.75 mm or more, are of a width which exceeds 150 mm and measures at least twice the thickness, as currently classifiable in the HTS under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090.

Included in the order are flat–rolled products of nonrectangular cross–section where such cross–section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') -- for example, products which have been beveled or rounded at the edges.

Excluded from the scope of the order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from the scope of the order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Also excluded from the scope of the order are certain clad stainless flat–rolled products, which are three–layered corrosion- resistant carbon steel flat–rolled products less than 4.75 mm in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio. *See Antidumping Duty Order: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan*, 58 FR 44163 (August 19, 1993).

Exclusions due to Changed Circumstances Reviews

The Department has issued the following rulings to date:

Excluded from the scope of this order are imports of certain corrosion–resistant carbon steel flat products meeting the following specifications: widths ranging from 10 mm (0.394 inches) through 100 mm (3.94 inches); thicknesses, including coatings, ranging from 0.11 mm (0.004 inches) through 0.60 mm (0.024 inches); and a coating that is from 0.003 mm (0.00012 inches) through 0.005 mm (0.000196 inches) in thickness and that is comprised of three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, and finally a layer consisting of silicate. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order*, 62 FR 66848 (December 22, 1997).

Also excluded from the scope of this order are imports of subject

merchandise meeting all of the following criteria: (1) Widths ranging from 10 mm (0.394 inches) through 100 mm (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 mm (0.004 inches) through 0.60 mm (0.024 inches); and (3) a coating that is from 0.003 mm (0.00012 inches) through 0.005 mm (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order*, 64 FR 14861 (March 29, 1999).

Also excluded from the scope of this order are: (1) Carbon steel flat products measuring 1.84 mm in thickness and 43.6 mm or 16.1 mm in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys; and (2) carbon steel flat products measuring 0.97 mm in thickness and 20 mm in width consisting of carbon steel coil (SAE 1008) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that is balance copper, 9% to 11% tin, 9% to 11% lead, less than 1% zinc, less than 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45% to 55% lead, 38% to 50% PTFE, 3% to 5% molybdenum disulfide and less than 2% other materials. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 64 FR 57032 (October 22, 1999).

Also excluded from the scope of the order are imports of doctor blades meeting the following specifications: carbon steel coil or strip, plated with nickel phosphorous, having a thickness of 0.1524 mm (0.006 inches), a width between 31.75 mm (1.25 inches) and 50.80 mm (2.00 inches), a core hardness between 580 to 630 HV, a surface hardness between 900--990 HV; the carbon steel coil or strip consists of the following elements identified in percentage by weight: 0.90% to 1.05% carbon; 0.15% to 0.35% silicon; 0.30% to 0.50% manganese; less than or equal to 0.03% of phosphorous; less than or equal to 0.006% of sulfur; other elements representing 0.24%; and the remainder of iron. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 65 FR 53983 (September 6, 2000).

Also excluded from the scope of the order are imports of carbon steel flat products meeting the following specifications: carbon steel flat products measuring 1.64 mm in thickness and 19.5 mm in width consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy that is balance aluminum; 10 to 15% tin; 1 to 3% lead; 0.7 to 1.3% copper; 1.8 to 3.5% silicon; 0.1 to 0.7% chromium; less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 66 FR 8778 (February 2, 2001).

Also excluded from the scope of the order are carbon steel flat products meeting the following specifications: (1) Carbon steel flat products measuring 0.975 mm in thickness and 8.8 mm in width consisting of carbon steel coil (SAE 1012) clad with a two–layer lining, the first layer consisting of a copper–lead alloy powder that is balance copper, 9%-11% tin, 9%-11% lead, maximum 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 13%-17% carbon, 13%-17% aromatic polyester, with a balance (approx. 66%-74%) of polytetrafluorethylene (''PTFE''); and (2) carbon steel flat products measuring 1.02 mm in thickness and 10.7 mm in width consisting of carbon steel coil (SAE 1008) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that is balance copper, 9%-11% tin, 9%-11% lead, less than 0.35% iron, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45%-55% lead, 3%-5% molybdenum disulfide, with a balance (approx. 40%-52%) of PTFE. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 66 FR 15075 (March 15, 2001).

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring 1.93 mm or 2.75 mm (0.076 inches or 0.108 inches) in thickness, 87.3 mm or 99 mm (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3% antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum. Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, clad with aluminum, measuring 1.75 mm (0.069 inches) in thickness, 89 mm or 94 mm (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum total other (including iron), and remainder aluminum. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 66 FR 20967 (April 26, 2001).

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring a minimum of and including 1.10 mm to a maximum of and including 4.90 mm in overall thickness, a minimum of and including 76.00 mm to a maximum of and including 250.00 mm in overall width, with a low carbon steel back comprised of: carbon under 0.10%, manganese under 0.40%, phosphorous under 0.04%, sulfur under 0.05%, and silicon under 0.05%; clad with aluminum alloy comprised of: under 2.51% copper, under 15.10% tin, and remainder aluminum as listed on the mill specification sheet. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 67 FR 7356 (February 19, 2002).

Also excluded from this order are products meeting the following specifications: (1) Diffusion annealed, non–alloy nickel–plated carbon products, with a substrate of cold–rolled battery grade sheet (''CRBG'') with both sides of the CRBG initially electrolytically plated with pure, unalloyed nickel and subsequently annealed to create a diffusion between the nickel and iron substrate, with the nickel plated coating having a thickness

of 0–5 microns per side with one side equaling at least 2 microns; and with the nickel carbon sheet having a thickness of from 0.004'' (0.10 mm) to 0.030'' (0.762 mm) and conforming to the following chemical specifications (%): C <= 0.08; Mn <= 0.45; P <= 0.02; S <= 0.02; Al <= 0.15; and Si <= 0.10; and the following physical specifications: Tensile = 65 KSI maximum; Yield = 32 - 55 KSI; Elongation = 18% minimum (aim 34%); Hardness = 85 - 150 Vickers; Grain Type = Equiaxed or Pancake; Grain Size (ASTM) = 7–12; Delta r value = aim less than +/- 0.2; Lankford value = <== 1.2.; and (2) next generation diffusion–annealed nickel plate meeting the following specifications: (a) nickel–graphite plated, diffusion annealed, tin–nickel plated carbon products, with a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed tin–nickel plated carbon steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel–tin alloy is created, and an additional layer of mixture of natural nickel and graphite then electrolytically plated on the top side of the strip of the nickel–tin alloy; having a coating thickness: top side: nickel–graphite, tin–nickel layer <== 1.0 micrometers; tin layer only <== 0.05 micrometers, nickel–graphite layer only <= 0.2 micrometers, and bottom side: nickel layer <== 1.0 micrometers; (b) nickel–graphite, diffusion annealed, nickel plated carbon products, having a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; with both sides of the cold rolled base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion between the nickel and the iron substrate; with an additional layer of natural nickel–graphite then electrolytically plated on the top side of the strip of the nickel plated steel strip; with the nickel–graphite, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel–graphite, tin–nickel layer <== 1.0 micrometers; nickel–graphite layer <== 0.5 micrometers; bottom side: nickel layer <== 1.0 micrometers; (c) diffusion annealed nickel–graphite plated products, which are cold–rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; having the bottom side of the base metal first electrolytically plated with natural nickel, and the top side of the strip then plated with a nickel–graphite composition; with the strip then annealed to create a diffusion of the nickel–graphite and the iron substrate on the bottom side; with the nickel–graphite and nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having coating thickness: top side: nickel–graphite layer <== 1.0 micrometers; bottom side: nickel layer <== 1.0 micrometers; (d) nickel–phosphorous plated diffusion annealed nickel plated carbon product, having a natural composition mixture of nickel and phosphorus electrolytically plated to the top side of a diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion of the nickel and iron substrate; another layer of the natural nickel–phosphorous then electrolytically plated on the top side of the nickel plated steel strip; with the nickel–phosphorous, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel–phosphorous, nickel layer <== 1.0 micrometers; nickel–phosphorous layer <== 0.1 micrometers; bottom side: nickel layer <== 1.0 micrometers; (e) diffusion annealed, tin–nickel plated products, electrolytically plated with natural nickel to the top side of a diffusion annealed tin–nickel plated cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the cold rolled strip initially electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel–tin alloy is created, and an additional layer of natural nickel then electrolytically plated on the top side of the strip of the nickel–tin alloy; sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having coating thickness: top side: nickel–tin-nickel combination layer <== 1.0 micrometers; tin layer only <== 0.05 micrometers; bottom side: nickel layer <== 1.0 micrometers; and (f) tin mill products for battery containers, tin and nickel plated on a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel; then annealed to create a diffusion of the nickel and iron substrate; then an additional layer of natural tin electrolytically plated on the top side; and again annealed to create a diffusion of the tin and nickel alloys; with the tin–nickel, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel–tin layer <== 1 micrometer; tin layer alone <== 0.05 micrometers; bottom side: nickel layer <== 1.0 micrometer. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 67 FR 47768 (July 22, 2002).

Also excluded from this order are products meeting the following specifications: (1) Widths ranging from 10 mm (0.394 inches) through 100 mm (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 mm (0.004 inches) through 0.60 mm (0.024 inches); and (3) a coating that is from 0.003 mm (0.00012 inches) through 0.005 mm (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of phosphate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of phosphate, and finally a layer consisting of silicate. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 67 FR 57208 (September 9, 2002).

Also excluded from this order are products meeting the following specifications: (1) Flat–rolled products

(provided for in HTSUS subheading 7210.49.00), other than of high–strength steel, known as ''ASE Iron Flash'' and either: (A) having a base layer of zinc–based zinc–iron alloy applied by hot–dipping and a surface layer of iron–zinc alloy applied by electrolytic process, the weight of the coating and plating not over 40% by weight of zinc; or (B) two–layer-coated corrosion–resistant steel with a coating composed of (a) a base coating layer of zinc–based zinc–iron alloy by hot–dip galvanizing process, and (b) a surface coating layer of iron–zinc alloy by electro–galvanizing process, having an effective amount of zinc up to 40% by weight, and (2) corrosion resistant continuously annealed flat–rolled products, continuous cast, the foregoing with chemical composition (percent by weight): carbon not over 0.06% by weight, manganese 0.20 or more but not over 0.40, phosphorus not over 0.02, sulfur not over 0.023, silicon not over 0.03, aluminum 0.03 or more but not over 0.08, arsenic not over 0.02, copper not over 0.08 and nitrogen 0.003 or more but not over 0.008; and meeting the characteristics described below: (A) Products with one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a two–layer coating composed of a base nickel–iron-diffused coating layer and a surface coating layer of annealed and softened pure nickel, with total coating thickness for both layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; with scanning electron microscope (SEM) not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (B) products having one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a four–layer coating composed of a base nickel–iron-diffused coating layer; with an inner middle coating layer of annealed and softened pure nickel, an outer middle surface coating layer of hard nickel and a topmost nickel–phosphorus-plated layer; with combined coating thickness for the four layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (C) products having one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three–layer coating composed of a base nickel–iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, luster–agent-added nickel which is not heat–treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; or (D) products having one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three–layer coating composed of a base nickel–iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, pure nickel which is not heat–treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 68 FR 19970 (April 23, 2003).

Also excluded from the scope of this order is merchandise meeting the following specifications: (1) Base metal: Aluminum Killed, Continuous Cast, Carbon Steel SAE 1008, (2) Chemical Composition: Carbon 0.08% max. Silicon, 0.03% max., Manganese 0.40% max., Phosphorus, 0.02% max., Sulfur 0.02% max., (3) Nominal thickness of 0.054 mm, (4) Thickness Tolerance minimum 0.0513 mm, maximum 0.0567 mm, (5) Width of 600 mm or greater, and (7) Nickel plate min. 2.45 microns per side. *See Notice of Final Results of Changed Circumstances Review and Revocation, in Part: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan*, 70 FR 2608 (January 14, 2005).

Also excluded from the scope of this order are the following 24 separate corrosion–resistant carbon steel coil products meeting the following specifications:

Product 1 Products described in industry usage as of carbon steel, measuring 1.625 mm to 1.655 mm in thickness and 19.3 mm to 19.7 mm in width, consisting of carbon steel coil (SAE 1010) with a lining clad with an aluminum alloy containing by weight 10% or more but not more than 15% of tin, 1% or more but not more than 3% of lead, 0.7% or more but not more than 1.3% of copper, 1.8% or more but not more than 3.5% of silicon, 0.1% or more but not more than 0.7% of chromium and less than or equal to 1% of other materials, and meeting the requirements of SAE standard 788 for Bearing and Bushing Alloys.

Product 2 Products described in industry usage as of carbon steel, measuring 0.955 mm to 0.985 mm in thickness and 8.6 mm to 9.0 mm in width, consisting of carbon steel coil (SAE 1012) clad with a two–layer lining, the first layer consisting of a copper–lead alloy powder that contains by weight 9% or more but not more than 11% of tin, 9% or more but not more than 11% of lead, less than 0.05% phosphorus, less than 0.35% iron and less than or equal to 1% other materials, and meeting the requirements of SAE standard 797 for Bearing and Bushing Alloys, with the second layer containing by weight 13% or more but not more than 17% of carbon, 13% or more but not more than 17% of aromatic polyester, and the remainder (approx. 66–74%) of PTFE.

Product 3 Products described in industry usage as of carbon steel, measuring 1.01 mm to 1.03 mm in thickness and 10.5 mm to 10.9 mm in width, consisting of carbon steel coil (SAE 1010) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that contains by weight 9% or more but not more than 11% of tin, 9% or more but not more than 11% of lead, less than 1% zinc and less than or equal to 1% other materials, and meeting the requirements of SAE standard 797 for Bearing and Bushing Alloys, with the second layer containing by weight 45% or more but not more than 55% of lead, 3% or more but not more than 5% of molybdenum disulfide, and the remainder made up of PTFE (approximately 38% to 52%) and less than 2% in the aggregate of other materials.

Product 4 Products described in industry usage as of carbon steel, measuring 1.8 mm to 1.88 mm in thickness and 43.4 mm to 43.8 mm or 16.1 mm to 1.65 mm in width, consisting of carbon steel coil (SAE 1010) clad with an aluminum alloy that contains by weight 19% to 20% tin, 1% to 1.2% copper, less than 0.3% silicon, 0.15% nickel and less than 1% in the aggregate other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Product 5 Products described in industry usage as of carbon steel, measuring 0.95 mm to 0.98 mm in thickness and 19.95 mm to 20 mm in width, consisting of carbon steel coil (SAE 1010) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that contains by weight

9% or more but not more than 11% of tin, 9% or more but not more than 11% of lead, less than 1% of zinc and less than or equal to 1% in the aggregate of other materials and meeting the requirements of SAE standard 797 for Bearing and Bushing Alloys, with the second layer consisting by weight of 45% or more but not more than 55% of lead, 3% or more but not more than 5% of molybdenum disulfide and with the remainder made up of PTFE (approximately 38% to 52%) and up to 2% in the aggregate of other materials.

Product 6 Products described in industry usage as of carbon steel, measuring 0.96 mm to 0.98 mm in thickness and 18.75 mm to 18.95 mm in width; base of SAE 1010 steel with a two–layer lining, the first layer consisting of copper–base alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35, and other materials less than 1%; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of lead 33 to 37%, aromatic polyester 28 to 32%, and other materials less than 2% with a balance of PTFE.

Product 7 Products described in industry usage as of carbon steel, measuring 1.21 mm to 1.25 mm in thickness and 19.4 mm to 19.6 mm in width; base of SAE 1012 steel with lining of copper base alloy with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35 and other materials less than 1%; meeting the requirements of SAE standard 797 for bearing and bushing alloys.

Product 8 Products described in industry usage as of carbon steel, measuring 0.96 mm to 0.98 mm in thickness and 21.5 mm to 21.7 mm in width; base of SAE 1010 steel with a two–layer lining, the first layer consisting of copper–base alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05%, ferrous group less than 0.35 and other materials less than 1; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of (percent by weight) lead 33 to 37, aromatic polyester 28 to 32 and other materials less than 2 with a balance of PTFE.

Product 9 Products described in industry usage as of carbon steel, measuring 0.96 mm to 0.99 mm in thickness and 7.65 mm to 7.85 mm in width; base of SAE 1012 steel with a two–layer lining, the first layer consisting of copper–based alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35 and other materials less than 1; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of (percent by weight) carbon 13 to 17 and aromatic polyester 13 to 17, with a balance of polytetrafluoroethylene (''PTFE'')

Product 10 Products described in industry usage as of carbon steel, measuring 0.955 mm to 0.985 mm in thickness and 13.6 mm to 14 mm in width; base of SAE 1012 steel with a two–layer lining, the first layer consisting of copper–based alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35 and other materials less than 1; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of (percent by weight) carbon 13 to 17, aromatic polyester 13 to 17, with a balance (approximately 66 to 74) of PTFE.

Product 11 Products described in industry usage as of carbon steel, measuring 1.2 mm to 1.24 mm in thickness; 20 mm to 20.4 mm in width; consisting of carbon steel coils (SAE 1012) with a lining of sintered phosphorus bronze alloy with chemical composition (percent by weight): tin 5.5 to 7; phosphorus 0.03 to 0.35; lead less than 1 and other non–copper materials less than 1.

Product 12 Products described in industry usage as of carbon steel, measuring 1.8 mm to 1.88 mm in thickness and 43.3 mm to 43.7 mm in width; base of SAE 1010 steel with a lining of aluminum based alloy with chemical composition (percent by weight: tin 10 to 15, lead 1 to 3, copper 0.7 to 1.3, silicon 1.8 to 3.5, chromium 0.1 to 0.7 and other materials less than 1; meeting the requirements of SAE standard 788 for bearing and bushing alloys.

Product 13 Products described in industry usage as of carbon steel, measuring 1.8 mm to 1.88 mm in thickness and 24.2 mm to 24.6 mm in width; base of SAE 1010 steel with a lining of aluminum alloy with chemical composition (percent by weight): tin 10 to 15, lead 1 to 3, copper 0.7 to 1.3, silicon 1.8 to 3.5, chromium 0.1 to 0.7 and other materials less than 1; meeting the requirements of SAE standard 788 for bearing and bushing alloys.

Product 14 Flat–rolled coated SAE 1009 steel in coils, with thickness not less than 0.915 mm but not over 0.965 mm, width not less than 19.75 mm or more but not over 20.35 mm; with a two–layer coating; the first layer consisting of tin 9 to 11%, lead 9 to 11%, zinc less than 1%, other materials (other than copper) not over 1% and balance copper; the second layer consisting of lead 45 to 55%, molybdenum disulfide (MoS2) 3 to 5%, other materials not over 2%, balance PTFE.

Product 15 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 0.915 mm or more but not over 0.965 mm; width not less than 18.65 mm or more but not over19.25 mm; with a two–layer coating; the first layer consisting of tin 9 to 11%, lead 9 to 11%, zinc less than 1%, other materials (other than copper) not over 1%, balance copper; the second layer consisting of lead 33 to 37%, aromatic polyester 13 to 17%, other materials other than PTFE less than 2%, balance PTFE.

Product 16 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 0.920 mm or more but not over 0.970 mm; width not less than 21.35 mm or more but not over 21.95 mm; with a two–layer coating; the first layer consisting of tin 9 to 11%, lead 9 to 11%, zinc less than 1%, other materials (other than copper) not over 1%, balance copper; the second layer consisting of lead 33 to 37%, aromatic polyester 13 to 17%, other materials (other than PTFE) less than 2%, balance PTFE.

Product 17 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 1.80 mm or more but not over 1.85 mm, width not less than 14.7 mm or more but not over 15.3 mm; with a lining consisting of tin 2.5 to 4.5%, lead 21.0 to 25.0%, zinc less than 3%, iron less than 0.35%, other materials (other than copper) less than 1%, balance copper.

Product 18 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 14.5 mm or more but not over 15.1 mm; with a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, balance copper.

Product 19 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 1.75 mm or more but not over 1.8 mm; width not less than 18.0 mm or more but not over 18.6 mm; with a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, balance copper.

Product 20 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 13.6 mm or more but not over14.2 mm; with

a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, with a balance copper.

Product 21 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 11.5 mm or more but not over 12.1 mm; with a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, balance copper.

Product 22 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 11.2 mm or more but not over 11.8 mm, with a lining consisting of copper 0.7 to 1.3%, tin 17.5 to 22.5%, silicon less than 0.3%, nickel less than 0.15%, other materials less than 1%, balance aluminum.

Product 23 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over1.64 mm; width 7.2 mm or more but not over 7.8 mm; with a lining consisting of copper 0.7 to 1.3%, tin 17.5 to 22.5%, silicon less than 0.3%, nickel less than 0.15%, other materials (other than copper) less than 1%, balance copper.

Product 24 Flat–rolled coated SAE 1009 steel in coils with thickness 1.72 mm or more but not over 1.77 mm; width 7.7 mm or more but not over 8.3 mm; with a lining consisting of copper 0.7 to 1.3%, tin 17.5 to 22.5%, silicon less than 0.3%, nickel less than 0.15%, other materials (other than copper) less than 1%, balance copper. See Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, In Part: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan, 70 FR 5137 (February 1, 2005).

Rescission of Review

Section 351.213(d)(1) of the Department's regulations provides that a party that requests an administrative review may withdraw the request within 90 days after the date of publication of the notice of initiation of the requested administrative review. Additionally, section 351.213(d)(1) provides that the Department may extend the time limit for withdrawal of requests where it is reasonable. On May 20, 2005, Nucor withdrew its request for an administrative review. Since the review was initiated on August 31, 2004, more than 90 days have passed since the initiation of the review. The Department finds that it is reasonable to extend the 90–day limit for Nucor to withdraw its request for review because (1) Nucor was the only party to request a review in this case, (2) the Department has not yet made a preliminary determination in this proceeding and neither the Department nor the participating parties have expended significant resources, and (3) no other interested party has objected to Nucor's request.[1] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, form Hungary: Rescission of Antidumping Duty Administrative Review*, 65 Fed. Reg. 35610 (June 5, 2000); *Cotton Shop Towels from Pakistan: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 66 Fed. Reg. 18444 (April 9, 2001); *Frozen Concentrated Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 Fed. Reg. 40913 (June 14, 2002).

Therefore, for the above–stated reasons, the Department is rescinding the administrative review of the antidumping duty order on certain corrosion–resistant carbon steel flat products from Japan covering the period August 1, 2003, through July 31, 2004. The Department will issue appropriate assessment instructions directly to U.S. Customs and Border Protection.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and section 351.213(d)(4) of the Department's regulations.

[1] As noted above, U.S. Steel withdrew its objection.

Dated: June 17, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–3270 Filed 6–22–05; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–357–812

Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review: Honey from Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 23, 2005.

FOR FURTHER INFORMATION CONTACT: David Cordell or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0408 and (202) 482–0469, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty order on honey from Argentina on December 10, 2001 (*see Notice of Antidumping Duty Order; Honey From Argentina*, 66 FR 63672 (December 10, 2001)). On December 30, 2004, El Mana S.A., an Argentine exporter of subject merchandise requested that the Department conduct a new shipper review. On January 31, 2005, the Department initiated this new shipper review, which was published in the **Federal Register** on February 4, 2005, (*Honey from Argentina: Initiation of New Shipper Antidumping Duty Review*, 70 FR 5965 (February 4, 2005)). The preliminary results of this administrative review are currently due no later than July 30, 2005.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930 (the Act), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 180 days after the date on which the new shipper review was initiated. The Act further provides, however, that the Department may extend the deadline for completion of the preliminary results of a new shipper review from 180 days to

300 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act. Due to the complexity of issues present in this new shipper review, such as issues related to third country sales and packaging, the Department has determined that it is not practicable to complete this review within the original time period.

Section 751(a)(2)(B) of the Act and section 351.214(h)(i)(2) of the Department's regulations allow the Department to extend the deadline for the preliminary results to a maximum of 300 days from the date on which the new shipper review was initiated. For the reasons noted above, we are extending the time for the completion of preliminary results until no later than November 28, 2005, which is the next business day after 300 days from the date on which the new shipper review was initiated. The deadline for the final results of this administrative review continues to be 90 days after the publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: June 17, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–3271 Filed 6–21–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–879

Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 23, 2005.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (''the Department'') published an antidumping duty order on polyvinyl alcohol (''PVA'') from the People's Republic of China (''PRC'') on October 1, 2003 (*see Antidumping Duty Order: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 56620). On October 29, 2004, Petitioners[1] requested that the Department conduct an antidumping review of Sinopec Sichuan Vinylon Works.

On November 19, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of PVA from the PRC for the period March 20, 2003, through September 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 67701 (November 19, 2004).[2] The preliminary results of review are currently due no later than July 3, 2005.

Extension of Time Limit of Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall issue preliminary results in an antidumping administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order.

The Act further provides, however, that the Department may extend the deadline for completion of the preliminary results if review from 245 days to 365 days if it determines that it is not practicable to complete the preliminary results within the 245–day period. Completion of the preliminary results of this review within the 245–day period is not practicable because the Department needs additional time to analyze a significant amount of information pertaining to the respondent company's sales practices, factors of production involved in the four stages of the

PVA production process, and corporate relationships, to send supplemental questionnaires and to review responses to these questionnaires.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the preliminary results of review by 30 days

until August 2, 2005, in accordance with section 751(a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: June 17, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–3272 Filed 6–21–05; 8:45 am]

BILLING CODE: 3510–DS–S

[1] Celanese, Ltd. and E.I. du Pont de Nemours & Co.

[2] We note that the beginning date (*i.e.*, March 20, 2003) of the announced period of review (''POR'') was not correct. The Department inadvertently published an incorrect beginning date which was the date of the preliminary determination of the investigation. Because the only respondent in this proceeding had a *de minimis* rate in the preliminary determination, the correct POR beginning date should have been the date of the final determination in the investigation. Thus, the Department corrected the beginning date of the POR to reflect the correct POR which is August 11, 2003, through September 30, 2004. *See Memorandum to the File from Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager*, dated May 9, 2005.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Tuesday, June 28, 2005, 10:30 a.m.–12:30 p.m.

PLACE: Shriners Sphinx Club, Oasis Meeting Room, 1315 K Street NW., Washington, DC 20005.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Opening Remarks
II. Consideration of Prior Meeting's Minutes
III. Committee Reports
IV. CEO Report
V. AmeriCorps Rulemaking
VI. Recognition of Juanita Doty
VII. Public Comment

Accommodations: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person by 5 p.m. Friday, June 24, 2005.

CONTACT PERSON FOR MORE INFORMATION: David Premo, Public Affairs Associate, Public Affairs, Corporation for National and Community Service, 8th Floor, Room 8612C, 1201 New York Avenue NW., Washington, DC 20525. Phone (202) 606–6717. Fax (202) 606–3460. TDD: (202) 606–3472. E-mail: *dpremo@cns.gov.*

Dated: June 20, 2005.

Frank R. Trinity,

General Counsel

[FR Doc. 05–12502 Filed 6–21–05; 10:33 am]

BILLING CODE 6050–$$–P

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Notice of the Defense Base Closure and Realignment Commission—Change to the Agenda of a Previously Announced Open Meeting (Baltimore, MD); Correction

AGENCY: Defense Base Closure and Realignment Commission.

ACTION: Notice of the Defense Base Closure and Realignment Commission—Change to the Agenda of a Previously Announced Open Meeting (Baltimore, MD); Correction.

SUMMARY: The Defense Base Closure and Realignment Commission published a document in the **Federal Register** of June 13, 2005, concerning an open meeting to receive comments from Federal, state and local government representatives and the general public on base realignment and closure actions in Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania and Virginia that have been recommended by the Department of Defense (DoD). The agenda for this meeting has changed. A separate regional hearing will be scheduled on July 7, 2005 to discuss base realignment and closure actions in the District of Columbia and Virginia that have been recommended by the Department of Defense (DoD).

The delay of this change notice resulted from a Commission decision to accommodate recent requests from representatives of communities in the District of Columbia and Virginia and the short time-frame established by statute for the operations of the Defense Base Closure and Realignment Commission. The Commission requests that the public consult the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov,* for updates.

FOR FURTHER INFORMATION CONTACT: Please see the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov.* The Commission invites the public to provide direct comment by sending an electronic message through the portal provided on the Commission's website or by mailing comments and supporting documents to the 2005 Defense Base Closure and Realignment Commission, 2521 South Clark Street Suite 600, Arlington, Virginia 22202–3920. The Commission requests that public comments be directed toward matters bearing on the decision criteria described in *The Defense Base Closure and Realignment Act of 1990,* as amended, available on the Commission website. Sections 2912 through 2914 of that Act describe the criteria and many of the essential elements of the 2005 BRAC process. For questions regarding this announcement, contact Mr. Dan Cowhig, Deputy General Counsel and Designated Federal Officer, at the Commission's mailing address or by telephone at (703) 699–2950 or 2708.

Correction

In the **Federal Register** of June 13, 2005, in FR Doc. 05–11630, on page 34094, in the second and third columns, correct the **SUMMARY** caption to read:

SUMMARY: A delegation of Commissioners of the Defense Base Closure and Realignment Commission will meet July 8, 2005 from 8:30 a.m. to 5 p.m. at the Kraushaar Auditorium, Goucher College, 1021 Dulaney Valley Road, Baltimore, Maryland 21204 to receive comments from Federal, state and local government representatives and the general public on base realignment and closure actions in Delaware, Maryland, New Jersey and Pennsylvania that have been recommended by the Department of Defense (DoD). Please see the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov,* for updates.

The purpose of this regional meeting is to allow communities experiencing a base closure or major realignment action (defined as loss of 300 civilian positions or 400 military and civilian positions) an opportunity to voice their concerns, counter-arguments, and opinions in a live public forum. This meeting will be open to the public, subject to the availability of space. Sign language interpretation will be provided. The delegation will not render decisions regarding the DoD recommendations at this meeting, but will gather information for later deliberations by the Commission as a whole.

Dated: June 17, 2005.

Jeannette Owings-Ballard,

Administrative Support Officer.

[FR Doc. 05–12423 Filed 6–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Notice of the Defense Base Closure and Realignment Commission—Change of Location of a Previously Announced Open Meeting (Buffalo, NY); Correction

AGENCY: Defense Base Closure and Realignment Commission.

ACTION: Notice of the Defense Base Closure and Realignment Commission—change of location of a previously announced open meeting (Buffalo, NY); Correction.

SUMMARY: The Defense Base Closure and Realignment Commission published a document in the **Federal Register** of June 7, 2005, concerning an open meeting to receive comments from Federal, State and local government representatives and the general public on base realignment and closure actions in New York and Ohio that have been recommended by the Department of Defense (DoD). The location of this meeting has changed.

The delay of this change notice resulted from a recent change of venue and the short time-frame established by statute for the operations of the Defense Base Closure and Realignment Commission. The Commission requests that the public consult the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov,* for updates.

FOR FURTHER INFORMATION CONTACT: Please see the 2005 Defense Base Closure and Realignment Commission Web site, *http://www.brac.gov.* The Commission invites the public to provide direct comment by sending an electronic message through the portal provided on the Commission's Web site or by mailing comments and supporting documents to the 2005 Defense Base Closure and Realignment Commission, 2521 South Clark Street Suite 600, Arlington, Virginia 22202–3920. The Commission requests that public comments be directed toward matters bearing on the decision criteria described in *The Defense Base Closure and Realignment Act of 1990,* as amended, available on the Commission Web site. Sections 2912 through 2914 of that Act describe the criteria and many of the essential elements of the 2005 BRAC process. For questions regarding this announcement, contact Mr. Dan Cowhig, Deputy General Counsel and Designated Federal Officer, at the Commission's mailing address or by telephone at 703–699–2950 or 2708.

Correction

In the **Federal Register** of June 7, 2005, in FR Doc. 05–11234, on pages 34126–27, in the third and first and second columns, respectively, correct the ''Summary'' caption to read:

SUMMARY: A delegation of Commissioners of the Defense Base Closure and Realignment Commission will meet on June 27, 2005 from 1 p.m. to 5:30 p.m. at the University of Buffalo Center for the Arts Mainstage Theater, CoventryCircle, North Campus, Buffalo, New York 14260 to receive comment

from Federal, State and local government representatives and the general public on base realignment and closure actions in New York and Ohio that have been recommended by the Department of Defense (DoD).

The purpose of this regional meeting is to allow communities in the listed states experiencing a base closure or major realignment action (defined as loss of 300 civilian positions or 400 military and civilian positions) an opportunity to voice their concerns, counter-arguments, and opinions in a live public forum. This meeting will be open to the public, subject to the availability of space. Sign language interpretation will be provided. The delegation will not render decisions regarding the DoD recommendations at this meeting, but will gather information for later deliberations by the Commission as a whole.

Dated: June 17, 2005.

Jeannette Owings-Ballard,

Administrative Support Officer.

[FR Doc. 05–12427 Filed 6–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Acquisition Performance Assessment Project

AGENCY: Department of Defense.

ACTION: Notice; Establishment of the Defense Acquisition Performance Assessment Project.

SUMMARY: The Defense Acquisition Performance Assessment Project is being established in consonance with the public interest and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' title 5 U.S.C., Appendix 2. The Project will provide to the Secretary of Defense recommendations on how the Department of Defense, in general, and other services can improve the performance of the Defense Acquisition System for major programs. The recommendations will inform the 2006 Quadrennial Defense Review and form the basis of an implementation action plan.

The Project will consist of a balanced membership of six members who are eminent authorities in the field of Defense acquisition.

FOR FURTHER INFORMATION CONTACT: Col Al Boykin, Defense Acquisition Performance Assessment Project, 1060 Air Force Pentagon (4E886), Washington DC 20330–1060, Telephone: (703) 695–8772, DSN # 225–8772, Fax: (703) 693–4303, *alan.boykin@pentagon.af.mil.*

Dated: June 17, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–12425 Filed 6–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of the Defense Acquisition Performance Assessment Project—Open Meeting

AGENCY: Department of Defense.

ACTION: Notice; Defense Acquisition Performance Assessment Project—Open Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 96–463, notice is hereby given that the Defense Acquisition Performance Assessment (DAPA) Project will hold an open meeting at the Anteon Conference Center, 1560 Wilson Blvd., Suite 400, Arlington, VA 22209, on July 15, 2005 from 9 to 12 noon.

Purpose: The Panel will meet on July 15, 2005, from 9 a.m. until 12 noon, and this session will be open to the public, subject to the availability of space. Any interested citizens are encouraged to attend.

DATES: July 15, 2005/9 a.m.–12 noon.

Location: Anteon Conference Center, 1560 Wilson Blvd., Suite 400, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit comments must contact: Lt Col Rene Bergeron, Assistant Director of Staff, Defense Acquisition Performance Assessment Project, 1670 Air Force Pentagon, Rm 4E886, Washington, DC 20330–1670, Telephone: (703) 6935–8813, DSN# 225–8813, Fax: (703) 693–4303, *rene.bergeron@pentagon.af.mil.*

Interested persons may submit a written statement for consideration by the Panel, preferably via fax. Written statements to the Panel must be directed to the point of contact listed above, received no later than 5 p.m., July 13, 2005.

General Information: Additional information concerning the Defense Acquisition Performance Assessment Project, its structure, function, and composition, may be found on the DTFSH and VTMA Web site *(http://www.dtic.mil/dtfs).*

Dated: June 17, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–12424 Filed 6–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice; Meeting of the Independent Review Panel To Study the Relationships Between Military Department General Counsels and Judge Advocates General—Open Meeting

AGENCY: Department of Defense.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 96–463, notice is hereby given that the Independent Review Panel to Study the Relationships between Military Department General Counsels and Judge Advocates General will hold an open meeting at the Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, Virginia 22202, on July 7–8, 2005, from 8:30 a.m. to 11:30 a.m. and 1 p.m. to 4 p.m.

Purpose: The Panel will meet on July 7–8, 2005, from 8:30 a.m. to 11:30 a.m. and 1 p.m. to 4 p.m., to conduct deliberations concerning the relationships between the legal elements of their respective Military Departments. These sessions will be open to the public, subject to the availability of space. In keeping with the spirit of FACA, the Panel welcomes written comments concerning its work from the public at any time. Interested citizens are encouraged to attend the sessions.

DATES: July 7–8, 2005: 8:30 a.m.–11:30 a.m., and 1 p.m.–4 p.m.

Location: Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington,Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit written comments may contact: Mr. James R. Schwenk, Designated Federal Official, Department of Defense, Office of the General Counsel, 1600 Defense Pentagon, Arlington, Virginia 20301–1600, Telephone: (703) 697–9343, Fax: (703) 693–7616, *schwenkj@dodgc.osd.mil.*

Interested persons may submit a written statement for consideration by the Panel at any time prior to July 1, 2005.

Dated: June 17, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–12428 Filed 6–22–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 25, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: June 17, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Impact Evaluation of the U.S. Department of Education's Student Mentoring Program.

Frequency: On occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 3,430;

Burden Hours: 1,690.

Abstract: Data collection for impact evaluation of the Department's school-based student mentoring program. A sample of student's mentored through the Department's mentoring grants as well as their adult mentors will be the primary respondents.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2736. 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 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at her e-mail address *Katrina.Ingalls@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–12393 Filed 6–22–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services, Overview Information, Centers for Independent Living; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.132A.

Dates:

Applications Available: June 23, 2005.

Deadline for Transmittal of Applications: July 25, 2005.

Deadline for Intergovernmental Review: September 21, 2005.

Eligible Applicants: To be eligible to apply, an applicant must—

(a) Be a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency;

(b) Have the power and authority to—

(1) Carry out the purpose of part C of title VII of the Rehabilitation Act of 1973, as amended (the Act) and perform the functions listed in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366 within a community located within a State or in a bordering State; and

(2) Receive and administer—

(i) Funds under 34 CFR part 366;

(ii) Funds and contributions from private or public sources that may be used in support of a center for independent living (center); and

(iii) Funds from other public and private programs;

(c) Be able to plan, conduct, administer, and evaluate a center consistent with the standards and assurances in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366;

(d) Either—

(1) Not currently be receiving funds under part C of chapter 1 of title VII of the Act; or

(2) Propose the expansion of an existing center through the establishment of a separate and complete center (except that the governing board of the existing center may serve as the governing board of the new center) at a different geographical location;

(e) Propose to serve one or more of the geographic areas that are identified as unserved or underserved by the States and territories listed under *Estimated Number of Awards*; and

(f) Submit appropriate documentation demonstrating that the establishment of a new center is consistent with the design for establishing a statewide network of centers in the State plan of the State or territory whose geographic area or areas the applicant proposes to serve.

Estimated Available Funds: $380,168.

Estimated Range of Awards: $1,000 to $225,122.

Estimated Average Size of Awards: $126,723.

Estimated Number of Awards: 3, distributed in the following manner:

States and territories	Estimated available funds	Estimated number of awards
American Samoa	$154,046	1
Maryland	1,000	1
Ohio	225,122	1

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program provides support for planning, conducting, administering, and evaluating centers that comply with the standards and assurances in section 725 of the Act, consistent with the design included in the State plan for establishing a statewide network of centers.

Program Authority: 29 U.S.C. 796f–1.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, and 97. (b) The regulations for this program in 34 CFR parts 364 and 366.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $380,168.

Estimated Range of Awards: $1,000 to $225,122.

Estimated Average Size of Awards: $126,723.

Estimated Number of Awards: 3, distributed in the following manner:

States and territories	Estimated available funds	Estimated number of awards
American Samoa	$154,046	1
Maryland	1,000	1
Ohio	225,122	1

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* To be eligible to apply, an applicant must—

(a) be a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency;

(b) have the power and authority to—

(1) carry out the purpose of part C of title VII of the Act and perform the functions listed in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366 within a community located within a State or in a bordering State; and

(2) receive and administer—

(i) funds under 34 CFR part 366;

(ii) funds and contributions from private or public sources that may be used in support of a center; and

(iii) funds from other public and private programs;

(c) be able to plan, conduct, administer, and evaluate a center consistent with the standards and assurances in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366;

(d) either—

(1) not currently be receiving funds under part C of chapter 1 of title VII of the Act; or

(2) propose the expansion of an existing center through the establishment of a separate and complete center (except that the governing board of the existing center may serve as the governing board of the new center) at a different geographical location;

(e) propose to serve one or more of the geographic areas that are identified as unserved or underserved by the States and territories listed under *Estimated Number of Awards*; and

(f) submit appropriate documentation demonstrating that the establishment of a new center is consistent with the design for establishing a statewide network of centers in the State plan of the State or territory whose geographic area or areas the applicant proposes to serve.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package*: Education Publications Center (ED Pubs), PO Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.132A.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

2. *Content and Form of Application Submission*: Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times*:

Applications Available: June 23, 2005.

Deadline for Transmittal of Applications: July 25, 2005.

Applications for grants under this competition must be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: September 21, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically, unless you qualify for an exception to this requirement in accordance with the instructions in this section.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

a. *Electronic Submission of Applications.*

Applications for grants under the Centers for Independent Living program-CFDA Number 84.132A must be submitted electronically using e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Any narrative sections of your application must be attached as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- Prior to submitting your electronic application, you may wish to print a copy of it for your records.
- After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

- We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2) (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of the Department's e-Application system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the e-Application system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Department's e-Application system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Thomas Kelley, U.S. Department of Education, 400 Maryland Avenue, SW, room 5042, Potomac Center Plaza, Washington, DC 20202–2800. FAX: (202) 245–7593.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications By Mail.*

If you qualify for any exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.132A), 400 Maryland Avenue, SW., Washington, DC 20202–4260. or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.132A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.132A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number ''and suffix letter, if any ''of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are in 34 CFR 366.27.

2. *Review and Selection Process:* An additional factor we consider in selecting an application for an award is comments regarding the application, if any, by the State Independent Living Council in the State in which the applicant is located.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The Government Performance and Results Act (GPRA) of 1993 directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The goal of the Centers for Independent Living program is to promote and practice the independent living philosophy of consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center; self-help and self-advocacy; development of peer relationships and peer role models; and the equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

In order to measure the success of one component of meeting this goal, each grantee is required to track the number of individuals who leave nursing homes and other institutions for community-based housing due to independent living services provided by the center. In annual performance reports, centers are required to provide information on the number of individuals requesting this service and the number of individuals who successfully relocated from institutionalized to community-based living. The Rehabilitation Services Administration is currently in the process of revising its annual data report for future use to better capture this data directly from grantees.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Thomas Kelley, U.S. Department of Education, 400 Maryland Avenue, SW., room 5042, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7404.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as

all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 17, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–12472 Filed 6–22–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–182–B]

Application To Export Electric Energy H.Q. Energy Services (U.S.) Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: H.Q. Energy Services (U.S.) Inc. (HQUS), applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before July 25, 2005.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On August 21, 1998, the Department of Energy (DOE) issued Order No. EA–182 authorizing HQUS to transmit electric energy from the United States to Canada as a power marketer. On August 21, 2000, in Order No. EA–182–A, DOE renewed the HQUS authorization to export electric energy to Canada for a five-year term that will expire on August 21, 2005.

On May 18, 2005, HQUS filed an application with DOE for renewal of the export authority contained in Order No. EA–182–A for an additional five-year term. HQUS proposes to export electric energy to Canada and to arrange for the delivery of those exports over the international transmission facilities presently owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, Vermont Electric Power Company, Inc. and Vermont Electric Transmission Company.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the dates listed above.

Comments on the HQUS application to export electric energy to Canada should be clearly marked with Docket EA–182–B. Additional copies are to be filed directly with Helene Cossette, Senior Legal Advisor, Legal and Regulatory Affairs, Wholesale Markets, Hydro-Quebec Production 75, Boulevard Rene-Levesque West, 17th Floor, Montreal, Quebec, Canada H2Z 1A4, *AND* Jerry L. Pfeffer, Energy Industries Advisor, W. Mason Emnett, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW., Washington, DC 20005.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the program's home page at *http://www.fe.doe.gov.* Upon reaching the program home page, select ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on June 17, 2005.

Ellen Russell,

Acting Senior Advisor to the Director for Regulatory Programs, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 05–12426 Filed 6–22–05; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7926–6]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

EPA ICR No. 1189.15; Identification Listing and Rulemaking Petitions (Final Rule for Hazardous Waste Listing for Organic Dyes and/or Pigments Production Wastes); in 40 CFR 261.32; was approved 06/02/2005; OMB Number 2050–0053; expires 01/31/2008.

EPA ICR No. 1139.07; TSCA Section 4 Test, Consent Orders, Test Rule Exemptions, and Voluntary Data Submission; in 40 CFR 790; was approved 06/02/2005; OMB Number 2070–0033; expires 06/30/2008.

EPA ICR No. 1684.08; In-Use Testing of On-Road Heavy-Duty Diesel Engines and Vehicles (Final Rule); in 40 CFR part 90, subpart B; 40 CFR part 1048, subpart C; 40 CFR part 1051, subpart C;

was approved 06/02/2005; OMB Number 2060–0287; expires 03/31/2008.

EPA ICR No. 0801.15; Requirements for Generators, Transporters, and Waste Management Facilities under the RCRA Hazardous Waste Manifest System (Final Rule); in 40 CFR 262.20–262.23; 40 CFR 262.34; 40 CFR 262.42; 40 CFR 262.44; 40 CFR 262.54; 40 CFR 262.60; 40 CFR 263.20–263.22; 40 CFR 263.30; 40 CFR 264.71–264.72; 40 CFR 264.74; 40 CFR 264.76; 40 CFR 264.77; 40 CFR 265.71–265.72; 40 CFR 265.74; 40 CFR 265.76; 40 CFR 265.77; was approved 05/20/2005; OMB Number 2050–0039; expires 05/31/2008.

EPA ICR No. 1807.03; NESHAP for Pesticide Active Ingredient Production (Renewal); in 40 CFR part 63, subpart MMM; was approved by OMB 6/13/2005; OMB Number 2060–0370; expires 06/30/2008.

EPA ICR No. 1639.04; National Pollutant Discharge Elimination System Great Lakes Water Quality Guidance; OMB Number 2040–0180; on 05/26/2005 OMB extended the expiration date to 08/31/2005.

EPA ICR No. 1432.22; Recordkeeping and Periodic Reporting of the Production, Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-Depleting Substances (Proposed Rule) OMB Number 2060–0170; on 05/24/2005 OMB extended the expiration date to 08/31/2005.

EPA ICR No. 2132.01; CAMEO Software Usability Evaluation Survey; was withdrawn on 05/12/2005.

EPA ICR No. 2164.01; Emission Guidelines for Existing Other Solid Waste Incineration (OWSI) Units (Proposed Rule); in 40 CFR part 60, subpart FFFF; comment filed on 06/13/2005.

EPA ICR No. 2163.01; NSPS: Other Solid Waste Incineration (OWSI) Units; in 40 CFR part 60, subpart EEEE (Proposed Rule); comment filed on 06/13/2005.

Dated: June 16, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–12450 Filed 6–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7926–7]

Proposed Reissuance of General NPDES Permit for Offshore Oil and Gas Exploration Facilities on the Outer Continental Shelf and Contiguous State Waters (NPDES Permit Number AKG280000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of the public comment period for the proposed reissuance of a general NPDES permit.

SUMMARY: The Director, Office of Water, EPA Region 10, proposes to extend the area of coverage of this general permit (AKG280000) to include the northern portion of the Hope Basin and other Outer Continental Shelf (OCS) areas along the northeast boundary that are within the MMS current 5-year oil and gas leasing program.

DATES: Interested persons may submit comments on the proposed reissuance of the general permit to EPA, Region 10 at the addresses below. Comments must be postmarked by July 25, 2005.

ADDRESSES: Comments on the proposed reissuance of the general permit must be sent to the attention of the Director, Office of Water, 1200 Sixth Avenue, M/S OWW–130, Seattle, Washington 98101. Comments may also be submitted electronically to *koch.kristine@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the proposed general permit and fact sheet are available upon request. Requests may be made to Audrey Washington at (206) 553–0523 or to Kristine Koch at (206) 553–6705. Requests may also be electronically mailed to: *koch.kristine@epa.gov.*

The proposed general permit and fact sheet may also be found on the EPA Region 10 Web site at *http://www.epa.gov/r10earth.htm,* click on Water Quality, then click on NPDES permits under Programs, and then click on draft permits under EPA Region 10 Information.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget exempted this action from the review requirements of Executive Order 12866 pursuant to section 6 of that order.

Regulatory Flexibility Act (RFA)

Under the RFA, 5 U.S.C. 601 *et seq.*, a federal agency must prepare an initial regulatory flexibility analysis ''for any Administrative Procedure Act (APA)), or any other law, to publish general notice of proposed rulemaking.'' The RFA exempts from this requirement any rule that the issuing agency certifies ''will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' EPA has concluded that NPDES general permits are permits under the APA and thus not subject to the APA rulemaking requirements or the RFA.

Dated: June 15, 2005.

Michael F. Gearheard,

Director, Office of Water, Region 10.

[FR Doc. 05–12451 Filed 6–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7926–4]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address a lawsuit filed by AK Steel Corp., American Iron and Steel Institute, International Steel Group, Inc., Ispat Inland, Inc., Rouge Steel Co., and WCI Steel, Inc. (collectively ''Petitioners''): *AK Steel Corp, et al.* v. *EPA,* No. 03–1207 (D.C. Cir.). On or about July 18, 2003, Petitioners filed a petition for review challenging the EPA's final rule entitled ''National Emissions Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing'' published on May 20, 2003 (68 FR 27646). Rather than litigate, EPA and the petitioners have agreed that EPA will propose amendments to the rule. The substance of these proposed amendments is contained in an attachment to the settlement agreement, available from EPA.

DATES: Written comments on the proposed settlement agreement must be received by July 25, 2005.

ADDRESSES: Submit your comments, identified by docket ID number OGC–2005–0008 online at *http://www.epa.gov/edocket* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket

Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Steven Silverman, Air and Radiation Law Office (2366A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. telephone: (202) 564–5523.

SUPPLEMENTARY INFORMATION:

I. Additional Information about the Proposed Settlement

Petitioners raised issues involving technical aspects of the final rule entitled ''National Emission Standard for Hazardous Air Pollutants for the integrated Iron and Steel Source Category'' published at 68 FR 27646 (May 20, 2003) (''the Rule''). Rather than litigate these issues, EPA and the Petitioners have agreed that EPA will propose amendments to the rule.

The settlement agreement provides that EPA will propose amendments to the rule by September 23, 2005. The text of these amendments is set out in Attachment A to the Settlement Agreement, and is available from EPA as provided below.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. As provided in section 113(g), EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement

A. How Can I Get a Copy of the Settlement?

EPA has established an official public docket for this action under Docket ID No. OGC–2005–0008 which contains a copy of the settlement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

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 identification number.

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. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. 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 submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. 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.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket 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. In contrast to EPA's electronic public docket, EPA's electronic mail (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, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 7, 2005.

Richard B. Ossias,

Acting Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.

[FR Doc. 05–12449 Filed 6–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7926–3]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address a petition for writ of mandamus filed by Sierra Club in the U.S. Court of Appeals for the District of Columbia Circuit: *In re Sierra Club,* No. 04–1370 (D.C. Cir.). On October 28, 2004, Petitioner filed a petition asking

the Court to issue a writ of mandamus directing EPA to complete remand proceedings ordered by the United States Court of Appeals for the D.C. Circuit in *National Lime Ass'n* v. *EPA,* 233 F.3d 625 (D.C. Cir. 2000) to revise the National Emission Standard for Hazardous Air Pollutants for Portland cement kilns' emissions of mercury, hydrogen chloride, and total hydrocarbons, and to consider setting more stringent emission standards for Portland cement kilns' emissions of non-mercury HAP metals. Under the terms of the proposed settlement agreement, no later than one year after signature of this agreement, EPA shall publish a notice of final rulemaking which responds to the remand order.

DATES: Written comments on the proposed settlement agreement must be received by July 25, 2005.

ADDRESSES: Submit your comments, identified by docket ID number OGC–2005–0007, online at *http://www.epa.gov/edocket* (EPA's preferred method); by e-mail to *oei.docket@epa.gov*; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Steven Silverman, Air and Radiation Law Office (2366A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. telephone: (202) 564–5523.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement

EPA promulgated regulations on June 14, 1999 to set emission standards for Portland cement kilns' emissions of mercury, hydrogen chloride, and total hydrocarbons. 64 FR 31925. These regulations were challenged, and on December 15, 2000, the United States Court of Appeals for the District of Columbia Circuit remanded portions of the regulations to EPA. *National Lime Ass'n* v. *EPA,* 233 F.3d 625 (D.C. Cir. 2000).

The settlement agreement establishes a date, May 26, 2006 (one year after the signing of this settlement agreement), EPA shall sign for publication in the **Federal Register** a notice of final rulemaking setting forth its final action to fully comply with the Court's remand order in *National Lime Ass'n* v. *EPA,* including any regulations necessary to comply with that order.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement

A. How Can I Get a Copy of the Settlement?

EPA has established an official public docket for this action under Docket ID No. OGC–2005–0007 which contains a copy of the settlement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

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 identification number.

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. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. 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 submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. 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.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket 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. In contrast to EPA's electronic public docket, EPA's electronic mail (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, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 16, 2005.

Richard B. Ossias,

Acting Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.

[FR Doc. 05–12448 Filed 6–22–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7926–2]

Velsicol/Hardeman County Landfill Superfund Site, et al.; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of settlement.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative ability-to-pay settlement with Velsicol Chemical Corporation relating to Paragraph 15 of the August 9, 2002 Settlement Agreement approved by the United States Bankruptcy Court for the District of Delaware in *In re Fruit of the Loom, Inc.,* No. 99–4497(PJW) and to Paragraph 15 of the August 28, 2002 Agreement and Settlement for Recovery of Response Costs, EPA Docket No. 00–51–C (Region 4). These Agreements relate to the following sites: The Velsicol/Hardeman County Landfill Superfund Site, Toone, Hardeman County, Tennessee; the Velsicol Chemical Superfund Site, St. Louis, Michigan; the Woodridge/Berry's Creek Superfund Site, Wood-Ridge and Carlstadt, New Jersey; the North Hollywood Dump Superfund Site, Memphis Tennessee, the Residue Hill Site, Chattanooga, Tennessee; the Marshall 23 Acre Site, Marshall, Illinois; the Breckenridge Site, Breckenridge, Michigan; the Mathis Brothers/South Marble Top Road Landfill Superfund Site; Kensington, Walker County, Georgia; the Valley Chemical Superfund Site, Greenville, Mississippi; the Tennessee Products Superfund Site, Chattanooga, Tennessee; the Former Coke Production Plant Property, Chattanooga, Tennessee; and the Shaver's Farm Superfund Site, Lafayette, Walker County, Georgia. The proposed administrative settlement requires Velsicol Chemical Corporation to pay $1,454,000 million to resolve its liability under Paragraph 15 of the August 9, 2002 Settlement Agreement and foregoes further recovery under Paragraph 15 of the August 28, 2002 Agreement. EPA will consider public comments on the Agreement until July 25, 2005. EPA may withdraw from or modify the Agreement if such comments should disclose facts or considerations which indicate the Agreement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, 404/562–8887, *Batchelor.Paula@epa.gov.*

Written comments may be submitted to Ms. Batchelor at the above address by July 25, 2005.

Dated: June 7, 2005.

Rosalind H. Brown,

Chief, Superfund Enforcement & Information Management Branch, Waste Management Division.

[FR Doc. 05–12452 Filed 6–22–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act; Meetings

DATE AND TIME: Tuesday, June 28, 2005, at 9:30 a.m. and Wednesday, June 29, 2005 at 9:30 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Internet Communications Notice of Proposed Rulemaking.

* * * * *

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 30, 2005 at 10 a.m., meeting open to the public. This meeting has been cancelled.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 05–12547 Filed 6–21–05; 12:12 pm]

BILLING CODE 6715–01–M

GENERAL SERVICES ADMINISTRATION

Office of Governmentwide Policy

Cancellation of an Optional Form by the Office of Personnel Management (OPM)

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) cancelled OF 86, Personal Data (Warning) Label (Large) since it is no longer needed.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective June 23, 2005.

Dated: June 13, 2005.

Barbara M. Williams,

Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 05–12416 Filed 6–22–05; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Medicare Hearings and Appeals; Statement of Organization, Functions, and Delegations of Authority

Part A. Office of the Secretary, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Part A, as last amended at 69 FR 51679–51680, dated August 20, 2004, and Chapter AA, Immediate Office of the Secretary, as last amended at 69 FR 51679–51680, dated August 20, 2004, are being amended to establish a new Chapter AK, the Office of Medicare Hearings and Appeals (OMHA) within the Office of the Secretary. This new Chapter is being created as a result of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), under which the functions of Administrative Law Judges (ALJs) responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the Social Security Administration to the Department of Health and Human Services. The changes are as follows:

I. Under Part A, Chapter AA, Section AA, Section AA.10 Organization, insert the following: ''Office of Medicare Hearings and Appeals (OMHA)''

II. Under Part A, establish a new Chapter AK, ''Office of Medicare Hearings and Appeals (OMHA)'' to read as follows:

Section AK.00 Mission

Section AK.10 Organization

Section AK.20 Functions

Section AK.00 Mission. The Office of Medicare Hearings and Appeals (OMHA), under direct delegation from the Secretary of the Department of Health and Human Services, administers the nationwide hearings and appeals programs for the Medicare Program. The ALJs within the Office of Medicare Hearings and Appeals issue the final decisions of the Secretary, except for decisions reviewed by the Medicare Appeals Council, on hihgly complex appealed determinations involving Medicare Part A, B, C, and D. OMHA provides the basic mechanisms through which individuals and organizations dissatisfied with Medicare determinations affecting their rights in the Medicare program under the Social Security Act may obtain a hearing on these determinations. OMHA directs four field offices staff with Administrative Law Judges (ALJs) who conduct impartial ''de novo'' hearings and made decisions on appealed determinations involving Medicare appeals, as well as a Headquarters office.

Section AK.10 Organization: The Office of Medicare Hearings and Appeals (OMHA) is under the direction of the Chief Administrative Law Judge, who reports directly to the Secretary, OMHA consists of the following components.

- Office of Medicare Hearings and Appeals, Immediate Office (AKA) Medicare Hearing and Appeals Field Offices (AKB1–4).
- Medicare Hearing and Appeals Field Offices (AKB1–4).

—Medicare Hearings and Appeals Mid-Atlantic Field Office—Rosslyn, VA (AKB1)

—Medicare Hearings and Appeals Mid-West Field Office—Cleveland, OH (AKB2)

—Medicare Hearings and Appeals Western Field Office—Irvine, CA (AKB3)

—Medicare Hearings and Appeals Southern Field Office—Miami, FL (AKB4)

Section AK.20 Functions

A. The Office of Medicare Hearings and Appeals Immediate Office (AK): The Office of Medicare Hearings and Appeals Immediate Office (OMHA/IO) is headed by the Chief Administrative Law Judge (CALJ), who reports directly to the Secretary. The Chief Administrative Law Judge (CALJ) is responsible for carrying out OMHA's mission and implementing authorities granted to the ALJs by the Secretary. The CALJ is responsible for: (a) planning, directing, managing, coordinating, and maintaining the integrity of the field office hearings and appeals system by directing the planning, development, and coordination of regulations, policies and procedures governing the hearings and appeals program under the applicable statutes; (b) maintaining a hearings and appeal system which is impartial and which supports the tenets of fairness and equal treatment under the law; and (c) ensuring adherence to statutory procedures, time limits, and other procedural requirements of the Administrative Procedure Act, Medicare law and applicable HHS regulations. The CALJ provides executive leadership to, and administrative and management support functions for, the field offices which hold hearings and render decisions under the Social Security Act, and in that capacity establishes specific objectives, standards, and management and program policies with respect to the field office responsibilities.

The Executive Director (ED) of OMHA/IO, reports to the CALJ, and is responsible for all operational matters and executive and managerial oversight in support of the mission of the office, with the exception of areas directly involving the conduct of adjudicatory hearings and the rendering of fair and impartial decisions ensuing from those hearings.

B. Medicare Hearings and Appeals Field Offices (AB1–4). The Field Offices are headed by a Managing Administrative Law Judge (MALJ) who reports directly to the CALJ. The Managing Administrative Law Judge (MALJ) acts on behalf of the CALJ at the respective field office location on all matters involving the hearing process, and is directly responsible for the effective execution of the hearings process within the field location. The MALJ is responsible for: (a) Providing direction, leadership, management and guidance to the field office staff, including Administrative Law Judges and their staffs, and weighted workload attorneys; (b) field office implementation of policies, goals, objectives, and procedures pertaining to the hearings process, and formulating policies, goals, and objectives for the ALJs and support staff in their field office; (c) planning, organizing and administering field operations for scheduling and conducting independent and impartial hearings on appealed determinations involving adjudicatory hearings for authorities delegated to the ALJs by the Secretary; (d) developing and recommending OMHA action with respect to allegation of unfair hearings within the field operations; (e) upon request by ALJs providing advice and guidance in matters related to adjudicating cases under the provisions of the Social Security Act; and (f) conducting adjudicatory hearings under authorities delegated to the ALJs by the Secretary.

The Hearing Office Manager (HOM), who reports to the Managing Administrative Law Judge (MALJ), is responsible for the day-to-day management and operations of the field office, with the exception of areas directly involving the conduct of adjudicatory hearings and the rending of fair and impartial decisions ensuing from those hearings. The Hearing Office Manager is responsible for: (a) Office management, including workload, personnel, and overall resource management; (b) executing and making critical evaluations and necessary revisions of applicable field office objectives, policies, practices, and procedures; (c) reviewing hearing practices and procedures to detect trends, training needs, and operational problems; (d) justifying the financial requirements needed to carry out the hearings in the field office; and (e) coordinating operation and administrative activities with OMHA/IO.

Supervisory Administrative Law Judges within the Field Offices are responsible for conducting adjudicatory hearing for authorities granted to the ALJs by the Secretary. Supervisory Administrative Law Judges are also responsible for supervising staff attorney(s), paralegal(s), and hearing clerk(s).

Attorneys and Paralegals are responsible for researching appeals; reviewing and evaluating case files; preparing briefs and transcripts; assisting in pre-hearing proceedings; drafting decisions; and, providing assistance to Administrative Law Judges.

Hearing Clerks are responsible for assisting in the hearings and appeals process. Administrative support staff, under direction of the Hearing Office Manager, provide support services to hearings operations staff, and the ALJs.

Dated: June 15, 2005.

Michael O. Leavitt,

Secretary.

[FR Doc. 05–12468 Filed 6–22–05; 8:45 am]

BILLING CODE 4140–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Request for Application (RFA) AA014]

Supporting Laboratory Training and Quality Improvement for Diagnosis and Laboratory Monitoring of HIV/AIDS Patients in Resource Limited Countries Through Collaboration With the American Society for Clinical Pathology (ASCP); Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to award fiscal year (FY) 2005 funds for a cooperative agreement program to support laboratory training and quality improvement for diagnosis and laboratory monitoring of HIV/AIDS patients in resource-limited countries that are part of the President's Emergency Plan for AIDS Relief (PEPFAR). Ultimately, this program will serve to enhance laboratory testing practices, and enhance the quality of laboratory testing services, in order to improve the effectiveness of HIV diagnostic, care, and treatment services and interventions. The Catalog of Federal Domestic Assistance number for this program is 93.067.

B. Eligible Applicant

Assistance will be provided only to the American Society for Clinical Pathology (ASCP) for this project. No other applications are solicited or will be accepted. ASCP is a not-for-profit organization that has the largest and most unique data base of certified medical laboratory testing personnel. ASCP will be the only eligible applicant for the following reasons:

1. ASCP is the largest and most influential leader in the certification of Medical Technologists (MTs) and Medical Laboratory Technicians (MLTs) in the world.
2. ASCP is the world's largest organization representing the entire laboratory team of pathologists, clinical scientists, MTs and MLTs.
3. The Board of Registry (BOR) at ASCP has issued more than 340,000 certificates to date, since ASCP began in the late 1920's, and their unique data base of certified laboratorians comprise the largest majority of the medical laboratory work force in the U.S.
4. The ASCP BOR prepares appropriate standards and develops procedures to assure the competence of laboratory personnel.
5. The ASCP BOR certifies MTs and other medical laboratory personnel who meet specific academic and clinical prerequisites and who can attain acceptable performance levels through examination (*e.g.*, MT ASCP certification).
6. Additionally, ASCP has developed and maintains the largest continuing education activity in the world by offering courses targeted for pathologists and laboratory personnel to assure competency.
7. ASCP provides extensive venues for continuing education for pathologists and laboratory personnel, including web-based programs, teleconferences, on-site education programs, and regional and national settings.

PEPFAR activities focus on responding to an emergency situation while building long-term in-country capacity. Because of the complexity of the laboratory needs in each of the countries targeted, the number of countries (25) and regional programs (3) involved, the organization chosen to provide support should have both the technical competence and capacity to provide high quality simultaneous support to multiple countries. Selecting ASCP as the only eligible applicant is justified because of their vast membership and outstanding technical competence. Market research, through internet searches and interviews with leaders of laboratory service providers in international settings, indicates that ASCP is the only organization that is in a position to provide the required services to multiple countries simultaneously at the greatest value-for-service to the United States Government.

C. Funding

Approximately $2,000,000 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 four years. Funding estimates may change.

D. Where to Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For program technical assistance, contact: Elyse Hill, Project Officer, CDC/NCHSTP/GAP, 1600 Clifton Road, NE (MS–E30), Atlanta, GA 30333, Telephone: 404–639–8181, E-mail: *elh8@cdc.gov*.

For financial, grants management, or budget assistance, contact: Diane Flournoy, Contract Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770–488–2072, E-mail: *dmf6@cdc.gov*.

Dated: June 17, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12412 Filed 6–22–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Request for Application (RFA) AA013]

Capacity Building Assistance for Global HIV/AIDS Laboratory Guidelines and Standards Development and Enhancing Laboratory Quality Improvement Skills Through Quality Systems Approach; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to award fiscal year (FY) 2005 funds for a cooperative agreement program to support capacity building assistance for global HIV/AIDS laboratory guidelines and standards development and enhancing laboratory quality improvement skills through quality systems approach. The purpose of the program is to provide support for the development and application of easy-to-use guidelines and standards for laboratory testing and quality systems development, and to foster development of in-country leaders to implement laboratory activities in Global AIDS Program (GAP) and Presidents Emergency Program for AIDS Relief (PEPFAR) countries based on internationally acceptable standards. The Catalog of Federal Domestic Assistance number for this program is 93.067.

B. Eligible Applicant

Assistance will be provided only to the CLSI. No other applications are solicited or will be accepted. This announcement and application will be sent to the CLSI.

The CLSI is the appropriate and only qualified institution to provide the services specified under this cooperative agreement because:

1. CLSI is the only officially established and accredited United States

(U.S.) organization for developing consensus standards for clinical and laboratory testing. CLSI members, approximately 2,000, are organizations (not individuals) representing the three major sectors contributing to assuring the quality of laboratory testing in the health field. They are the professional sector, the government sector, and industry. The professional sector is comprised of: (a) Clinical and medical science health services delivery organizations such as hospitals, health clinics, public health laboratories; and (b) clinical and laboratory science professional organizations. The government sector is represented by agencies such as the Centers for Disease Control and Prevention (a founding member), the Food and Drug Administration, the National Institute for Standards and Technology, and the Department of Veteran Affairs. The industry sector is represented by laboratory device and reagent manufacturers, the pharmaceutical industry, and the informatics industry.

2. CLSI is a global, nonprofit, standards-developing organization that promotes the development and use of voluntary consensus standards and guidelines within the healthcare community. CLSI is recognized worldwide for the application of its unique consensus process. CLSI is based on the principle that consensus is an efficient and cost-effective way to improve patient testing and services.

3. CLSI is a global leader in the development of medical laboratory standards.

a. One-fourth of CLSI members are located outside the U.S.

b. CLSI is the Executive Secretariat for the International Organization for Standardization (IOS) Technical Working Group. The IOS group develops internationally applicable medical laboratory testing standards.

c. CLSI is designated the World Health Organization (WHO) Collaborating Center for Clinical Laboratory Standards and Accreditation

d. Standards developed by CLSI are recognized and used throughout the world.

4. CLSI portfolio of more than 200 standards is recognized worldwide and provides a core for modification and expansion to better meet the needs in resource limited settings.

5. CLSI volunteers who develop laboratory standards represent CLSI member organizations. The volunteers are recognized as experts and world leaders. The accredited consensus process assures that all views are accounted for and adequately addressed. Consequently, standards developed by CLSI are considered authoritative and recognized among federal agencies, large segments of the health industry, and the professional sector.

6. CLSI staff and volunteers are actively engaged in numerous HIV activities to improve the quality of testing for diagnosing infection, staging disease in those infected, monitoring therapy, and detecting opportunistic infections. Venues for these interactions include CLSI workgroups developing standards in related technical areas, CLSI's Limited Resource Laboratories Working Group, and interaction with the Forum for Collaborative HIV Research.

7. CLSI Quality Systems Standards are a key building block for work that has already been done by the U.S. Government efforts to assure laboratory capacity to meet the needs of HIV prevention, care and treatment, surveillance, prevention of mother-to-child-transmission (PMTCT), voluntary counseling and testing (VCT), and blood safety programs. Quality systems training using CLSI standards has already been initiated in Africa and Southeast Asia countries. Laboratory leaders in these countries recognize CLSI as the world leader in developing these standards and would value and consider authoritative and credible additional contributions by CLSI.

C. Funding

Approximately $6,000,000 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 three years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146; Telephone: 770–488–2700.

For program technical assistance, contact: Elyse Hill, Project Officer, CDC/NCHSTP/GAP, 1600 Clifton Road, NE. (MS–E30), Atlanta, GA 30333, Telephone: 404–639–8181; E-mail: *elh8@cdc.gov*.

For financial, grants management, or budget assistance, contact: Diane Flournoy, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770–488–2072; E-mail: *dmf6@cdc.gov*.

Dated: June 17, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12411 Filed 6–22–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

STD Surveillance Network (SSuN)

Announcement Type: New.

Funding Opportunity Number: AA055.

Catalog of Federal Domestic Assistance Number: 93.977.

Key Dates:

Letter of Intent Deadline: July 8, 2005.

Application Deadline: July 25, 2005.

I. Funding Opportunity Description

Authority: Sections 317(k)(2) and 318 of the Public Health Service Act [42 U.S.C. Sections 247b(k)(2) and 247c], as amended.

Background: A dynamic STD surveillance network, comprised of local enhanced STD surveillance systems following common protocols, has the potential to fill several important gaps in the existing national STD surveillance system. National STD surveillance data, reported through the National Electronic Telecommunication Surveillance System (NETSS), currently involves a limited number of demographic data elements collected from all states for a limited number of sexually transmitted diseases (chancroid, chlamydia, gonorrhea, and syphilis). Weekly reporting through NETSS is insufficient for rapid identification of many trends in disease, and does not support the collection and reporting of data on many relevant STD risk behaviors. Furthermore, even if trends in disease or risk behaviors are identified, the national STD morbidity surveillance infrastructure comprised of NETSS reporting from all states has limited capacity to be easily and rapidly modified. Even though the transition to the National Electronic Disease Surveillance System (NEDSS) is intended to improve the timeliness and flexibility of national STD surveillance, the flexibility of national morbidity reporting will always be restricted by the scale of the system.

CDC has traditionally relied on supplemental activities such as prevalence monitoring projects and special studies to enhance STD surveillance at a national level. While these types of activities focus on

specific at-risk sub-populations, an STD surveillance network would focus activities on the larger population with disease. The STD surveillance network would also have the ability to monitor what is happening across the range of STD entities (gonorrhea, herpes, chlamydia, syphilis, HPV, etc.). In addition, it should provide the infrastructure and potential to detect emerging issues and environmental changes (ex: increases in lymphogranuloma venereum (LGV), resistant gonorrhea, resistant syphilis, HPV, illicit drug use). An initial focus and priority would be to obtain enhanced data on gonorrhea. Additional priority areas would be determined by the STD surveillance network on an ongoing basis.

Purpose: The purposes of the program are to: develop a dynamic STD surveillance network comprised of local enhanced STD surveillance systems, following common protocols, to improve the capacity of national, state, and local STD programs to detect, monitor, and respond rapidly, flexibly, and with greater effectiveness to established and emerging trends in sexually transmitted diseases (STDs) through improved collection, reporting, analysis, visualization (i.e. mapping); and interpret STD surveillance data.

This program addresses the ''Healthy People 2010'' focus area(s) of: HIV Infection, Immunization and Infectious Diseases, Public Health Infrastructure, and Sexually Transmitted Diseases.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the Coordinating Center for Infectious Diseases (CCID), National Center for HIV, STD, and TB Prevention (NCHSTP), Division of STD Prevention (DSTDP): (1) Reduce STD rates by providing chlamydia and gonorrhea screening, treatment, and partner treatment to 50 percent of women in publicly funded family planning and STD clinics nationally; (2) Reduce the incidence of primary and secondary syphilis; (3) Reduce the incidence of congenital syphilis; and (4) Strengthen the capacity nationwide to monitor the epidemic, develop and implement effective HIV prevention interventions, and evaluate prevention programs.

This announcement is only for non-research activities supported by CDC/ATSDR. If research is proposed, the application will not be reviewed. For the definition of research, please see the CDC Web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm*.

Activities: Required awardee activities for this program are as follows:

- Participate in conference calls and a CDC-organized meeting in the first quarter of the year one budget period to finalize a common protocol for enhanced gonorrhea surveillance and for at least one other emerging or existing STD area of concern. Types of data to be collected under the common protocol for enhanced gonorrhea surveillance, with relevance for other STDs may include: number and gender of sex partners; presence or absence of symptoms; sites of infection; STD/HIV infection history; level of education; internet usage; history of incarceration; performance drug use; and illicit substance use.
- Provide the human and technical resources necessary for collection, analysis, interpretation, and dissemination of enhanced gonorrhea surveillance data from one or more STD clinics; it is also desirable, but not required, that awardees conduct enhanced surveillance of gonorrhea in one or more surrounding counties.
- Awardees planning to conduct enhanced surveillance of GC in surrounding counties should conduct surveillance on a representative sample of patients with gonorrhea in the county in which the STD clinic is located.
- Collaborate with CDC and other awardees to identify other STDs and sexual health issues of interest (ex: LGV, resistant gonorrhea, resistant syphilis, increased illicit drug use), including those for which rapid implementation of surveillance and/or prevention activities are needed.
- Collaborate with CDC and other awardees to expeditiously develop common protocols to monitor and respond to STD-relevant trends.
- Provide the human and technical resources necessary to conduct enhanced surveillance for the collaboratively identified other STDs and sexual health issues.
- Work collaboratively with other awardees and CDC to standardize behavioral risk domains and achieve standardization of specific data elements.
- Collaborate to develop and implement common data elements and protocols.
- Plan to use or build upon currently existing electronic information systems for the collection, integration, analysis, and reporting of enhanced surveillance data.
- Electronically transmit data from STD surveillance activities to CDC on a monthly basis in a mutually agreed-upon format.
- Perform routine analyses of local STD surveillance data, including spatial or outbreak detection analyses; and evaluate the effectiveness of different methods of spatial or outbreak detection analysis in improving STD surveillance and program activities.
- Establish mechanisms by which STD enhanced and routine surveillance data are shared with stakeholders.
- Participate in annual collaboration meetings by reporting preliminary data and the status of ongoing activities, and working with other sites to develop or revise common enhanced surveillance activity protocols.

In a cooperative agreement, CDC staff is substantially involved in the program activities, above and beyond routine grant monitoring. CDC Activities for this program are as follows:

- Draft common protocols for enhanced gonorrhea surveillance, in STD clinics and in counties, to be discussed and modified by awardees through conference calls and a meeting with awardees in the first quarter of the year one budget period.
- Analyze data from all awardees, and share results with stakeholders.
- Identify emerging trends in STDs and sexual health issues that merit further investigation by the STD surveillance network.
- Coordinate the development of new common surveillance and response protocols; standardization of data elements; and definition of data reporting formats through collaboration with awardees.
- Coordinate annual collaboration meetings to review and plan program activities.
- Collaborate directly in the publication and dissemination of project findings and experiences.
- Facilitate, where possible, and assist with the electronic transmission of data to CDC.

II. Award Information

Type of Award: Cooperative Agreement. CDC involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $400,000 (This amount is an estimate for the first 12-month budget period, and is subject to availability of funds.)

Approximate Number of Awards: Five.

Approximate Average Award: $80,000, if enhanced county-level surveillance is included; $60,000 for projects that don't include such an activity. (This amount is for the first 12-month budget period, and includes both direct and indirect costs.)

Floor of Award Range: None.

Ceiling of Award Range: $100,000 (This ceiling is for the first 12-month budget period.)

Anticipated Award Date: August 31, 2005.

Budget Period Length: 12 months.

Project Period Length: Three years.

Throughout the project period, CDC's commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

III.1. Eligible Applicants

Limited competition. Only the 65 state, county, city, and territorial health departments that are current recipients of Comprehensive STD Prevention Systems grants may apply for this program because participation in an STD surveillance network requires the participating entity to have the legal and programmatic capacity to collect and monitor health data, as well as the programmatic capacity to respond to emerging trends in disease and risk behaviors.

III.2. Cost Sharing or Matching

Matching funds are not required for this program.

III.3. Other

If you are requesting a funding amount greater than the ceiling of the award range, your application will be considered non-responsive and will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

Special Requirements

If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

- Late applications will be considered non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.
- Letters of intent are requested.
- Awardees must ensure that enhanced gonorrhea surveillance activities occur in at least one STD clinic that diagnoses at least 150 cases of gonorrhea per year; and, if the awardee plans to work in the surrounding county, the county in which the STD clinic is located receives reports of at least 100 cases of gonorrhea per year from other providers.
- Participation in Outcomes Assessment through Systems of Integrated Surveillance (OASIS) cooperative agreements #707, #99000, or #02211 is useful, but not required, for meeting the requirements of this activity. If not a former OASIS participant, the applicant should demonstrate that they have significant experience conducting other types of enhanced STD surveillance, analyzing enhanced STD surveillance data, and disseminating findings to stakeholders.
- **Note:** Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form CDC 5161–1.

CDC strongly encourages you to submit your application electronically by utilizing the forms and instructions posted for this announcement at *http://www.grants.gov.*

Application forms and instructions are available on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 770–488–2700. Application forms can be mailed to you.

IV.2. Content and Form of Submission

Letter of Intent (LOI): Your LOI must be written in the following format:

- Maximum number of pages: 1.
- Font size: 12-point unreduced.
- Single spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Written in plain language, avoid jargon.

Your LOI must contain the following information:

- Your intent to apply for this application.
- The name of the project coordinator(s).
- The name of any proposed collaborator(s).
- The name, address, telephone, e-mail, and fax number of the applicant's primary point of contact for writing and submitting the application.

Application: You must submit a project narrative with your application forms. The narrative must be submitted in the following format:

- Maximum number of pages: 20. If your narrative exceeds the page limit, only the first pages which are within the page limit will be reviewed.
- Font size: 12 point unreduced.
- Double spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Held together only by rubber bands or metal clips; not bound in any other way.
- The funding opportunity title and number must appear on the first page.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed: Background/Need, Objectives, Plan, Method, Experience, Timeline, Capacity, Evaluation Plans, Sustainability, and Line-Item Budget with Justifications. More detailed descriptions of these items are described in section V.1. ''Criteria'' of this announcement.

Additional information may be included in the application appendices. The appendices will not be counted toward the narrative page limit. This additional information includes:

- Curriculum Vitas.
- Organizational Charts.
- Letters of Support.

You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.

For more information, see the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm.* If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that may require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

LOI Deadline Date: July 8, 2005.

CDC requests that you submit a LOI if you intend to apply for this program. Although the LOI is not required, not binding, and does not enter into review of your subsequent application, the LOI will be used to gauge the level of interest in this program, and allow CDC to plan the application review.

Application Deadline Date: July 25, 2005.

Explanation of Deadlines: LOIs and Applications must be received in the CDC Procurement and Grants Office by 4 p.m. eastern time on the deadline date.

You may submit your application electronically at *http://www.grants.gov.* Applications completed online through Grants.gov are considered formally submitted when the applicant organization's Authorizing Official electronically submits the application to *http://www.grants.gov.* Electronic application will be considered as having met the deadline if the application has been submitted electronically by the applicant organization's Authorizing Official to Grants.gov on or before the deadline date and time.

If you submit your application electronically with Grants.gov, your application will be electronically time/date stamped, which will serve as receipt of submission. You will receive an e-mail notice of receipt when CDC receives the application.

If you submit your LOI or application by the United States Postal Service or commercial delivery service, you must ensure that the carrier will be able to guarantee delivery by the closing date and time. If CDC receives your submission after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time; or (2) significant weather delays or natural disasters, you will be given the opportunity to submit documentation of the carrier's guarantee. If the documentation verifies a carrier problem, CDC will consider the submission as having been received by the deadline.

If you submit a hard copy application, CDC will not notify you upon receipt of your submission. If you have a question about the receipt of your LOI or application, first contact your courier. If you still have a question, contact the PGO–TIM staff at: 770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for submissions to be processed and logged.

This announcement is the definitive guide on LOI and application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

IV.4. Intergovernmental Review of Applications

Your application is subject to Intergovernmental Review of Federal Programs, as governed by Executive Order (EO) 12372. This order sets up a system for State and local governmental review of proposed federal assistance applications. You should contact your state single point of contact (SPOC) as early as possible to alert the SPOC to prospective applications, and to receive instructions on your state's process. Click on the following link to get the current SPOC list: *http://www.whitehouse.gov/omb/grants/spoc.html.*

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Funds may not be used for research.
- Reimbursement of pre-award costs is not allowed.
- Funds may not be used for construction.

If you are requesting indirect costs in your budget, you must include a copy of your indirect cost rate agreement. If your indirect cost rate is a provisional rate, the agreement should be less than 12 months of age.

Guidance for completing your budget can be found on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements

LOI Submission Address: Submit your LOI by express mail, delivery service, fax, or e-mail to: Lori Newman, MD, Project Officer, CDC/NCHSTP/DSTDP, Mailstop E–02, 1600 Clifton Road, Atlanta, GA 30333, (404) 639–6183, (404) 639–8610 (fax); *len4@cdc.gov.*

Application Submission Address: CDC strongly encourages applicants to submit electronically at: *http://www.grants.gov.* You will be able to download a copy of the application package from *http://www.grants.gov*, complete it offline, and then upload and submit the application via the Grants.gov site. E-mail submissions will not be accepted. If you are having technical difficulties in Grants.gov, they can be reached by e-mail at *http://www.support@grants.gov* or by phone at 1–800–518–4726 (1–800-GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. eastern time, Monday through Friday.

CDC recommends that you submit your application to Grants.gov early enough to resolve any unanticipated difficulties prior to the deadline. You may also submit a back-up paper submission of your application. Any such paper submission must be received in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement. The paper submission must be clearly marked: ''*Back-Up for Electronic Submission*.''

The paper submission must conform to all requirements for non-electronic submissions. If both electronic and back-up paper submissions are received by the deadline, the electronic version will be considered the official submission.

It is strongly recommended that you submit your grant application using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If you do not have access to Microsoft Office products, you may submit a PDF file. Directions for creating PDF files can be found on the Grants.gov Web site. Use of file formats other than Microsoft Office or PDF may result in your file being unreadable by our staff.

Or:

Submit the original and two hard copies of your application by mail or express delivery service to: Technical Information Management-PA AA055, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation. Your application will be evaluated against the following criteria:

- Methods: (25 points total)

(a) To what extent does the applicant demonstrate that methods for STD clinic-based surveillance, information management, and disease investigation and response are flexible and could be adapted for other types of enhanced STD and behavioral surveillance in such

settings? Has the applicant included letters from collaborating clinics and county health departments that demonstrate their support? If the application is from a county or a city, does the application include a letter of support from the state? (15 points)

(b) The applicant should clearly indicate if their plans include enhanced surveillance of gonorrhea from the surrounding county. If included, what is the extent to which methods are sound and analyses will describe a representative sample of persons reported to have gonorrhea in the county? Has the applicant included letters from collaborating facilities and county health departments that demonstrate their support? (10 points)

• Capacity: (20 points total)

(a) Is the proposed staff capacity sufficient to conduct enhanced data collection, entry, cleaning, analysis, evaluation, and dissemination? Does the project staff have the appropriate background, experience, and time to perform the proposed work? (10 points)

(b) Does the applicant have existing information management systems with the capacity to merge or integrate electronic data from providers, laboratories, or other data sources? Does the applicant have a database that can be queried, can generate line listed clinic visit/patient data, and can easily be modified to incorporate new data elements? (10 points)

• Objectives/Plan: (15 points total)

What is the quality of the proposed plan to participate in an enhanced surveillance network to collect enhanced gonorrhea data, as well as data on other emerging or existing STD issues? Consider clarity of objectives and soundness of the applicant's approach. The applicant should demonstrate an understanding of the potential utility of enhanced STD surveillance at both the local and national level. The applicant should indicate a willingness to collaborate with other grantees funded for this project, and adhere to a common standard protocol.

• Experience: (15 points total)

Did the applicant participate in previous Outcomes Assessment through Systems of Integrated Surveillance (OASIS) cooperative agreements #707, #99000, or #02211, and demonstrate their ability to successfully conduct enhanced gonorrhea surveillance and work collaboratively with other sites? OR Does the applicant demonstrate that they have significant experience conducting other types of enhanced STD surveillance, analyzing enhanced STD surveillance data, and disseminating findings to stakeholders?

• Background/Need: (10 points total)

How well has the applicant described the target population, and justified the need for this program within the target population? Is the gonorrhea morbidity in the target population sufficient to merit enhanced surveillance and subsequent interventions? To what extent does the STD clinic have a large and varied clientele (with regard to gender, race, ethnicity, and sexual orientation) who experience a range of STDs, and a professional staff with the ability to recognize, correctly diagnose, and treat emerging STDs and sexual issues? (**Note:** It is required that the STD clinic see a minimum average of 150 patients of gonorrhea per year.) What is the STD burden in the designated county? (**Note:** For awardees planning enhanced surveillance in the county, the county must have at least an additional 100 reported cases of gonorrhea a year reported from other providers.)

• Evaluation Plans: (5 points total)

Has the applicant set forth clear performance goals? Has the applicant outlined outcome measures that are objective, quantitative, and adequately measure the intended outcome? To what extent does the applicant demonstrate their ability and intent to disseminate and translate the data into programmatic action?

• Timeline: (5 points total)

Has the applicant proposed an achievable timeline? Has the applicant documented their ability to implement the proposed plan for enhanced gonorrhea surveillance within the first year of the project period?

• Sustainability: (5 points total)

To what extent has the applicant demonstrated that activities could be institutionalized as ongoing surveillance activities?

• Budget and Justification: (Reviewed, but not scored.)

Is the budget reasonable, clearly justified, and consistent with the intended use of funds?

V.2. Review and Selection Process

Applications will be reviewed for completeness by the Procurement and Grants Office (PGO) staff, and for responsiveness by NCHSTP/DSTDP. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

An objective review panel of CDC employees will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. All members of the objective review panel will come from outside of the funding division of NCHSTP.

In addition, the following factors may affect the funding decision:

• The need for geographic diversity may affect applicant selection.

• Applicant selection may be affected by the importance of covering high gonorrhea morbidity areas.

• Applicant selection may be affected by the importance of including populations that broadly represent patients with gonorrhea by gender, race, ethnicity, and sexual orientation.

CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

August 31, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NoA) from the CDC Procurement and Grants Office. The NoA shall be the only binding, authorizing document between the recipient and CDC. The NoA will be signed by an authorized Grants Management Officer, and mailed to the recipient fiscal officer identified in the application. Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR part 74 and part 92

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

The following additional requirements apply to this project:

• AR–4 HIV/AIDS Confidentiality Provisions.
• AR–6 Patient Care.
• AR–7 Executive Order 12374 Review.
• AR–9 Paperwork Reduction Act Requirements.
• AR–10 Smoke-Free Workplace Requirements.
• AR–11 Healthy People 2010.

Additional information on these requirements can be found on the CDC Web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm.*

An additional Certification form from the PHS 5161–1 application needs to be included in your Grants.gov electronic submission only. Refer to *http://www.cdc.gov/od/pgo/funding/*

PHS5161–1Certificates.pdf. Once the form is filled out, attach it to your Grants.gov submission as Other Attachment Forms.

VI.3. Reporting Requirements

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due by June 30th of each funding year. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Budget.

e. Measures of Effectiveness.

f. Additional Requested Information.

2. Financial status report and annual progress report, due by December 30 of each funding year.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management or Contract Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement. For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341; telephone: 770–488–2700.

For program technical assistance, contact: Lori Newman, MD, Project Officer, Mailstop E–02, 1600 Clifton Road, Atlanta, GA 30333, telephone: 404–639–6183; e-mail: *len4@cdc.gov.*

For financial, grants management, or budget assistance, contact: Gladys Gissentanna, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, telephone: 770–488–2753; e-mail: *gcg4@cdc.gov.*

VIII. Other Information

This and other CDC funding opportunity announcements can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

Dated: June 17, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12410 Filed 6–22–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Workplace HIV/AIDS Programs/Public Private Partnerships

Announcement Type: New.

Funding Opportunity Number: 05073.

Catalog of Federal Domestic Assistance Number: 93.067.

Key Dates: Application Deadline: July 25, 2005.

I. Funding Opportunity Description

Authority: This program is authorized under Sections 301 and 307 of the Public Health Service Act [42 U.S.C. 241 and 242], as amended.

Background: Zimbabwe has one of the highest HIV/AIDS infection rates in the world, with approximately a 25 percent infection rate among adults. For the past five years, Zimbabwe has been and continues to suffer severe socioeconomic and political crises. The economy continues to contract at unprecedented rates with close to 200 percent annual inflation. Unemployment is high, yet workplaces remain a critical point for information and service delivery to combat HIV and AIDS.

In the context of these numerous pressures, the Centers for Disease Control and Prevention (CDC) Global AIDS Program (GAP) in Zimbabwe is designed to support key national initiatives and organizations, including those led by the Ministry of Health and Child Welfare (MOHCW), National AIDS Council (NAC), University of Zimbabwe (UZ) and Zimbabwe AIDS Network, through strategic use of technical and financial assistance. Given the impact of the HIV/AIDS pandemic on Zimbabwe's workforce, CDC Zimbabwe has also been supporting the provision of assistance to governmental organizations and non-governmental organizations (NGOs), businesses, and labor organizations for the development and implementation of HIV/AIDS workplace prevention, care, and support programs. With this request for technical assistance, CDC Zimbabwe seeks to continue to provide support for development of workplace HIV programs.

Purpose: The purpose of the program is to provide targeted assistance to governmental, nongovernmental, business and labor sectors in developing and implementing HIV/AIDS workplace prevention, care, and support programs. Targeted assistance should include gender-focused supports and interventions, as well as general supports.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for HIV/STD/TB Prevention (NCHSTP): By 2010, work with other countries, international organizations, the Department of State, United States Agency for International Development (USAID), and other partners to achieve the United Nations General Assembly Special Session on HIV/AIDS goal of reducing prevalence among persons 15 to 24 years of age. This will be done by strengthening human capacity to respond to the epidemic, working in priority areas of primary prevention, care and treatment, and surveillance for HIV/AIDS.

This announcement is only for non-research activities supported by CDC. If research is proposed, the application will not be reviewed. For the definition of research, please see the CDC Web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm.*

Activities: Through a previous cooperative agreement with the Academy for Educational Development (AED), number UC62/CCU320180–03, CDC Zimbabwe support in the area of workplace HIV/AIDS programs has resulted in the completion of an extensive needs assessment and strategic planning process. As a result of this process, work has already begun with numerous organizations (including the business sector, labor, and non-governmental organizations). The Awardee will select 20 of these organizations (including nine organizations that received subgrants under the AED cooperative agreement, *i.e.*, Hippo Valley Estates, Associated Mine Workers of Zimbabwe, General Agriculture and Plantation Workers Union, Crest Breeders, Dyno Nobel Zimbabwe (Pvt) Ltd., Victoria Falls Informal Traders Association, Zimbabwe Domestic and Allied Workers Union, Zimbabwe Chemicals Plastics Allied Workers Union, and the Iron and Steel Workers Union of Zimbabwe) and will provide the following services:

1. Planning

Provide planning services to the 20 core organizations noted above on the development and implementation of workplace HIV/AIDS programs. The criteria used for selecting 11 of these 20 organizations (nine are specifically cited above) will be developed in coordination with CDC. Planning services may include:

a. Conducting focused program assessments of the 20 core organizations

in order to confirm areas of specific need. Among other things, the Awardee will review whether the organizations have an HIV/AIDS policy in place, whether that policy has been made available to the employees, whether any HIV/AIDS-related programs are being implemented in accordance with the stated policy and the effectiveness of such programs. The awardee will also review whether there are opportunities to add or refine gender-specific approaches within the policies and programs.

b. Convening group meetings in each of the 20 core organizations to conduct planning activities based on the findings emerging from the focused program assessments. For any organizations previously assisted through CDC workplace activities, planned activities should be a continuation of and follow-up to previously implemented strategies supported by CDC to ensure most efficient use of resources and avoid duplication or inefficient reorganization of efforts. For the nine organizations cited above, the plans should call for an expansion, improvement, or intensification of activities previously undertaken with CDC support. Plans should be completed for each of the 20 organizations within three months after award and submitted to the CDC Zimbabwe Project Officer. These plans should outline what training and evaluation activities are proposed to be carried out among the 20 core organizations.

2. Training

Provide training services to the 20 core organizations noted above on the development and implementation of workplace HIV/AIDS programs. Training topics may include, but are not limited to: The development and implementation of HIV/AIDS workplace policy; the development and implementation of HIV/AIDS workplace programs; HIV/AIDS prevention education; peer education and support programs; gender-specific targeted interventions; programs focusing on the reduction of stigma and discrimination; and relevant material development (*e.g.*, curriculum packages and supporting training aids). For any organizations previously assisted through CDC workplace activities, training activities should be a continuation of and follow-up to previously implemented strategies supported by CDC to ensure the most efficient use of resources and avoid duplication or inefficient reorganization of efforts.

3. Subgrant Program

Establish a competitively-awarded grant program, among the labor organizations which are a part of the 20 core organizations, to support workplace programs in an intensive manner. Up to four sub-grants total (not exceeding $15,000 each) should be awarded to labor organizations for the development of new workplace programs or expansion of existing workplace programs with a proven record of effectiveness.

4. Technical Assistance

Provide technical support services to a larger grouping (*e.g.*, the broader workplace and business community) beyond the 20 core organizations cited above of government, NGOs, business, and labor partners. The criteria used for identifying opportunities to address the broader sector, topics to be covered and a timeline for the delivery of the technical assistance will be developed in coordination with CDC. Topics for technical assistance may include, but not be limited to: Networking/information sharing; building awareness and understanding of the statutory instruments; developing and adopting workplace policies; reaching a wider audience and meeting needs through development of gender-specific approaches; and developing workplace programs. In the delivery of technical assistance, the Awardee should determine and justify which, if any, organizations shall receive one-on-one assistance, which shall receive offsite assistance through the use of distance technologies, and which shall receive assistance in an offsite group context where several organizations are brought together to receive information and work on a particular topic. For any organizations identified that have previously received CDC-supported workplace assistance, activities should be a continuation of and follow-up to previously implemented strategies supported by CDC to ensure most efficient use of resources and avoid duplication or inefficient reorganization of efforts.

An additional component of the Awardee's technical assistance program will be to develop a business plan that details how the Awardee would respond to grant requests for technical assistance on HIV/AIDS workplace programs from other businesses, NGOs, government, labor, and donors. This business plan will, among other things, detail the Awardee's areas of expertise, approaches for delivering a variety of services, the human resource requirements for additional activities, and what budgetary support would be needed to deliver services to additional organizations. The rationale here is that within 18 months of this award, in addition to carrying out the activities required herein, the Awardee should be able to offer a variety of services related to developing and implementing HIV/AIDS workplace programs, such that resources from additional sources could easily be translated to expansion of activities, thereby contributing to the longer-term sustainability of this organization to provide expert services.

5. Evaluation

Conduct an overall evaluation of Awardee's program activities, as well as provide program evaluation services to the 20 organizations noted above to assess the effectiveness of their workplace HIV/AIDS programs. This should include, but not be limited to evaluation of the effectiveness of prevention and care interventions and the assessment of the functioning of prevention programs. Evaluation should include the entire period of CDC-funded workplace activities, such that new activities or progress may accurately reflect the benefit gained from continuation and follow-up of original strategy. Evaluation activities may include, but are not limited to: Onsite program assessment and reviews; process, outcome, and impact evaluation, as well as economic evaluations; convening groups of people to conduct evaluation activities such as focus groups and interviews; data collection, management and analysis; and report and manuscript generation based on evaluation results.

The evaluation component of each of the 20 organizations' plans should, among other activities, detail specific objectives, what systems will be established for the collection of baseline data, for the monitoring of activities, and for the submission of a draft summative evaluation report (addressing overall findings and lessons learned) that will be due 45 days prior to the expiration of this Cooperative Agreement.

In a cooperative agreement, CDC staff is substantially involved in the program activities, above and beyond routine grant monitoring. CDC Activities for this program are as follows:

1. Collaborate as needed with the recipient on designing and implementing the activities listed above, including but not limited to the provision of technical assistance to develop and implement program plans (including training, technical assistance, and evaluation services) and activities.

2. Assist in developing criteria for the selection of program participants (the 20 core organizations plus additional organizations that will receive assistance), and approve the actual selection of all program participants.

3. Monitor project and budget performance.

II. Award Information

Type of Award: Cooperative Agreement. CDC involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $600,000 over three years (This amount is an estimate, and is subject to availability of funds.).

Approximate Number of Awards: One.

Approximate Average Award: $200,000 (This amount is for the first 12-month budget period, and includes direct costs.).

Floor of Award Range: None.

Ceiling of Award Range: $200,000 (This ceiling is for the first 12-month budget period.).

Anticipated Award Date: August 31, 2005.

Budget Period Length: 12 months.

Project Period Length: Three years.

Throughout the project period, CDC's commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private nonprofit and for-profit organizations/agencies that are legally registered in Zimbabwe. Such organizations include:

- Public nonprofit organizations.
- Private nonprofit organizations.
- For-profit organizations.
- Universities.
- Research institutions.
- Community-based organizations.
- Faith-based organizations.
- Organizations with business consulting experience, particularly in HIV/AIDS-related, general health-related, or human resources issues.

III.2. Cost Sharing or Matching

Matching funds are not required for this program.

III.3. Other

If you request a funding amount greater than the ceiling of the award range, your application will be considered non-responsive, and will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

Special Requirements: If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

- Late applications will be considered non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.
- **Note:** Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161–1.

Electronic Submission: CDC strongly encourages you to submit your application electronically by utilizing the forms and instructions posted for this announcement on *http://www.Grants.gov*, the official Federal agency wide E-grant Web site. Only applicants who apply online are permitted to forego paper copy submission of all application forms.

Paper Submission: Application forms and instructions are available on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 770–488–2700. Application forms can be mailed to you.

IV.2. Content and Form of Submission

Application: You must submit a project narrative with your application forms. The narrative must be submitted in the following format:

- Maximum number of pages: 25. If your narrative exceeds the page limit, only the first pages which are within the page limit will be reviewed.
- Font size: 12-point unreduced.
- Double spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Held together only by rubber bands or metal clips; not bound in any other way.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

- Justification for Program.
- Eligibility and Organizational Capacity.
- Proposed Program Plan (including goals, objectives, and plan of operation).
- Program Management (including staffing, collaborators, and infrastructure).
- Evaluation Plan.
- Budget and Justification (will not be counted in the stated page limit).

Additional information may be included in the application appendices. The appendices will not be counted toward the narrative page limit. This additional information includes:

- Curriculum Vitaes.
- Organizational Charts.
- Letters of Support.
- Applicants must document eligibility by submitting verification of their Zimbabwean registration status.

You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.

For more information, see the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm.* If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that may require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: July 25, 2005.

Explanation of Deadlines: Applications must be received in the CDC Procurement and Grants Office by 4 p.m. Eastern Time on the deadline date.

Applications may be submitted electronically at *http://www.grants.gov.* Applications completed on-line through

Grants.gov are considered formally submitted when the applicant organization's Authorizing Official electronically submits the application to *http://www.grants.gov*. Electronic applications will be considered as having met the deadline if the application has been submitted electronically by the applicant organization's Authorizing Official to Grants.gov on or before the deadline date and time.

If submittal of the application is done electronically through Grants.gov (*http://www.grants.gov*), the application will be electronically time/date stamped, which will serve as receipt of submission. Applicants will receive an e-mail notice of receipt when CDC receives the application.

If you submit your application by the United States Postal Service or commercial delivery service, you must ensure that the carrier will be able to guarantee delivery by the closing date and time. If CDC receives your submission after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time; or (2) significant weather delays or natural disasters, you will be given the opportunity to submit documentation of the carrier's guarantee. If the documentation verifies a carrier problem, CDC will consider the submission as having been received by the deadline.

If a hard copy application is submitted, CDC will not notify you upon receipt of your paper submission. If you have a question about the receipt of your application, first contact your courier. If you still have a question, contact the PGO–TIM staff at: 770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for submissions to be processed and logged.

This announcement is the definitive guide on application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

IV.4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Funds may not be used for research.
- Reimbursement of pre-award costs is not allowed.
- Funds may not be used for construction.
- Some office furniture and equipment purchased under the prior workplace cooperative agreement #UC62/CCU320180–03 may be available for use by the Awardee for program purposes. In this event, the Awardee would be restricted from using portions of this award for the purchase of similar furniture and equipment, unless it provided justification to CDC for needing additional numbers of such furniture and equipment.
- Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives; however, prior approval by CDC officials must be requested in writing.
- All requests for funds contained in the budget shall be stated in U.S. dollars. Once an award is made, CDC will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.
- The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut, and the World Health Organization, Indirect Costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.
- The applicant may contract with other organizations under this program; however, the applicant must perform a substantial portion of the activities (including program management and operations, and delivery of prevention services for which funds are required).
- You must obtain an annual audit of these CDC funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by CDC.
- A fiscal Recipient Capability Assessment may be required, prior to or post award, in order to review the applicant's business management and fiscal capabilities regarding the handling of U.S. Federal funds.
- Prostitution and Related Activities

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons.

Any entity that receives, directly or indirectly, U.S. Government funds in connection with this document (''recipient'') cannot use such U.S. Government funds to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

A recipient that is otherwise eligible to receive funds in connection with this document to prevent, treat, or monitor HIV/AIDS shall not be required to endorse or utilize a multisectoral approach to combating HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the recipient has a religious or moral objection. Any information provided by recipients about the use of condoms as part of projects or activities that are funded in connection with this document shall be medically accurate and shall include the public health benefits and failure rates of such use.

In addition, any recipient must have a policy explicitly opposing prostitution and sex trafficking. The preceding sentence shall not apply to any ''exempt organizations'' (defined as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization and its six Regional Offices, the International AIDS Vaccine Initiative or to any United Nations agency).

The following definition applies for purposes of this clause:

- Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. 22 U.S.C. 7102(9).

All recipients must insert provisions implementing the applicable parts of this section, ''Prostitution and Related Activities,'' in all subagreements under this award. These provisions must be express terms and conditions of the subagreement, must acknowledge that compliance with this section, ''Prostitution and Related Activities,'' is a prerequisite to receipt and expenditure of U.S. government funds in connection with this document, and must acknowledge that any violation of the provisions shall be grounds for unilateral termination of the agreement prior to the end of its term. Recipients must agree that HHS may, at any

reasonable time, inspect the documents and materials maintained or prepared by the recipient in the usual course of its operations that relate to the organization's compliance with this section, ''Prostitution and Related Activities.''

All prime recipients that receive U.S. Government funds (''prime recipients'') in connection with this document must certify compliance prior to actual receipt of such funds in a written statement that makes reference to this document (*e.g.*, ''[Prime recipient's name] certifies compliance with the section, 'Prostitution and Related Activities.' '') addressed to the agency's grants officer. Such certifications by prime recipients are prerequisites to the payment of any U.S. Government funds in connection with this document.

Recipients' compliance with this section, ''Prostitution and Related Activities,'' is an express term and condition of receiving U.S. Government funds in connection with this document, and any violation of it shall be grounds for unilateral termination by HHS of the agreement with HHS in connection with this document prior to the end of its term. The recipient shall refund to HHS the entire amount furnished in connection with this document in the event HHS determines the recipient has not complied with this section, ''Prostitution and Related Activities.''

Guidance for completing your budget can be found on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements Application Submission Address

Electronic Submission:

CDC strongly encourages applicants to submit electronically at: *http://www.Grants.gov.* You will be able to download a copy of the application package from *http://www.Grants.gov,* complete it offline, and then upload and submit the application via the Grants.gov site. E-mail submissions will not be accepted. If you are having technical difficulties in Grants.gov, customer service can be reached by e-mail at *http://www.grants.gov/CustomerSupport* or by phone at 1–800–518–4726 (1–800–518–GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. Eastern Time, Monday through Friday.

CDC recommends that submittal of the application to Grants.gov should be early to resolve any unanticipated difficulties prior to the deadline. Applicants may also submit a back-up paper submission of the application. Any such paper submission must be received in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement. The paper submission must be clearly marked: ''BACK-UP FOR ELECTRONIC SUBMISSION.''

The paper submission must conform to all requirements for non-electronic submissions. If both electronic and back-up paper submissions are received by the deadline, the electronic version will be considered the official submission.

It is strongly recommended that the applicant submit the grant application using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If the applicant does not have access to Microsoft Office products, a PDF file may be submitted. Directions for creating PDF files can be found on the Grants.gov Web site. Use of file formats other than Microsoft Office or PDF may result in the file being unreadable by staff.

Or

Paper Submission:

If you chose to submit a paper application, submit the original and two hard copies of your application by mail or express delivery service to: Technical Information Management Section—RFA 05073, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

Your application will be evaluated against the following criteria:

1.Technical and Programmatic Approach (35 points):

Does the proposal demonstrate an understanding of how to provide HIV/AIDS workplace services to governmental, nongovernmental, business, and labor sectors including an overall design strategy and including measurable time lines? Does the proposal address regular monitoring and evaluation, and the potential effectiveness of the proposed activities in meeting objectives? Does the proposal offer a system for providing training, subgranting, technical assistance, and evaluation services to a select group of diverse organizations in Zimbabwe?

2. Ability to Carry Out the Project (30 points):

Does the applicant demonstrate organizational capability to achieve the purpose of the project including experience with HIV/AIDS workplace programs in Zimbabwe?

3. Personnel (20 points):

Are professional personnel involved in this project qualified, including documented evidence of their knowledge and experience in working on HIV/AIDS workplace programs? Is the composition of the applicant's key staff indigenous to the population of Zimbabwe?

4. Plans for Administration and Management of the Project (15 points):

Does the composition of the applicant's governing body reflect the indigenous population of Zimbabwe and other relevant partners across Zimbabwe? Do the applicant's charter, mission, and mandate reflect its role as a key service provider in the area of HIV/AIDS workplace programs?

5. Budget (not scored):

Is the itemized budget for conducting the project, along with justification, reasonable and consistent with stated objectives and planned program activities?

V. 2. Review and Selection Process

Applications will be reviewed for completeness by the Procurement and Grants Office (PGO) staff, and for responsiveness by NCHSTP staff. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. The objective review process will follow the policy requirements as stated in the GPD 2.04 *(http://198.102.218.46/doc/gpd204.doc).* Applications will be funded in order by score and rank determined by the review panel. All persons serving on the panel will be external to the funding division of NCHSTP.

CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

August 31, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NoA) from the CDC Procurement and Grants Office. The NoA shall be the only binding, authorizing document between the recipient and CDC. The NoA will be signed by an authorized Grants Management Officer, and mailed to the recipient fiscal officer identified in the application.y

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

Successful applicants must comply with the administrative requirements outlined in 45 CFR part 74, as appropriate. The following additional requirements apply to this project:

- AR–4 HIV/AIDS Confidentiality Provisions.
- AR–5 HIV Program Review Panel Requirements.
- AR–6 Patient Care.
- AR–10 Smoke-Free Workplace Requirements.
- AR–14 Accounting System Requirements.

Additional information on these requirements can be found on the CDC web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm.*

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

An additional Certifications form from the PHS5161–1 application needs to be included in the Grants.gov electronic submission only. Applicant should refer to *http://www.cdc.gov/od/pgo/funding/PHS5161–1-Certificates.pdf.* Once the applicant has filled out the form, it should be attached to the Grants.gov submission as Other Attachment Forms.

VI.3. Reporting Requirements

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:
   a. Current Budget Period Activities Objectives.
   b. Current Budget Period Financial Progress.
   c. New Budget Period Program Proposed Activity Objectives.
   d. Budget.
   e. Measures of Effectiveness.
   f. Additional Requested Information.
2. Annual progress report, due 30 days after the end of each budget period, and must contain the following elements:
   a. Progress towards meeting program objectives during the reporting period.
   b. Reporting period financial progress.
   c. New Budget Period Program Propsoed Activity Objectives.
   d. Measures of Effectiveness.
   e. Additional Requested Information.
3. Financial status report no more than 90 days after the end of the budget period.
4. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement. For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341. Telephone: 770–488–2700.

For program technical assistance, contact: Virginia Bourassa, Project Officer, 127 Herbert Chitepo Avenue, P.O. Box 3340, Harare, Zimbabwe. Telephone: 9 011 263 4 796 040. *E-mail:Bourassav@zimcdc.co.zw.*

For financial, grants management, or budget assistance, contact: Shirley Wynn, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341. Telephone: 770–488–1515.

VIII. Other Information

This and other CDC funding opportunity announcements can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on ''Funding,'' then ''Grants and Cooperative Agreements.''

Dated: June 17, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12413 Filed 6–22–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation; Grant Awards to Multiple Organizations

AGENCY: Office of Planning, Research and Evaluation, ACF, DHHS.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that noncompetitive grant awards are being made to multiple organizations to conduct demonstration and implement service provision projects on a wide range of issues relating to social services. The number of grants is 114 for a total amount of $20,083,653. These noncompetitive awards were recommended by the Congress and were listed in the FY 2005 Senate-House conference agreement.

Names of organizations receiving awards	Amounts of awards
A+ for Abstinence, Waynesboro, PA for abstinence education and related services	$44,640
AIDSCARE, Inc., Chicago, IL for social services and related programs at its facilities for people living with AIDS	248,000
Americana Community Center, Inc., Louisville, KY, for community involvement training	18,848
Andrus Children's Center, Yonkers, NY for the Yonkers Early Childhood Initiative	49,600
Anna Maria College, Paxton, MA, for program development at the Molly Bish Center for the Protection of Children and the Elderly	99,200
Annandale Christian Community for Action, Annandale, VA—Child Development Center	49,600
Arrowhead Economic Opportunity Agency, Inc., Virginia, MN for the Family to Family community-based mentoring program to assist low-income families	595,200
Atlanta Interfaith AIDS Network, Atlanta, GA for the Common Ground day program for adults living with HIV/AIDS	39,680
Best Friends and Best Men Program at the Indian River School District, Sebastian, FL	49,600
Birth Choice Pregnancy Centers, Mission Viejo, CA to support counseling and medical services at three pregnancy centers in Orange County, CA	148,800
Breakaway Ministries, Gadsden, AL, for the Silver Ring Thing Program for abstinence education and related services	79,360

Names of organizations receiving awards	Amounts of awards
Catholic Social Services, The Bridge, Wilkes Barre, PA for abstinence education and related services	45,632
Cesar Chavez Center, Davenport, IA to assist the Hispanic community in accessing social services and community resources	99,200
Child and Family Network Centers, Alexandria, VA—First Step Program	248,000
Children's Home Society of Idaho, Boise, ID—Idaho Children's Home	198,400
Children's Rights Council, Inc., Hyattsville, MD, for Safe Haven Access sites in Stark County, Ohio	74,398
ChildServ, Chicago, IL—Family Service Center in Lake County	496,000
Christian Family Ministries, Inc., Joliet, IL—Lamb's Fold Women's Center	49,600
City Connect Detroit, Detroit, MI for the Detroit Data Partnership, for data collection and integration and development of data sharing partnerships to support design, implementation and measurement of social and economic development programs	198,400
City of Chester, Bureau of Health, SABER Project, Chester, PA for abstinence education and related services	104,160
Coalition to End Family Violence, Oxnard, CA for family violence prevention and treatment and other social services for youth and families	198,400
Community Empowerment Association, Pittsburgh, PA to provide community re-entry programs	99,200
Community Options, Inc., Princeton, NJ, for the Dr. York Development Project	89,280
Community Services of Stark County, Inc., Canton, OH—"Stark STRONG" (Stark Standing Together Reaching Ohio's New Generation's)	297,600
Concerned Citizens Community Creation Center, Pittsburgh, PA for education, counseling, crisis intervention and other services for at-risk families	238,080
Connecticut Council of Family Service Agencies, Wethersfield, CT for the Empowering People for Success welfare-to-work initiative	396,800
Covenant House Alaska to expand services to runaway and homeless youth in the Anchorage, AK area	297,600
Covenant House Pennsylvania, Philadelphia, PA to provide support services to homeless and runaway youth	24,800
Daily Bread, Melbourne, FL to provide nutritional, mental health and counseling referral services to the working homeless population	49,600
Darkness to Light in Charleston, SC to develop an online training and certification program to prevent child sexual abuse	445,031
Diakon Lutheran Social Ministries, Mechanicsburg, PA for abstinence education and related services	134,912
Diakon Lutheran Social Ministries, Topton, PA for abstinence education and related services	94,240
East Harlem Building for the Community, Inc., New York, NY for its Women's Network to provide counseling, referrals and other services related to domestic violence	99,200
Eckerd Youth Alternatives, Clearwater, FL, for Transition to Independence—An Expansion of a Foster Care Pilot Demonstration project serving youth aging out of the foster care system	992,000
EDGE Outreach, Louisville, KY, for community outreach programs at The Mission House	29,760
Family First Support Center, Waukegan, IL—Educational Assessment Program	198,400
Food for Life, Glenside, PA to implement a pilot project to monitor children of prisoners and parolees in PA	198,400
Fred Leroy Health and Wellness Center, Omaha, Nebraska, to provide health services to Native Americans in the Northern Ponca Service Unit	248,000
Friends Association, West Chester, PA, to support adoption and foster child services	49,600
Generations of Hope, Rantoul, IL—to replicate the program which is a unique community setting enriching the lives of foster children and the elderly by entwining their daily lives	124,000
George Washington Carver Community Center, Project A.C.E., Norristown, PA for abstinence education and related services	85,312
Girl Scout Totem Council in Seattle, WA, to expand the Fostering A Future program	99,200
Good News Doctor Foundation and the International Child Development Resources Center, Inc., Melbourne, FL to provide care and to develop best practices for children suffering from autism	148,800
Greater Calvary Community Development Corporation, Erie, PA for abstinence education and related services	49,600
Greater Philadelphia Urban Affairs Coalition, Philadelphia, PA, to provide housing and mortgage assistance, as part of an initiative to stabilize a community	992,000
Growth & Development Services, Inc, New York, NY, for support services to at-risk families in Hispanic neighborhoods	49,600
Guidance Center, project RAPPORT, Ridgeway, PA for abstinence education and related services	73,408
Harbor House of Louisville, Inc., Louisville, KY, for a Training and Development Center for individuals with developmental disabilities	49,600
Heart Beat, Millerstown, PA for abstinence education and related services	50,592
Helping Hands Unlimited, Brooklyn, NY for a transitional supportive housing program for women	297,600
HERO Family Resource Center, Greensboro, AL to reduce and prevent teenage pregnancies through the "Bright Beginnings" program	49,600
Hispanic Counseling Center, Hempstead, NY for domestic violence prevention and intervention programs	138,880
Horizons for Homeless Children, Boston, MA, for mentoring, educational, and social development programs	124,000
Iowa Mentor Center, Sioux City, IA, for programmatic functions and equipment	29,760
Keystone Central School District, Central Mountain Middle School East, Mill Hall, PA for abstinence education and related services	78,368
Keystone Economic Development Corporation, Johnstown, PA for abstinence education and related services	87,296
L.V.C.P.T.P., St Luke's Health Network, CHOICE program, Bethlehem, PA for abstinence education and related services	91,264
Lackawanna Trail School District, Factoryville, PA for abstinence education and related services	73,408
Lady B Ranch, Apple Valley, CA, for a Therapeutic Horseback Riding Program	148,800
LaSalle University, Philadelphia PA for abstinence education and related services	111,104
Life House, Duluth, MN for transitional and supportive housing facilities for youth that are homeless, have mental health or substance abuse problems or are otherwise in need of such services	198,400
Mary's Family, Orlean, VA	74,400
Mercy Hospital of Pittsburgh, Pittsburgh, PA for abstinence education and related services	110,112
Monterey County Probation Department, Salinas, CA for a gang prevention and intervention program	1,289,600
National Energy Assistance Directors Association, Washington, DC for studies regarding low-income home energy assistance	198,400
Neighborhood United Against Drugs, Philadelphia, PA for abstinence education and related services	134,912
Network for Family Life Education, Piscataway, NJ for the Teen-to-Teen Education Project to encourage teens to make responsible choices about sexual health	297,600

Names of organizations receiving awards	Amounts of awards
New Brighton School District, New Brighton, PA for abstinence education and related services	22,816
Nexus Diversified Community Services in Minneapolis, MN to treat developmentally delayed adolescent males	992,000
Nueva Esperanza, Philadelphia, PA for abstinence education and related services	71,424
Ohel Children's Home and Family Services, Brooklyn, NY for school-based programs to prevent substance abuse, violence, child abuse and related problems	337,280
Ohio Educational Television Stations (OETS), Toledo, OH for the Ohio Cares project	198,400
Operation Warm, Chadds Ford, PA—Pennsylvania Youth Coat Distribution Project	124,000
Orange County, Orlando, FL, for Harbor House to provide services to victims of abusive relationships	148,800
Parents Anonymous, Claremont, CA to establish, operate, publicize and maintain a national parent helpline, toll free, 24 hours a day, 7 days a week, for parents throughout the US	31,744
Partners for Healthier Tomorrows, Ephrata, PA for abstinence education and related services	49,600
Partners in Family and Community Development, Athens, PA for abstinence education and related services	71,424
Perseus House, Inc., Erie, PA for abstinence education and related services	49,600
Potter County Court of Common Pleas, Coudersport, PA to implement the Youth/Community project to break the cyclical effect of the dysfunctional family	99,200
Potter County Human Services, Roulette, PA for abstinence education and related services	49,600
Providence House, Shreveport, LA—Child Development Center	164,672
Puerto Rico Administration for Children and Families, San Juan, PR for implementation of automated information systems for child welfare and other programs	595,200
Rape and Victim Assistance Center of Schuykill County, Pottsville, PA for abstinence education and related services	70,432
Real Alternatives, Harrisburg, PA, for counseling and pregnancy support services	148,800
Real Commitment, Gettysburg, PA for abstinence education and related services	81,344
Resources for Human Development, Inc., Philadelphia, PA to support an outreach project organizing groups focusing on social services to low-income families	24,800
School District of Lancaster, Project IMPACT, Lancaster, PA for abstinence education and related services	100,192
School District of Philadelphia, Philadelphia, PA for abstinence education and related services	101,184
Shaw Jewish Community Center of Akron, OH	198,400
Shepherd's Maternity House Inc., East Stroudsburg, PA for abstinence education and related services	49,600
Silver Ring Thing South Carolina, Columbia, SC to establish an innovative abstinence education program	99,200
Silver Ring Thing, Sewickley, PA for abstinence education	74,400
Sisters of Charity Foundation of Canton, OH—Quality Child Care Initiative	99,200
T.O.P.S. FOR YOU, Inc., Brooklyn, NY for services to children and families at the Garrity Post Daycare Center	396,800
To Our Children's Future with Health, Inc., Philadelphia, PA for abstinence education and related services	108,128
Tri County Women's Network, New Carlisle, OH for programs serving pregnant women in crisis who choose to keep their babies learn to become self-sufficient	148,800
Tuscarora Intermediate Unit, McVeytown, PA for abstinence education and related services	83,328
Uhlich Children's Advantage Network, Chicago, IL for programs at its Family Resource Center in Riverdale to increase self-sufficiency, improve parenting skills and reduce family violence among teenage and young adult parents	148,800
United Christian Ministries Inc., Osceola, PA for social services focusing on homeless families	74,400
Urban Family Council, Philadelphia, PA for abstinence education and related services	124,992
Victim Resource Center Inc., Franklin, PA for abstinence education and related services	40,672
Visitation Home, Inc., Yardville, NJ, to support services for developmentally disabled residents	99,200
Volunteers of America/Alaska in Anchorage, AK, in cooperation with the State of Alaska Dept. of Health and Human Services, for a respite camp for children being raised by grandparents in Alaska	198,400
Warren Coalition, Front Royal, VA—Family Care Connections	148,800
Washington Hospital Teen Outreach, Academy for Adolescent Health, Washington, PA for abstinence education and related services	134,912
West Central Wisconsin Community Action Agency, Glenwood City, WI for the Western Wisconsin JumpStart Replication Project to assist TANF households in purchasing reliable automobiles to help them secure and maintain employment	297,600
Women's Care Center of Erie County, Inc. to support prenatal medical services to an at-risk population	99,200
Women's Care Center of Erie County, Inc., Abstinence Advantage Program, Erie, PA for abstinence education and related services	134,912
Women's Haven of Tarrant County, Inc., Fort Worth, TX—services at an emergency domestic violence shelter and for a 24-hour emergency hotline	54,560
YMCA of Metropolitan Fort Worth-McDonald Community Branch, Fort Worth, TX—Together Reaching Unity Concerning Everyone (TRUCE) program	173,600
York County Human Life Services, Inc. York, PA for abstinence education and related services	49,600
Youth Crisis Center, Jacksonville, FL, for family and youth counseling	99,200
YWCA of Bucks County, Trevose, PA to promote strong families, positive youth development and safe communities	49,600
ZERO TO THREE, Washington, DC, for the development of multidisciplinary	992,000

Court Teams to raise awareness and increase knowledge and skills regarding the needs of maltreated infants and toddlers and their families involved in the child welfare system to include a program in Fort Bend County, Texas

FOR FURTHER INFORMATION CONTACT: K.A. Jagannathan, Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, phone: 202–205–4829.

Dated: June 18, 2005.

Naomi Goldstein,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 05–12431 Filed 6–22–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Immunology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Immunology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 15, 2005, from 8:30 a.m. to 5 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Rufina Carlos, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD. 20850, 240–276–0493, ext. 167, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512516. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will hear a presentation on the FDA Critical Path Initiative and a presentation by the Office of Surveillance and Biometrics in the Center for Devices and Radiological Health outlining their responsibility for the review of postmarket study design. The committee will also discuss, make recommendations, and vote on a premarket approval application for a laboratory assay designed to measure levels of neural thread protein in urine specimens from patients presenting with cognitive complaints or other signs and symptoms of suspected Alzheimer's disease. Results from this test are intended for use, in conjunction with and not in lieu of current standard diagnostic procedures, to aid the physician in the differential diagnosis of Alzheimer's disease.

Background information for the topic, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panelmtg.html*.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 1, 2005. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 1, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Shirley Meeks, Conference Management Staff, at 240–276–0450, ext. 105, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 15, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–12401 Filed 6–22–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Reports, Forms, and Recordkeeping Requirements: Agency Information Collection Activity Under OMB Review; TSA Airspace Waiver Program

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 November 22, 2004, 69 FR 67933.

DATES: Send your comments by July 25, 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: TSA Airspace Waiver Program.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): TSA Waiver Request Form.

Affected Public: General aviation community.

Abstract: TSA is seeking approval for this collection of information in order to operate its airspace waiver program. The airspace waiver program allows general aviation aircraft operators to apply for approval to operate in restricted airspace. This collection of information allows TSA to conduct security threat assessments on these aircraft operators to enhance the security of aviation and assets on the ground that are subject to restricted airspace. TSA is requesting approval to respond to the needs of the general aviation community and to

allow freedom of movement and commerce throughout United States airspace.

Waiver request forms may be obtained via the Internet on the TSA General Aviation Web site at *http://www.tsa.gov/public/display?theme=180* (for domestic and international waivers), on the Federal Aviation Administration (FAA) Web site at *https://waiver.tfr.faa.gov* (for sporting event waivers), or via facsimile by contacting TSA's Office of Airspace Waivers at 571–227–1945. TSA will transmit the form to applicants either electronically or by facsimile. Applicants are required to file an airspace waiver request seven (7) days prior to the start date of the flight. Applicants may submit the completed request form either electronically or by facsimile. Applicants are required to provide flight, pilots, passenger, and crew information on the waiver request form.

Number of Respondents: 24,000.

Estimated Annual Burden Hours: An estimated 42,000 hours annually.

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 17, 2005.

Lisa S. Dean,

Privacy Officer.

[FR Doc. 05–12404 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4914–N–06]

Mortgagee Review Board Administrative Actions Withdrawal of Approval for Recertification Noncompliance

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, this notice advises of the cause and description of certain administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees. This notice of administrative actions relates solely to the failure of Title I lenders and Title II mortgagees to submit an acceptable annual audited financial statement and/or payment of the annual fee in order to renew their FHA lender approval as part of the annual recertification process.

FOR FURTHER INFORMATION CONTACT: Phillip A. Murray, Director, Office of Lender Activities and Program Compliance, Room B–133–3214 L'Enfant Plaza, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone: 202–708–1515. (This is not a toll-free number.) A Telecommunications Device for individuals who are hearing- or speech impaired (TTY) is available at 800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, approved December 15, 1989), requires that HUD publish a description of, and the cause for, administrative actions against a HUD-approved mortgagee by the Department's Mortgagee Review Board. In compliance with the requirements of section 202(c)(5), this notice advises of administrative actions that have been taken by the Mortgagee Review Board from October 1, 2004 through March 31, 2005, related to the failure of Title I lenders and Title II mortgagees to submit an acceptable annual audited financial statement and/or payment of the annual recertification fee in order to renew their FHA lender approval as part of the annual recertification process.

Action: Withdrawal of HUD/FHA Title I lender approval and/or Title II mortgagee approval.

Cause: Failure to submit to the Department an acceptable annual audited financial statement, and/or remit the required annual recertification fee in order to renew their FHA lender approval as part of the annual recertification process.

Name	City	St
59 Title I Lenders and Loan Correspondents Terminated Between October 1, 2004 and March 31, 2005		
Alabama Home Mortgage Lending	Birmingham	AL
Allied Finance Company Inc	Van Nuys	CA
Alosta Mortgage Inc	Glendora	CA
American Lending Resource Inc	Temecula	CA
American Residential Funding Inc	Costa Mesa	CA
American Union Home Loans	Downey	CA
Anchor Home Loans Unlimited Inc	Costa Mesa	CA
Avalon Mortgage Corporation	San Diego	CA
Brookside Mortgage LLC	Tulsa	OK
Budget Mortgage Bankers Ltd	Lake Success	NY
California Gold Mortgage Inc	Encino	CA
California Mortgage Loan Co	San Dimas	CA
Cambree Financial Inc	Torrance	CA
Capitol Federal Savings Bank	Tokepa	KS
Caribbean Financial Services Corp	Caguas	PR
Community Bank	Brockton	MA
Emerald Mortgage Corp	North Hills	CA
Excell Financial LLC	Portland	OR
Farwest Plus Inc	Lawndale	CA
Financial Partners Credit Union	Downey	CA
First City Capital of Nevada Inc	Las Vegas	NV
First Federal Bank	Hazleton	PA
First Preferred Mortgage Corp	Downey	CA
HCG North America LLC	Orange	CA

Name	City	St
IMortgage Funding Corporation	San Diego	CA
International Home Capital Corp	Woodland Hills	CA
JT and T LLC	Tempe	AZ
Legacy Mortgage Inc	Plano	TX
Loan Cents Financial Services	North Charleston	SC
London Financial Group	Irvine	CA
Madison Mortgage Corporation	Smyrna	GA
MFS Investments Inc	Montebello	CA
Michael Kagan Inc	Westlake Village	CA
Nevada Brookside Mortgage Corp	Cerritos	CA
Norwest Home Improvement Inc	Concord	CA
Oakwood Acceptance Corporation LLC	Greensboro	NC
Oakwood Mortgage Investors Inc	Las Vegas	NV
Olympia Mortgage Corporation	Brooklyn	NY
Pacific Gold Mortgage Group LLC	Phoenix	AZ
Pacific Sun Mortgage Company Inc	Carlsbad	CA
Peoples First Community Bank	Panama City	FL
Platinum Holdings Inc	Covina	CA
Porter Financial Corp	Mission Hills	CA
Primestar Financial Inc	Carson	CA
Provision Mortgage Corporation	San Diego	CA
R and G Lending Inc	Cypress	CA
Realty Mortgage Alliance	Chino	CA
Realty Mortgage LLC	Virginia Beach	VA
Resource Capital Inc	Los Angeles	CA
Sara S Inc	Laguna Hills	CA
SLS Mortgage Inc	Sylmar	CA
Stewart National Mortgage Co Inc	San Diego	CA
Suburban Mortgage Incorporated	Phoenix	AZ
Taylor Chaparro and Co Inc	Mission Viejo	CA
Ultimate Funding Corp	Tustin	CA
Uniwest Mortgage Corp	San Diego	CA
Urban First Funding Corp	Lancaster	CA
World Financial Corp Inc	Puerto Nuevo	PR
181 Title II Mortgagees and Loan Correspondents Terminated Between October 1, 2004 and March 31, 2005		
A C Global Capital Inc	Garland	TX
Accent Mortgage Services Inc	Alpharetta	GA
Ace Mortgage Inc	Ozone Park	NY
Acropolis Enterprise Inc	La Puente	CA
ADP Financial INC	Carmichael	CA
All Americans Fin Res Alliance Inc	Maitland	FL
Allied Finance Company Inc	Van Nuys	CA
Alosta Mortgage Inc	Glendora	CA
American Investment Team Inc	Woburn	MA
American Mortgage Lending Services Inc	Chicago	IL
American Strategic Income Port	Minneapolis	MN
America's Premiere Mortgage Company	Burton	MI
Amerimort Financial Corp	City of Industry	CA
Anchor Home Loans Unlimited Inc	Costa Mesa	CA
Anodyne Lending Inc	Santa Ana	CA
Arrow Service Corp Inc	Denver	CO
Avalon Funding Group Inc	Scottsdale	AZ
Bankers Mortgage Financial Corp	Lighthouse Point	FL
Beacon Financial Services Inc	Indianapolis	IN
Best Results Mortgage Corporation	Huntington Park	CA
Better Home Financial Inc	San Dimas	CA
Buffalo Federal Savings Bank	Buffalo	WY
California Gold Mortgage Inc	Encino	CA
California Mortgage Loan Co Inc	San Dimas	CA
Cambree Financial Inc	Torrance	CA
Caribbean Financial Services Corp	Caguas	PR
Cen Cal Mortgage Inc	Paso Robles	CA
Cianford Inc	Modesto	CA
CJM Mortgage Corp	Pompton Lakes	NJ
Colonial Mortgage Inc	Columbus	OH
Colorado Quality Lending LLC	Denver	CO
Community Bank	Brockton	MA
Consolidated Mortgage Plus Inc	Reynoldsburg	OH
Creative Mortgage Solutions Two	Tamarac	FL
Crosstowne Mortgage Corporation	Silver Spring	MD
CVK Enterprises Inc	Iron Mountain	MI
Dearborn Savings Assoc FA	Lawrenceburg	IN

Name	City	St
Deluxe Mortgage LLC	Houston	TX
Denali Financial Services LP	Fayetteville	GA
Developers Mortgage Group	Las Vegas	NV
Devon Kay Capital LLC	Avon	CT
Donn R Steier Inc	Mammoth Lakes	CA
E Z Financial Services Inc	Berwyn	IL
Eagle Mortgage Company	Crown Point	IN
East Side Lending Inc	Milwaukee	WI
Emerald Mortgage Corp	North Hills	CA
Equity One Lenders Service Inc	Anaheim	CA
Everett Cooperative Bank	Everett	MA
Excell Financial LLC	Portland	OR
Fairmount Company	Beaverton	OR
Farwest Plus Inc	Lawndale	CA
Fidelity Capital Funding Inc	San Ramon	CA
First Federal Savings and Loan Assn Tx	Tyler	TX
First FIdelity Centers Inc	Tarzana	CA
First Fidelity Credit Corporation	Torrence	CA
First Fidelity Financial Inc	Newport Beach	CA
First Financial Home Loan	Miami	FL
First Independent Bank	Gallatin	TN
First Preferred Mortgage Corp	Downey	CA
First State Bank	Colorado Springs	CO
First State Financial Corporation	Newport Beach	CA
Five Star Funding Inc	Stockton	CA
Floridafirst Bank	Lakeland	FL
Four Points Mortgage Corporation	Riverside	CA
Freestand Financial Holding Corp	Phoenix	AZ
GMRC LLC	Lafayette	IN
Gold Coast Funding Inc	Irvine	CA
Grant Financial Services Inc	Oak Brook	IL
Haws Inc	Jupiter	FL
Hillcrest Financial Corp	Richardson	TX
Home Builders Mortgage Corp	Charleston	SC
Home Loans Direct Inc	Carlsbad	CA
Home Mortgage Group Inc	Alexandria	LA
Home Mortgagee Corp	Glen Ellyn	IL
Homelink Mortgage Inc	Kirkland	WA
Huntington Browne Mortgage Inc	Inglewood	CA
Imperial Mortgage Finance Corporation	Birmingham	AL
Inland Empire Funding Corp	Rancho Cucamonga	CA
Integrity Mortgage and Financial Inc	Denver	CO
Intense Mortgage Inc	Newport Beach	CA
International Millennium Association	Bell	CA
Interstate Net Bank	Cherry Hill	NJ
J Leichtman Financial Services	Los Angeles	CA
JT and T LLC	Tempe	AZ
Klamath First Federal Savings Ala	Klamath Falls	OR
Konhoff Capital LLC	Salt Lake City	UT
Lee and Jackson Finan Services	Camarillo	CA
Legacy Mortgage Corporation	Palos Heights	IL
Legend Mortgage Inc	Phoenix	AZ
Loan Cents Financial Services Inc	Summerville	SC
Loan Lines Inc	Tarzana	CA
Loan Originators Mortgage Corp	Covina	CA
Loans Unlimited Inc	Houston	TX
Lone Star Realty Investments Inc	Southlake	TX
Mairc Mortgage Corp	South Jordan	UT
Malta Service Corporation	Farmington	CT
Marquest Financial	Minneapolis	MN
MCM Holdings Inc dba Mtg Bankers of Fl	Miami	FL
Mechanics Cooperative Bank	Taunton	MA
Medallion Mortgage and Financial Ser LLC	Tampa	FL
MFS Investments Inc	Rosemead	CA
Michael Kagan Inc	Westlake Village	CA
Monterey Coast Mortgage Corp	Monterey	CA
Monumental Finance LLC	Lutherville	MD
Mortgage Associates Corporation	Plymouth	MI
Mortgage Concepts Inc	Canton	MI
Mortgage Made Easy Inc	Miami	FL
Mortgage Makers Inc	Scottsdale	AZ
Mortgage Processing Inc	Federickburg	VA
Mortgage Solutions Network LLC	Aurora	CO
Mortgages Done Wright Inc	Escalon	CA

Name	City	St
National Mortgage Association	Oklahoma City	OK
Nationsbest Mortgage Corp	Orange	CA
Nationwide Discount Home Loans Inc	Rancho Cucamonga	CA
NDNJ Inc	Ramcho Palos Verdes	CA
Neustar Financial Services Inc	Overgaard	AZ
New Millennium Lending Inc	Houston	TX
Newwest Mortgage Company	Downey	CA
North Texas Lending LLC	Plano	TX
Oakwood Acceptance Corporation LLC	Greensboro	NC
Oasis Financial Services Inc	Redlands	CA
Old American Mortgage Inc	Murray	UT
Old Dominion Mortgage Inc	Charlottesville	VA
Osborne Nichols Hall and Associates LTD	Long Beach	NY
P M J K Inc	San Leandro	CA
Palm Beach Financial Network Inc	Jupiter	FL
Pittsburgh Home Savings	Pittsburgh	PA
Pittsfield Co-Operative Bank	Pittsfield	MA
Platinum Family of Companies Inc	Costa Mesa	CA
Platinum Holdings Inc	Covina	CA
Porter Financial Corporation	Mission Hills	CA
Portico Mortgage-Com Inc	Charlotte	NC
Preciosas Inc	Victorville	CA
Preferred Bank FSB	Houston	TX
Premiere Mortgage Inc	Scottsdale	AZ
Prime Star Financial Inc	Carson	CA
Providence Funding Corporation	Garden Grove	CA
Provident Mortgage Corporation	Hackensack	NJ
Quality Financial Services LC	Salt Lake City	UT
Queen City Federal Savings Bank	Virginia	MN
R and G Lending Inc	Cypress	CA
R K Mortgage Inc	Richfield	OH
Rapid Mortgage LLC	Rapid City	SD
Residential Mortgage Company	Youngstown	OH
Resource Capital Inc	Los Angeles	CA
Resource Lenders Inc	Fresno	CA
Ricardo Gerscovich Inc	Encino	CA
RNB Investments	Oakbrook Terrace	IL
Rock Creek Mortgage	Valencia	CA
Rushmore Financial	Modesto	CA
Ryan Mortgage Company Inc	Santa Rosa	CA
Second Federal Savings and Loan Assoc	Chicago	IL
Shamrock Corp	Carlsbad	CA
South Bay Equities Ltd	Brentwood	NY
Sparrow Mortgage Corp	Glendale	CA
Spectrum Global Finance Inc	Orlando	FL
State Financial Network Inc	Broomall	PA
Statewide Ventures	Grass Valley	CA
Stone Mountain Mortgage Inc	Tucker	GA
Stratford Mortgage Corp	Quinlan	TX
Sunrise Vista Mortgage Corp	Citrus Heights	CA
Texas Mortgage Professionals LLC	Houston	TX
Tiempo Mortgage LLC	Denver	CO
Timmaron Mortgage Group Inc	Dallas	TX
Titan Financial Services Inc	Hauppauge	NY
Total Financial Services Inc	Palm Desert	CA
Ultimate Funding Corp	Tustin	CA
United Bank of Absarokee NA	Absarokee	MT
United Capital Mortgage Corporation	Aurora	CO
United Concepts Lending Inc	Denver	CO
United Mortgage and Invest Corp	Baileys Crossroads	VA
United Mortgage Investors Inc	Decatur	GA
Valley Pacific Mortgage Corporation	Denver	CO
Vanguard Financial Ltd	Concord	CA
Walkford Funding Inc	Staten Island	NY
Westcoast Home Loan Inc	Chula Vista	CA
White Oak Mortgage Group LLC	Raleigh	NC
Wilson and Associates Mortgage Corp	Chicago	IL
Winfield Affiliated Mortgage LP	Naples	FL
Winton Savings and Loan Co	Cincinnati	OH
Yonkers Savings and Loan Assn	Yonkers	NY

Dated: June 10, 2005.

Frank L. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. E5–3269 Filed 6–22–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Request for Public Comments on Extension of Existing Information Collection To Be Submitted to OMB for Review Under the Paperwork Reduction Act

A request extending the information collection described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;
2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. The quality, utility, and clarity of the information to be collected; and
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Frogwatch USA.

Current OMB Approval Number: 1028–0072.

Summary: The collection of information referred herein applies to a World-Wide Web site that permits individual to submit records of the number of calling amphibians at wetlands. The Web site is termed Frogwatch USA. Information will be used by scientists and Federal, State, and local agencies to identify wetlands showing significant declines in populations of amphibians.

Estimated Annual Number of Respondents: 12,000.

Estimated Annual Burden Hours: 3,000 hours.

Affected Public: Primarily U.S. residents.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

Dated: June 17, 2005.

Susan D. Haseltine,

Associate Director for Biology.

[FR Doc. 05–12409 Filed 6–22–05; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: This notice publishes approval of the Tribal-State Compact between the State of Oklahoma and Apache Tribe of Oklahoma.

DATES: Effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of the approved Tribal-State Compact for the purpose of engaging in Class III gaming activities on Indian lands. This Compact authorizes the Apache Tribe of Oklahoma to engage in certain Class III gaming activities, provides for certain geographical exclusivity, limits the number of gaming machines at existing racetracks, and prohibits non-tribal operation of certain machines and covered games.

Dated: June 9, 2005.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 05–12395 Filed 6–22–05; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Class III Gaming Compacts taking effect.

SUMMARY: Notice is given that the Tribal-State Compact between the Otoe-Missouria Tribe and the State of Oklahoma is considered to have been approved and in effect.

DATES: Effective June 23, 2005.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under Section 11 (d)(7)(D) of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior must publish in the **Federal Register** notice of any Tribal-State compact that is approved, or considered to have been approved for the purpose of engaging in class III gaming activities on Indian lands. The Acting Principal Deputy Assistant Secretary-Indian Affairs, Department of the Interior, through his delegated authority did not approve or disapprove this compact before the date that is 45 days after the date this compact was submitted. This compact authorizes the Otoe-Missouria Indian tribe to engage in certain class III gaming activities, provides for certain geographical exclusivity, limits the number of gaming machines at existing racetracks, and prohibits non-tribal operation of certain machines and covered games. Therefore, pursuant to 25 U.S.C. 2710(d)(7)(C), this compact is considered to have been approved, but only to the extent it is consistent with IGRA.

Dated: June 9, 2005.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 05–12400 Filed 6–22–05; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF JUSTICE

Notice of Public Meeting by Teleconference Concerning Heavy Duty Diesel Engine Consent Decrees

The Department of Justice and the Environmental Protection Agency will hold a public meeting on July 20, 2005 at 10 a.m. by teleconference. The subject

of the meeting will be implementation of the provisions of the seven consent signed by the United States and diesel engine manufacturers and entered by the United States District Court for the District of Columbia on July 1, 1999 (*United States* v. *Caterpillar*, Case No. 1:98CV02544; *United States* v. *Navistar International Transportation Corporation*, Case No. 1:98CV02545; *United States v. Cummins Engine Company*, Case No. 1:98CV02546; *United States* v. *Detroit Diesel Corporation*, Case No. 1:98CV02548; *United States* v. *Volvo Truck Corporation*, Case No. 1:98CV02547; *United States* v. *Mack Trucks, Inc.*, Case No. 1:98CV01495; and *United States* v. *Renault Vehicles Industries, S.A.*, Case No. 1:98CV02543). In supporting entry by the court of the decrees, the United States committed to meet periodically with states, industry groups, environmental groups, and concerned citizens to discuss consent decree implementation issues. Future meeting will be announced here and on EPA's Diesel Engine Settlement Web site at: *http://www.epa.gov/compliance/resources/cases/civil/caa/diesel/index.html.* Interested parties should contact the Environmental Protection Agency at the address listed below prior to the meeting to reserve a telephone line and receive instructions for the call.

Agenda

1. Panel Remarks—10 a.m.

Remarks by DOJ and EPA regarding implementation of the provisions of the diesel engine consent decrees.

2. Public comments and questions.

FOR FURTHER INFORMATION CONTACT: Anne Wick, EPA Diesel Engine Consent Decree Coordinator, U.S. Environmental Protection Agency (Mail Code 2242A), 1200 Pennsylvania Avenue NW., Washington, DC 20460, *e-mail: wick.anne@epa.gov.*

Karen S. Dworkin,

Assistant Chief, Environment & Natural Resources Division, Environmental Enforcement Section.

[FR Doc. 05–12465 Filed 6–22–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with CERCLA Section 122(d)(2), 42 U.S.C. 9622(d)(2), and Departmental policy in 28 CFR 50.7, notice is hereby given that on June 14, 2005, a proposed Consent Decree in *United States* v. *National Railroad Passenger Corporation,* et al., Consolidated Civil Action Nos. 86–1094, 92–6119, 99–4835, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action, the United States sought: recovery of environmental response costs incurred and to be incurred by the United States, all in connection with the Paoli Railyard Superfund Site, located in Paoli, PA (''Site''). The Consent Decree requires settling defendant Penn Central Corporation, now known as American Premier Underwriters, Inc., to: (1) Pay the United States the sum of $5.9 million for response costs incurred, (2) pay the U.S. Environmental Protection Agency future costs in an amount not to exceed $37,500 annually, and (3) pay the U.S. Department of Interior the sum of $500,000 in settlement of natural resource damages claims.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *U.S.* v. *APU,* et al., D.J. Ref. #90–11–2–152C. The Consent Decree may also be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, c/o Richard Metzinger, Jr., Assistant United States Attorney, 615 Chestnut Street, Philadelphia, PA 19106; and at U.S. EPA Region III, c/o Thomas Cinti, Senior Regional Counsel, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the Consent Decree may be examined on the Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.50 for the Consent Decree (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–12389 Filed 6–22–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on May 25, 2005, a proposed Consent Decree in *United States* v. *The Newark Group, Inc.,* Civil Action No. 05–02144–JW, was lodged with the United States District Court for the Northern District of California.

In this action, the United States sought the performance of certain response actions, pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9606, and the reimbursement of response costs incurred, pursuant to Section 107(a) CERCLA, 42 U.S.C. 9607(a), in connection with the cleanup of the Lorentz Barrel and Drum Site (''Site'') in San Jose, CA. Under the proposed Consent Decree, The Newark Group, Inc. (''Newark'') will perform long-term maintenance of the asphalt and concrete caps on its 1.47-acre property, which is part of the Site. In addition, Newark will establish institutional controls limiting future uses of its property. Finally, Newark will reimburse the United States $15,000 in response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, with a copy to Matthew A. Fogelson, Trial Attorney, U.S. Department of Justice, Environment and Natural Resources Division, Environmental Enforcement Section, 301 Howard Street, Suite 1050, San Francisco, CA 94105, and should refer to *United States* v. *The Newark Group, Inc.,* D.J. Ref. 90–11–2–467/5. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney, 150 Almaden Blvd. Suite, 900., San Jose, CA, and at U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy

of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy form the Consent Decree Library, please enclose a check in the amount of $12.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–12390 Filed 6–22–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a consent decree in *United States* v. *Paul J. Mraz, et al.*, Civil Action Nos. CCB–03–332 and CCB 89–2869(D. Md.) was lodged with the court on June 6, 2005.

The proposed consent decree requires the defendants to reimburse the United States in the amount of $110,000 for response costs incurred with respect to the Maryland Sand Superfund Site in Elkton, Maryland pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9607.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 2004, and should refer to *United States* v. *Paul J. Mraz, et al.,* DOJ Ref. # 90–11–2–225/1.

The proposed consent decree may be examined and copied at the Office of the United States Attorney, 36 S. Charles Street, Baltimore, Maryland 21201; or at the Region III Office of the Environmental Protection Agency, c/o Daniel Boehmcke, Senior Assistant Regional Counsel, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the amended consent decree, may also be examined on the following Department of Justice website, *http://www.usdoj.gov/enrd/open.htlm.* A copy of the amended decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–12464 Filed 6-22–05 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Pursuant to 28 CFR 50.7, notice is hereby given that on June 2, 2005, a proposed Consent Decree in the case of *United States* v. *Stauffer Management Company LLC and Bayer CropScience Inc.*, Civil Action No. 8:05-cf-1024, was lodged with the United States District Court for the Middle District of Florida.

In this action, the United States sought injunctive relief and recovery of response costs under Sections 106(a) and 107 of CERCLA, 42 U.S.C. 9606(a) and 9607, to remedy conditions in connection with the release or threatened release of hazardous substances into the environment at the Stauffer Chemical Superfund Site in Tarpon Springs, Florida (hereinafter referred to as the ''Site''). The Settlers under the proposed Consent Decree, Stauffer Management Company LLC and Bayer CropScience Inc. (or their corporate predecessors), own the Site or owned it at the time of disposal of hazardous substances at the Site.

Under a proposed Consent Decree, the Settlors have agreed to perform the remedy chosen by EPA to clean up the Site, to pay $207,548 toward EPA's unreimbursed past response costs, and to pay EPA's future response costs incurred in connection with the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Stauffer Management Company LLC and Bayer CropScience Inc.,* D.J. Ref. 90–11–2–1227/3.

The Consent Decree may be examined at U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia, 30303—Attn: Rudolph Fanasijevich. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.*

A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Decree from the Consent Decree Library, please enclose a check in the amount of $52.50 (25 cents per page reproduction cost for 210 pages) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 05–12391 Filed 6–22–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States et al.* v. *Sunoco*, Civil Action No. 05–cv–2866 PBT was lodged on June 16, 2005 with the United States District Court for the Eastern District of Pennsylvania. Under the terms of the proposed consent decree, Sunoco has agreed to install add-on control technologies and implement enhanced flaring, benzene, and leak detection and repair programs that will reduce emissions of nitrogen oxides, sulfur dioxide, and particulate matter from refinery process units (principally the fluidized catalytic cracking units and process heaters and boilers) consistent with best available control technology (''BACT'') standards and new source performance standards ''NSPS'') emissions limits. In addition, under the proposed consent decree, Sunoco will: Adopt and implement other comprehensive, facility-wide programs for monitoring and controlling emissions of benzene and other volatile organic compounds. Sunoco also will install a redundant sulfur recovery plant with tail gas unit at its Toledo refinery.

Sunoco will pay a civil penalty of $3 million and will perform Supplemental Environmental Projects valued at more than $3.9 million.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20004–7611, and should refer to *United States et al.* v *Sunoco*, DOJ Ref. 90–5–2–1–1744/1.

The proposed consent decree may be examined at the office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106 and at U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103. During the comment period, the consent decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* Copies of the consent decree also may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $50.50 (with attachments) or $42.75 (without attachments) for *United States et al.* v. *Sunoco*, (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Brook,

Assistant Section Chief Environmental Enforcement Section.

[FR Doc. 05–12462 Filed 6–22–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Public Comment Period for Proposed Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States* v. *Valero Refining Company—California, Valero Refining Company—Louisiana, Valero Refining Company—New Jersey, Valero Refining Company—New Orleans, Valero Refining—Oklahoma, Valero Refining—Texas, L.P., Ultramar, Inc., TPI Petroleum, Inc., Colorado Refining Company and Diamond Shamrock Refining Company, L.P., Colorado Refining Company and Diamond Shamrock Refining Company, L.P., and Tesoro Refining and Marketing Corporation,* (Civil Action No. SA–05–CA–0569), which was lodged with the United States District Court for the Western District of Texas on June 16, 2005.

This proposed Consent Decree was lodged simultaneously with the Complaint in this national Clean Air Act (''Act'') enforcement action against Valero and Tesoro, pursuant to Sections 113(b) and 211(d) of the Clean Air Act (''CAA''), 42 U.S.C. 7413(b) (1983), *amended by,* 42 U.S.C. 7413(b) (Supp. 1991), to resolve alleged violations at 14 refineries in six states.

Under the settlement, the companies will implement pollution control technologies to greatly reduce emissions of nitrogen oxides (''No_x'' and sulfur dioxide (''SO_2'') from refinery process units and adopt facility-wide enhanced monitoring and fugitive emission control programs. The companies will also adopt measures to eliminate excess flaring of hydrogen sulfide. This settlement will result in emission reductions of approximately 20,400 tons per year.

In addition, Valero will pay a civil penalty of $5.5 million, and spend $5.5 million on Supplemental Environmental Projects (''SEPs''). The states of Colorado, Louisiana, New Jersey, Oklahoma, and Texas have joined in this settlement as Plantiff-Interveners and signatories to the Consent Decree and each will benefit from the companies' performance of the SEPs in the communities where the refineries are located and share in the civil penalty.

Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Divisions, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Valero Refining, et al.,* D.J. Ref. 90–5–2–1–06811/1.

The Consent Decree may be examined at the Office of the United States Attorney, Western District of Texas, 601 NW. Loop 410, Suite 600, San Antonio, TX 78216. During the public comment period the Valero Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Valero Consent Decree, may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*twood@usdoj.gov*, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $81.25 (includes attachments), or $51.25, without attacements (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–12463 Filed 6–22–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Request for Nominations

AGENCY: Occupational Safety and Health Administration, (OSHA), Labor.

ACTION: Request for nominations for persons to serve on MACOSH.

SUMMARY: OSHA intends to re-charter the Maritime Advisory Committee for Occupational Safety and Health (MACOSH), which expires in April 2005. MACOSH advises the Secretary of Labor on matters relating to occupational safety and health programs, new initiatives, and standards for the maritime industries of the United States which include Longshoring, Marine Terminals, and Shipyards. The Committee will consist of 15 members and will be chosen from among a cross-section of individuals who represent the following interests: employers, employees; Federal and State safety and health organizations; professional organizations specializing in occupational safety and health; and national standards setting groups. OSHA invites persons interested in serving on MACOSH to submit their names for consideration for committee membership.

DATES: Nominations for MACOSH membership should be postmarked by August 8, 2005.

ADDRESSES: Nominations for MACOSH membership should be sent to: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Room N 3718, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Director, Office of Maritime, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3621, 200 Constitution

Avenue, NW., Washington, DC 20210; telephone: (202) 693–2086.

SUPPLEMENTARY INFORMATION:

I. Background

OSHA intends to re-charter MACOSH for another two years. MACOSH was established to advise the Secretary on various issues pertaining to providing safe and healthful employment in the maritime industries. The Secretary consults with MACOSH on various related subjects, including: ways to increase the effectiveness of safety and health regulations that apply to the maritime industries, injury and illness prevention, the use of stakeholder partnerships to improve training and outreach initiatives, and to increase the national dialogue on occupational safety and health. In addition, MACOSH provides advice on enforcement initiatives that will help improve the working conditions and the safety and health of men and women employed in the maritime industry.

II. Nominations

OSHA is looking for MACOSH members who have a strong interest in the safety and health of workers in the maritime industry. The Agency is looking for nominees to represent the following interests and categories; employees, employers, State or Federal safety and health organizations, professional organizations, and national standards setting groups.

OSHA seeks a broad-based and diverse membership for MACOSH. Nominations of women and minorities are encouraged. Nominations of new members or renominations of former or current members will be accepted in all categories of membership. Interested persons may nominate themselves or may submit the name of another person who they believe to be interested in and qualified to serve on MACOSH. Nominations may also be submitted by organizations from one of the categories listed above. Nominations should include the name, address, and telephone number of the candidate. Each nomination should include a summary of the candidate's training or experience relating to safety and health in the maritime industry and the interest the candidate represents. In addition to listing the candidate's qualifications to serve on the committee, each nomination should state that the person consents to the nomination and acknowledges the responsibilities of serving on MACOSH.

III. Authority

This document was prepared under the direction of Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210, pursuant to sections 6(b) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2) and 29 CFR part 1912.

Signed in Washington, DC this 20th day of June 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–12433 Filed 6–22–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under Section 7(a) of the Occupational Safety and Health Act of 1970 (28 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on July 14, in Room N4437 (B–D), U.S. Department of Labor, located at 200 Constitution Avenue, NW., Washington, DC. The Meeting is open to the public and will begin at 9 a.m. on July 14 and end at approximately 4:45 p.m.

Agenda items will include updates on activities of both the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH), as well as follow-up reports from OSHA/NIOSH staff regarding NACOSH workgroups. Presentations will also be made on the following subjects: National Occupational Research Agenda, Enforcement Update, Alliances and Partnerships, and Standards Update.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Wilfred Epps at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Veneta Chatmon (phone: 202–693–1912; fax: 202–693–1634) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 at the Department of Labor Building (202–693–2350). For additional information contact: Wilfred Epps, Occupational Safety and Health Administration (OSHA); Room N3641, 200 constitution Avenue, NW., Washington, DC, 20210 (phone: (202) 693–1857; fas: (202) 693–141; e-mail *Epps.Wil@dol.gov*); or check the National Advisory Committee on Occupational Safety and Health information pages located at *http://www.osha.gov.*

Signed at Washington, DC, this 16th day of June 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 05–12420 Filed 6–22–05; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Temporary Change in Hours at Regional Archives

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of temporary change in research room hours at the Mid Atlantic Regional Archives in Philadelphia.

SUMMARY: The Mid Atlantic Regional Archives, located at 900 Market Street, Philadelphia, PA, will be temporarily closed to researchers on Tuesdays from the week of June 26, 2005 through the week of September 4, 2005, to allow staff to complete activities necessary for a planned relocation of certain, infrequently used records to an offsite storage facility with improved environmental controls.

DATES: June 27, 2005 through September 9, 2005.

FOR FURTHER INFORMATION CONTACT: Leslie.Simon at 215–606–0101.

SUPPLEMENTARY INFORMATION: The Mid Atlantic Regional Archives is in the middle of a planned move of a number

of certain, infrequently used records to offsite storage to reduce rental costs and preserve the records space with better archival environmental controls. The records will not be accessible while in transit. After the move, these records will be accessible through the Mid Atlantic Regional Archives. Relevant entries in the Archival Research Catalogue (ARC) will be updated to reflect location and access changes.

The temporary, once-weekly closure will allow staff to complete activities necessary for the move (such as reboxing and cataloguing). To assist extended-stay researchers, NARA selected Tuesday for temporary closing to avoid conflict with the regular closing hours of other related Philadelphia institutions, such as the Historical Society of Pennsylvania's genealogy and manuscript collections, which are closed on Mondays. NARA Mid Atlantic out-of-town researchers, who frequently use multiple institutional archives, will not find them closed on the same day during the summer week days. The actual shipping of records will take place from July through October. However, normal hours will be restored the week of September 11, 2005.

Dated: June 17, 2005.

Thomas Mills,

Assistant Archivist for Regional Records Services.

[FR Doc. 05–12388 Filed 6–22–05; 8:45 am]

BILLING CODE 7515–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Michael McDonald, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* July 11, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in American History II, submitted to the Division of Research Programs at the May 1, 2005, deadline.

2. *Date:* July 12, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for Colleges, Universities & Research Organizations, submitted to the Office of Challenge Grants at the May 2, 2005, deadline.

3. *Date:* July 12, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in History of Art and Architecture, submitted to the Division of Research Programs at the May 1, 2005, deadline.

4. *Date:* July 12, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in American Studies II, submitted to the Division of Research Programs at the May 1, 2005, deadline.

5. *Date:* July 13, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Faculty Research Awards in Humanities I, submitted to the Division of Research Programs at the May 1, 2005, deadline.

6. *Date:* July 14, 2005.
Time: 9:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for National History Competition in RFP to Develop a Model for A National History Competition, submitted to the Division of Education Programs, in Conjunction with We the People at the June 15, 2005, deadline.

7. *Date:* July 14, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for History Organizations, submitted to the Office of Challenge Grants at the May 2, 2005, deadline.

8. *Date:* July 14, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in European History I, submitted to the Division of Research Programs at the May 1, 2005, deadline.

9. *Date:* July 15, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in East Asian Studies I, submitted to the Division of Research Programs at the May 1, 2005, deadline.

10. *Date:* July 18, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in British Literature I, submitted to the Division of Research Programs at the May 1, 2005, deadline.

11. *Date:* July 19, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in British Literature II, submitted to the Division of Research Programs at the May 1, 2005, deadline.

12. *Date:* July 19, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for Colleges & Universities, submitted to the Office of Challenge Grants at the May 2, 2005, deadline.

13. *Date:* July 20, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Latin American Studies I. submitted to the Division of Research Programs at the May 1, 2005, deadline.

14. *Date:* July 21, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in

American History I, submitted to the Division of Research Programs at the May 1, 2005, deadline.

15. *Date:* July 21, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in European History II, submitted to the Division of Research Programs at the May 1, 2005, deadline.

16. *Date:* July 21, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for Art Museums and Other Public Programming Organizations, submitted to the Office of Challenge Grants at the May 2, 2005, deadline.

17. *Date:* July 22, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Germanic and Slavic Studies, submitted to the Division of Research Programs at the May 1, 2005, deadline.

18. *Date:* July 25, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Anthropology and Archaeology, submitted to the Division of Research Programs at the May 1, 2005, deadline.

19. *Date:* July 25, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in East Asian Studies II, submitted to the Division of Research Programs at the May 1, 2005, deadline.

20. *Date:* July 26, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in American Literature I, submitted to the Division of Research Programs at the May 1, 2005, deadline.

21. *Date:* July 27, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Religious Studies II, submitted to the Division of Research Programs at the May 1, 2005, deadline.

Michael McDonald,
Acting Advisory Committee Management Officer.

[FR Doc. 05–12397 Filed 6–22–05; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Notice of the Availability of Finding of No Significant Impact for a Marine Geophysical Survey in the Arctic Ocean

AGENCY: National Science Foundation.

ACTION: Notice of availability of a Finding of No Significant Impact for proposed activities in the Arctic Ocean.

SUMMARY: The National Science Foundation gives notice of the availability of a Finding of No Significant Impact for proposed activities in the Arctic Ocean.

The Office of Polar Programs (OPP) has prepared an Environmental Assessment of a marine geophysical survey by the Coast Guard cutter *Healy* across the Arctic Ocean, August–September 2005. Given the United States Program's mission to support polar research, the proposed action is expected to result in substantial benefits to science. The draft Environmental Assessment was available for public review for a 45-day period.

DATES: Comments on the FONSI must be submitted on or before July 25, 2005.

ADDRESSES: Copies of the Finding of No Significant Impact and the Environmental Assessment are available upon request from: Dr. Polly A. Penhale, National Science Foundation, Office of Polar Programs, 401 Wilson Blvd., Suite 755, Arlington, VA 22230. Telephone: (703) 292–8033.

SUPPLEMENTARY INFORMATION: The National Science Foundation prepared a draft Environmental Impact Assessment (EA) for a marine geophysical survey across the Arctic Ocean and solicited public comments (**Federal Register**: April 11, 2005, Vol. 70, No. 68, Page 18431–18432; and April 27, 2005, Vol. 70, No. 80, Page 21819). The National Science Foundation has prepared a Finding of No Significant Impact (FONSI) based on this EA, in accordance with CEQ regulations § 1500–1508 and 45 CRF 640. It was determined that the proposed activity would not result in a significant impact on the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969. Therefore, a FONSI was issued, and no environmental impact statement is required.

Copies of the FONSI and the Environmental Assessment titled, An Environmental Assessment of a Marine Geophysical Survey b the Coast Guard Cutter *Healy* Across the Arctic Ocean August–September 2005, are available upon request from: Dr. Polly A. Penhale, National Science Foundation, Office of Polar Programs, 4201 Wilson Blvd., Suite 755, Arlington, VA 22230, Telephone: (703) 292–8033 or at the agency's Web site at: *http://www.nsf.gov/od/opp/arctic/arc_envir/healy_ea.pdf* and *http://www.nsf.gov/od/opp/arctic/arc_envir/healy_fonsi.pdf*. The National Science Foundation invites interested members of the public to provide written comments on this FONSI.

Polly A. Penhale,
Environmental Officer, Office of Polar Programs, National Science Foundation.

[FR Doc. 05–12460 Filed 6–22–05; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Preparation of an Environmental Impact Statement (EIS) for the Advanced Technology Solar Telescope (ATST) at the Haleakala High Altitude Observatory (HO) Site, Mt. Haleakalā, Island of Maui, HI

AGENCY: National Science Foundation.

ACTION: Notice of intent.

SUMMARY: The National Science Foundation (NSF) intends to prepare an Environmental Impact Statement (EIS) for the proposed Advanced Technology Solar Telescope (ATST) Project. The NSF, through an award to the National Solar Observatory (NSO), plans to fund construction of the proposed ATST at the University of Hawai'i Institute for Astronomy (IfA), Haleakalā High Altitude Observatory (HO) site, on the Island of Maui, Hawai'i. An extensive campaign of worldwide site testing has identified Haleakalā Observatory as the optimal location for this next-generation solar observing facility. The telescope enclosure and a support facility would be placed at one of two identified sites within the existing observatory boundaries. The EIS will address both of these sites and the potential environmental impacts of on-site construction, installation, and operation of this proposed new solar telescope. With its unprecedented 4.2-m (165-inch) aperture, advanced optical technology, and state-of-the-art instrumentation, the proposed ATST will be an indispensable tool for exploring and understanding physical processes on the sun that ultimately affect Earth. The EIS will address, among other things, the potential direct, indirect, and cumulative environmental impacts associated with the proposed Advanced Technology Solar Telescope project. The EIS development process for the proposed action will be conducted in accordance with the

National Environmental Policy Act (NEPA).

Written comments may be forwarded to:

ADDRESSES: Dr. Craig B. Foltz, Program Officer, National Science Foundation, Division of Astronomical Sciences, 4201 Wilson Blvd., Room 1045, Washington, DC 22230. Telephone: (703) 292–4909. Fax: (703) 292–9034. E-mail: *cfoltz@nsf.gov.*

SUPPLEMENTARY INFORMATION: Proposed alternatives to be considered may include, but not be limited to, the following:

(1) Alternative 1: (Proposed Action): Undeveloped site East of Mees Observatory.

(2) Alternative 2: Former radio telescope site known as Reber Circle.

(3) Alternative 3: No-Action. The National Science Foundation will not construct the Advanced Technology Solar Telescope on Maui.

Publication of the NOI does not foreclose consideration of any courses of actions or possible decisions addressed by the National Science Foundation in its Final Environmental Impact Statement (FEIS). No final decisions will be made regarding construction of the ATST prior to completion and signature of the Record of Decision for the proposed action.

Scoping Process: Federal, State and local agencies and the public are invited to participate in the scoping process for the completion of this EIS. The scoping process will help identify potential impacts and key issues to be analyzed in the EIS.

Scoping meetings will be held at the following locations on the island of Maui, Hawai'i, with notification of the times and locations published in the local newspapers.

(1) J. Walter Cameron Center—Auditorium, 95 Mahalani Street, Wailuku, HI 96793; Tuesday, July 12, 2005, 5 p.m. to 9:30 p.m.

(2) Kula Community Center, Lower Kula Road, Kula, HI 96790; Wednesday, July 13, 2005, 6 p.m. to 10 p.m.

(3) Mayor Hannibal Tavares Community Center—Room 2, 91 Pukalani Street, Pukalani, HI 96788; Thursday, July 14, 2005 6 p.m. to 10 p.m.

Written comments identifying potential impacts to be analyzed in the EIS will be accepted within 30 days after the scoping meetings or within 30 days after publication in the Bulletin of the State of Hawaii Office of Environmental Quality Control, whichever is later. Written comments may be submitted to Dr. Craig B. Foltz at the address above.

Dated: June 6, 2005.

Craig B. Foltz,

Program Officer.

[FR Doc. 05–11970 Filed 6–22–05; 8:45 am]

BILLING CODE 7555–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Employee Non-covered Service Pension Questionnaire.

(2) *Form(s) submitted:* G–209.

(3) *OMB Number:* 3220–0154.

(4) *Expiration date of current OMB clearance:* 09/30/2005.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 500.

(8) *Total annual responses:* 500.

(9) *Total annual reporting hours:* 55.

(10) *Collection description:* Under Section 3 of the Railroad Retirement Act, the Tier I portion of an employee annuity may be subjected to a reduction for benefits received based on work not covered under the Social Security Act or Railroad Retirement Act. The questionnaire obtains the information needed to determine if the reduction applies and the amount of such reduction.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–12473 Filed 6–22–05; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26909; File No. 812–13170]

Business Men's Assurance Company of America, et al.; Notice of Application

June 17, 2005.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''Act''), approving certain substitutions of securities.

APPLICANTS: Business Men's Assurance Company of America (''BMA''), BMA Variable Annuity Account A (''BMA VA Account''), BMA Variable Life Account A (''BMA VL Account''), Fidelity Security Life Insurance Company (''Fidelity Security''), and FSL Separate Account M (''FSL Account'').

FILING DATE: The application was filed on February 28, 2005, and amended on June 16, 2005.

SUMMARY OF APPLICATION: The Applicants request an order pursuant to Section 26(c) of the Act to permit certain unit investment trusts to substitute shares of certain portfolios of various unaffiliated funds (''Replacement Portfolios'') for shares of certain portfolios of Investors Mark Series Fund, Inc. (''IMSF''), which are currently held by those unit investment trusts (''Existing Portfolios''). The shares are held by the unit investment trusts to fund certain variable annuity contracts and variable life insurance policies (collectively, the ''Contracts'') issued by the BMA and Fidelity Security. Specifically, Applicants propose to make the following substitutions:

Separate account	Existing portfolios	Replacement portfolio
BMA VA ..... BMA VL	IMSF Intermediate Fixed Income	Fidelity VIP II Investment Grade Bond (Initial Shares).
BMA VA ..... BMA VL	IMSF Money Market	Fidelity VIP Money Market (Initial Shares).

Separate account	Existing portfolios	Replacement portfolio
FSL	IMSF Money Market	Federated Prime Money Fund II.
BMA VA BMA VL	IMSF Global Fixed Income	Fidelity VIP II Investment Grade Bond (Initial Shares).
BMA VA BMA VL	IMSF Mid Cap Equity	Fidelity VIP III Mid Cap (Initial Shares).
All	IMSF Small Cap Equity	Dreyfus Emerging Leaders (Initial Class).
BMA VA BMA VL	IMSF Large Cap Growth	T. Rowe Price Blue Chip Growth.
FSL	IMSF Large Cap Growth	Universal Institutional Funds Equity Growth (Class I Shares).
BMA VA BMA VL	IMSF Large Cap Value	Lord Abbett Growth and Income (Class VC Share).
All	IMSF Growth and Income	Lord Abbett Growth and Income (Class VC Shares).
BMA VA BMA VL	IMSF Balanced	T. Rowe Price Personal Strategy Balanced.

HEARING OR NOTIFICATION OF HEARING: An order granting the amended and restated application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 12, 2005, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Applicants: Raymond A. O'Hara III, Blazzard, Grodd & Hasenauer, P.C., 943 Post Road East, Westport, CT 06880. Copy to Michael K. Deardorff, Business Men's Assurance Company of America, 2300 Main Street, Suite 450, Kansas City, MO 64108.

FOR FURTHER INFORMATION CONTACT: Thu Ta, Senior Counsel, or Lorna J. MacLeod, Branch Chief, at (202) 551–6795, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 100 F Street, NE., Washington, DC 20549 (tel. (202) 551–5850).

Applicants' Representations

1. BMA was incorporated on July 1, 1909, under the laws of the State of Missouri. As of December 31, 2003, BMA became a South Carolina domiciled insurance company. BMA is licensed to do business in the District of Columbia and in all States except New York. BMA is a wholly owned subsidiary of Liberty Life Insurance Company, which is an insurance company domiciled in the State of South Carolina.

2. Fidelity Security is a stock life insurance company. Fidelity Security was originally incorporated on January 17, 1969, as a Missouri corporation. It is principally engaged in the sale of life insurance and annuities. Fidelity Security is licensed in the District of Columbia and in all States except New York, where it is only admitted as a reinsurer. Fidelity Security is majority owned by Richard F. Jones (an individual).

3. BMA and Fidelity Security (collectively, the ''Insurance Companies'') are not affiliates. However, through their collective ownership of all of the shares of the Existing Portfolios, they are affiliates of the Existing Portfolios.

4. BMA VA Account is a separate investment account of BMA established pursuant to a resolution of its Board of Directors on September 6, 1996, under Missouri law to fund variable annuity contracts issued by BMA. BMA VA Account is registered under the Act as a unit investment trust. The variable annuity contracts issued through BMA VA Account are registered on Form N–4 under the Securities Act of 1933 (the ''1933 Act'').

5. BMA VL Account is a separate investment account of BMA established pursuant to a resolution of its Board of Directors on December 1, 1998, under Missouri law to fund variable life insurance policies issued by BMA. BMA VL Account is registered under the Act as a unit investment trust. The variable life insurance policies issued through BMA VL Account are registered on Form N–6 under the 1933 Act.

6. FSL Account is a separate investment account of Fidelity Security established pursuant to a resolution of its Board of Directors on August 25, 1998, pursuant to Missouri law to fund variable annuity contracts issued by Fidelity Security. FSL Account is registered under the Act as a unit investment trust. The variable annuity contract issued through FSL Account is registered on Form N–4 under the 1933 Act.

7. Each of the BMA VA Account, BML VL Account, and FSL Account meets the definition of ''separate account'' contained in Section 2(a)(37) of the Act.

8. IMSF is an open-end management investment company that was incorporated in Maryland in 1997. Currently, there are nine Portfolios offered in IMSF, each of which is involved in the Substitution. IMSF is registered under the Act as an open-end management investment company and its securities are registered under the 1933 Act. Investors Mark Advisor LLC (''IMA'') is the investment adviser for each of the Existing Portfolios. IMA has hired sub-advisers for each of the Existing Portfolios. The sub-advisers are:

Portfolio	Sub-adviser
Intermediate Fixed Income Portfolio	Standish Mellon Asset Management Company LLC.
Money Market Portfolio	Standish Mellon Asset Management Company LLC.
Global Fixed Income Portfolio	Standish Mellon Asset Management Company LLC.
Mid Cap Equity Portfolio	The Boston Company Asset Management LLC.

Portfolio	Sub-adviser
Small Cap Equity Portfolio	Columbia Management Advisors, Inc.
Large Cap Growth Portfolio	Columbia Management Advisors, Inc.
Large Cap Value Portfolio	Babson Capital Management LLC.
Growth & Income Portfolio	Lord, Abbett & Co. LLC.
Balanced Portfolio	Kornitzer Capital Management, Inc.

9. The BMA Separate Accounts invest in all nine Portfolios of IMSF. The FSL Account invests in four Portfolios of IMSF: Money Market Portfolio, Small Cap Equity Portfolio, Large Cap Growth Portfolio and Growth & Income Portfolio.

10. Each of the Replacement Portfolios is a portfolio of a registered open-end management investment company, and their securities are registered under the 1933 Act. The Investment Grade Bond Portfolio is a portfolio of Fidelity Variable Insurance Products Fund II. The Mid Cap Portfolio is a portfolio of the Fidelity Variable Insurance Products Fund III. Money Market Portfolio is a portfolio of Fidelity Variable Insurance Products Fund. Fidelity Management & Research Company (''FMR'') serves as the adviser for each of these Fidelity portfolios. The Federated Prime Money Fund II is a portfolio of Federated Insurance Series. Federated Investment management Company serves as adviser to the Federated Prime Money Fund II. T. Rowe Price Blue Chip Growth Portfolio and T. Rowe Price Personal Strategy Balanced Portfolio are portfolios of the T. Rowe Price Equity Series, Inc. T. Rowe Price Associates, Inc. serves as the investment manager for each of these T. Rowe Price portfolios. Equity Growth Portfolio is a portfolio of the Universal Institutional Funds, Inc. Morgan Stanley Investment Management, Inc. serves as the adviser for the Equity Growth Portfolio. The Growth and Income Portfolio is a portfolio of the Lord Abbett Series Fund, Inc. Lord, Abbett & Co., LLC serve as adviser to the Growth and Income Portfolio. The Emerging Leaders Portfolio is a portfolio of the Dreyfus Investment Portfolios. The Dreyfus Corporation serves as adviser to the Emerging Leaders Portfolio. None of the Replacement Portfolios is affiliated with either of the Insurance Companies.

11. Each of the Contracts permits its owners to allocate the Contract's accumulated value among numerous available Subaccounts, each of which invests in a different investment portfolio of an underlying mutual fund. Each of the BMA Contracts will have at least 21 different Subaccounts (and corresponding portfolios) available for this purpose. The FSL Contract will have 17 different Subaccounts (and corresponding portfolios) available for this purpose.

12. Each Contract permits its owner to transfer the Contract's accumulated value from one Subaccount to another Subaccount of the issuing Separate Account at any time, subject to certain potential restrictions and charges. The only charges on such transfers are flat dollar amounts that may be assessed to help defray the administrative costs of effecting these transfers. Each of the Contracts permits up to a specified number of free transfers in a Contract year, before any such transfer charge may be imposed.

13. To the extent that the Contracts contain restrictions or limitations on an owner's right to transfer, such restrictions and limitations will be suspended in connection with substitution-related transfers as described in further detail elsewhere herein.

14. BMA or Fidelity Security, as applicable, reserves the right to make certain changes, including the right to substitute, for the shares held in any Subaccount, the shares of another Fund or the shares of another underlying mutual fund, as stated in each prospectus for the Contracts contained in the applicable Form N–6 or Form N–4 registration statement.

15. BMA and Fidelity Security, on each of its behalf and on behalf of the Separate Accounts, propose to make certain substitutions of shares of the Replacement Portfolio for shares of the Existing Portfolios held in sub-accounts of their respective Separate Accounts. The proposed substitutions are as follows:

(a) Shares of the Investment Grade Bond Portfolio (Initial Class) of Fidelity Variable Insurance Products Fund II for shares of the Intermediate Fixed Income Portfolio and Global Fixed Income Portfolio of IMSF, with respect to the BMA VA Account and BMA VL Account only.

(b) Shares of the Mid Cap Portfolio (Initial Class) of Fidelity Variable Insurance Products Fund III for shares of the Mid Cap Equity Portfolio of IMSF, with respect to the BMA VA Account and BMA VL Account only.

(c) Shares of the Money Market Portfolio (Initial Class) of Fidelity Variable Insurance Products Fund for shares of the Money Market Portfolio of IMSF, with respect to the BMA VA Account and BMA VL Account only.

(d) Shares of the Federated Prime Money Fund II of Federated Insurance Series for shares of the Money Market Portfolio of IMSF, with respect to the FSL Account only.

(e) Shares of the T. Rowe Price Blue Chip Growth Portfolio of T. Rowe Price Equity Series, Inc. for shares of the Large Cap Growth Portfolio of IMSF, with respect to the BMA VA Account and BMA VL Account only.

(f) Shares of the Equity Growth Portfolio (Class I) of The Universal Institutional Funds, Inc. for shares of the Large Cap Growth Portfolio of IMSF, with respect to the FSL Account only.

(g) Shares of the T. Rowe Price Personal Strategy Balanced Portfolio of T. Rowe Price Equity Series, Inc. for shares of the Balanced Portfolio of IMSF, with respect to the BMA VA Account and BMA VL Account only.

(h) Shares of the Growth and Income Portfolio (Class VC Shares) of Lord Abbett Series Fund, Inc. for shares of the Growth & Income Portfolio and, with respect to the BMA VA Account and BMA VL Account only, the Large Cap Value Portfolio of IMSF.

(i) Shares of the Emerging Leaders Portfolio (Initial Class) of Dreyfus Investment Portfolios for shares of the Small Cap Equity Portfolio of IMSF.

16. The substitutions are expected to provide significant benefits to Contract owners, including improved selection of portfolio managers. The Applicants believe that the advisers and subadvisers of the Replacement Portfolios overall are better positioned to provide consistent above-average performance for their funds than are the adviser and sub-advisers of the Existing Portfolios. At the same time, Contract owners will continue to be able to select among a large number of funds, with a full range of investment objectives, investment strategies, and managers.

17. Applicants believe that the Replacement Portfolios have investment objectives, policies, and risk profiles that are substantially the same as, or sufficiently similar to, the corresponding Existing Portfolios to make those Replacement Portfolios appropriate candidates as substitutes.

Set forth below is a description of the investment objectives and principal investment policies of each Existing Portfolio and its corresponding Replacement Portfolio.

Existing Portfolio	Replacement Portfolio
IMSF Intermediate Fixed Income Portfolio—primarily seeks to achieve a high level of current income consistent with preserving capital and liquidity. Secondarily, the Portfolio seeks capital appreciation when changes in interest rates or other economic conditions indicate that capital appreciation may be available without significant risk to principal. During normal market conditions, the Portfolio will invest at least 80% of its total net assets in investment grade fixed income securities. The Portfolio may invest up to 20% of its total net assets in fixed income securities of foreign corporations and foreign governments and their political subdivisions, including securities of issuers located in emerging markets. No more than 10% of the Portfolio's total net assets will be invested in foreign securities not subject to currency hedging transactions back into U.S. dollars. The Portfolio may invest up to 20% of its total net assets in below-investment grade securities (junk bonds).	**Fidelity VIP II Investment Grade Bond Portfolio (BMA Substitution only)**—seeks as high a level of current income as is consistent with the preservation of capital. The Portfolio normally invests at least 80% of its assets in investment-grade debt securities (those of medium and high quality) of all types and repurchase agreements for those securities. The Portfolio may invest up to 10% of the Portfolio's assets in lower-quality (those of less than investment-grade quality) debt securities. The Portfolio is managed to have similar overall interest rate risk to an index, which, as of December 31, 2004, was the Lehman Brothers® Aggregate Bond Index. The Portfolio's assets are allocated across different market sectors and maturities.
IMSF Mid Cap Equity Portfolio—seeks to achieve long-term growth of capital through investment primarily in equity and equity-related securities of companies which appear to be undervalued. The Portfolio invests primarily in equity securities of mid capitalization companies. Under normal conditions, the Portfolio will invest at least 80% of its assets in securities issued by mid capitalization companies, which are those companies whose equity market capitalizations at the time of investment are similar to the market capitalizations of companies in the Standard & Poor's® MidCap 400 Index (''S&P® MidCap 400 Index'').	**Fidelity VIP III Mid Cap Portfolio (BMA Substitution only)**—seeks long-term growth of capital. The Portfolio normally invests primarily in common stocks. The Portfolio will normally invest at least 80% of its assets in securities of companies with medium market capitalizations (which, for purposes of this Portfolio, are those companies with market capitalizations similar to companies in the Russell Midcap® Index or the S&P® MidCap 400 Index. The Portfolio may invest in domestic and foreign issuers; in either ''growth'' or ''value'' stocks; and in companies with smaller or larger market capitalizations.
IMSF Global Fixed Income Portfolio—seeks maximum total return while realizing a market level of income consistent with preserving capital and liquidity. During normal market conditions, the Portfolio will invest at least 80% of its total net assets in fixed income securities of foreign governments or their political subdivisions and companies located in at least three countries around the world, including the United States. Usually the Portfolio will invest in no fewer than eight foreign countries. The Portfolio invests primarily in investment grade fixed income securities or those determined by the sub-adviser to be of comparable quality, but it may invest up to 15% of its total net assets in below-investment grade securities (junk bonds).	**Fidelity VIP II Investment Grade Bond Portfolio (BMA Substitution only)**—seeks as high a level of current income as is consistent with the preservation of capital. The Portfolio normally invests at least 80% of its assets in investment-grade debt securities (those of medium and high quality) of all types and repurchase agreements for those securities. The Portfolio may invest up to 10% of the Portfolio's assets in lower-quality (those of less than investment-grade quality) debt securities. The Portfolio is managed to have similar overall interest rate risk to an index, which, as of December 31, 2004, was the Lehman Brothers® Aggregate Bond Index. The Portfolio's assets are allocated across different market sectors and maturities.
IMSF Money Market Portfolio—seeks to obtain the highest level of current income which is consistent with the preservation of capital and maintenance of liquidity. The Portfolio invests in obligations of the U.S. Government and its agencies and instrumentalities. The Portfolio may also invest in other obligations and instruments common to money market funds.	**Fidelity VIP Money Market Portfolio (BMA Substitution only)**—seeks as high a level of current income as is consistent with preservation of capital and liquidity. The Portfolio invests in U.S. dollar-denominated money market securities of domestic and foreign issuers and repurchase agreements. The Portfolio may invest more than 25% of its total assets in the financial services industries and may enter into reverse repurchase agreements.
IMSF Money Market Portfolio—seeks to obtain the highest level of current income which is consistent with the preservation of capital and maintenance of liquidity. The Portfolio invests in obligations of the U.S. Government and its agencies and instrumentalities. The Portfolio may also invest in other obligations and instruments common to money market funds.	**Federated Prime Money Fund II (Fidelity Security Substitution only)**—seeks to maintain a stable net asset value of $1.00 per share. The Fund's investment objective is to provide current income consistent with stability of principal and liquidity. The Fund invests primarily in a portfolio of short-term, high-quality fixed income securities issued by banks, corporations and the U.S. Government.
IMSF Large Cap Growth Portfolio—seeks long-term capital appreciation. During normal market conditions, the Portfolio will invest at least 80% of its total net assets in common stocks and other equity-type securities of companies exceeding $10 billion in market capitalization at the time of purchase. The sub-adviser will focus on companies that it believes have long-term appreciation possibilities. The Portfolio may invest in investment grade debt securities of corporate and government issuers. The Portfolio also may invest up to 25% of its total net assets in foreign securities. The Portfolio may invest in options, futures contracts and futures options.	**T. Rowe Price Blue Chip Growth Portfolio (BMA Substitution only)**—seeks to provide long-term capital growth. Income is a secondary objective. The Portfolio will normally invest at least 80% of its net assets in the common stocks of large and medium-sized blue chip growth companies, which in the adviser's view, are well established in their industries and have the potential for above-average earnings growth. The average market capitalization of the companies in which the Portfolio was invested as of December 31, 2004 was approximately $83 billion. As of that same date, approximately 7.1% of the Portfolio was invested in companies with a market capitalization of less than $10 billion. The Portfolio may also invest in foreign stocks, futures and options.

Existing Portfolio	Replacement Portfolio
IMSF Large Cap Growth Portfolio—seeks long-term capital appreciation. During normal market conditions, the Portfolio will invest at least 80% of its total net assets in common stocks and other equity-type securities of companies exceeding $10 billion in market capitalization at the time of purchase. The sub-adviser will focus on companies that it believes have long-term appreciation possibilities. The Portfolio may invest in investment grade debt securities of corporate and government issuers. The Portfolio also may invest up to 25% of its total net assets in foreign securities. The Portfolio may invest in options, futures contracts and futures options.	**Equity Growth Portfolio of The Universal Institutional Funds, Inc. (Fidelity Security Substitution only)**—seeks long-term capital appreciation by investing primarily in growth-oriented equity securities of large capitalization companies. The Portfolio invests primarily in growth-oriented equity securities of U.S. and, to a limited extent, foreign companies that are listed on U.S. exchanges or traded in U.S. markets. Under normal circumstances, at least 80% of the Portfolio's assets will be invested in equity securities. The Portfolio invests primarily in companies with market capitalizations of generally $10 billion or more that the adviser believes exhibit, among other things, strong free cash flow and compelling business strategies.
IMSF Balanced Portfolio—seeks long-term capital growth and high current income. The Portfolio seeks to achieve long-term capital growth primarily by investment in common stocks and secondarily by investment in convertible bonds and convertible preferred stocks. The sub-adviser seeks to achieve high current income by investing in: Corporate bonds; government bonds; mortgage-backed securities; convertible bonds; preferred stocks; and/or convertible preferred stocks. The Portfolio may invest up to 75% of its total net assets in corporate bonds; convertible bonds; preferred stocks; and/or convertible preferred stocks. The Portfolio may invest in below-investment grade debt securities (junk bonds).	**T. Rowe Price Personal Strategy Balanced Portfolio (BMA Substitution only)**—seeks the highest total return over time consistent with an emphasis on both capital appreciation and income. The Portfolio pursues its objective by investing in a diversified portfolio typically consisting of approximately 60% stocks, 30% bonds, and 10% money market securities. Under normal conditions, allocations for the Portfolio can vary by 10% above or below these ranges, based on the adviser's outlook for the economy and the financial markets. The Portfolio will invest at least 25% of its total assets in senior fixed-income securities. The Portfolio may invest in below-investment grade debt securities (junk bonds) and in other securities, including futures, options and swaps.
IMSF Growth & Income Portfolio—seeks to provide long-term growth of capital and income without excessive fluctuation in market value. The Portfolio intends to keep its assets invested in those securities which are selling at reasonable prices in relation to value. During normal market conditions, the Portfolio will invest in common stocks (including securities convertible into common stocks) of large, U.S. and multinational companies that the sub-adviser believes are undervalued. A large company is a company having a market capitalization at the time of purchase that falls within the market capitalization range of companies in the Russell 1000 Index (which at 1/31/05 was $471 million–$382 billion).	**Lord Abbett Growth and Income Portfolio (BMA and Fidelity Security Substitutions)**—seeks long-term growth of capital and income without excessive fluctuations in market value. The Portfolio primarily purchases equity securities of large, seasoned U.S. and multinational companies that the adviser believes are undervalued. Under normal circumstances, the Portfolio will invest at least 80% of its net assets in equity securities of large companies. Large companies are companies with a market capitalization at the time of purchase that falls within the market capitalization range of companies in the Russell 1000 Index ($471 million to $382 billion as of 1/31/05).
IMSF Large Cap Value Portfolio—seeks long-term growth of capital and income by investing principally in a diversified portfolio of common stocks which are considered to be undervalued in relation to earnings, dividends and/or assets. The Portfolio invests, under normal circumstances, at least 90% of its net assets, plus any borrowings for investment purposes, in common stocks that are considered to be undervalued in relation to earnings, dividends and/or assets.	**Lord Abbett Growth and Income Portfolio (BMA Substitution only)**—seeks long-term growth of capital and income without excessive fluctuations in market value. The Portfolio primarily purchases equity securities of large, seasoned U.S. and multinational companies that the adviser believes are undervalued. Under normal circumstances, the Portfolio will invest at least 80% of its net assets in equity securities of large companies. Large companies are companies with a market capitalization at the time of purchase that falls within the market capitalization range of companies in the Russell 1000 Index.
IMSF Small Cap Equity Portfolio—seeks long-term capital appreciation. During normal market conditions, the Portfolio will invest at least 80% of its total net assets in a diversified portfolio of common stocks and equity-type securities of companies with market capitalization, at the time of purchase, equal to or less than the capitalization of the largest stock in the Standard & Poor's Small Cap 600 Index. The Portfolio may invest up to 20% of its total net assets in debt securities of corporate and governmental issuers, primarily investment grade. The Portfolio may also invest up to 25% of its total net assets in foreign securities, and the Portfolio may invest in options, futures contracts and futures options.	**Dreyfus Emerging Leaders Portfolio (BMA and Fidelity Security Substitutions)**—seeks capital growth. To pursue this goal, the Portfolio normally invests at least 80% of its assets in stocks of companies that the adviser believes to be emerging leaders. Based on current market conditions, the Portfolio primarily invests in companies with market capitalizations of less than $2 billion at the time of purchase. The Portfolio may invest up to 25% of its assets in foreign securities. The Portfolio's investments may include common stocks, preferred stocks and convertible securities, including those issued in initial public offerings (IPOs) or shortly thereafter. The Portfolio may, but is not required to, use derivatives, such as futures and options, as a substitute for taking a position in an underlying asset, to increase returns or as part of a hedging strategy. The Portfolio also may engage in short-selling, typically for hedging purposes, such as to limit exposure to a possible market decline in the value of its portfolio securities. However, short sales in the Portfolio are extremely rare. Since the Portfolio's inception, the Portfolio managers have engaged in very few short sales, and there is no intent to increase the use of short sales in the future.

18. Contract owners with sub-account balances invested in shares of the Replacement Portfolios will, in most cases, based on current expenses, have lower total expense ratios than they currently have in the Existing Portfolios. However, even where the expense ratios of the Replacement Portfolios are currently higher than those of the

Existing Portfolios, this is not expected to remain so. IMA and its affiliates have been heavily subsidizing each of the Existing Portfolios since their inception in 1997 through an expense reimbursement arrangement. None of the Existing Portfolios has ever been out of the expense reimbursement mode. As disclosed in a supplement to each Insurance Company's product prospectuses, the adviser's current contractual obligation to reimburse the Existing Portfolios' expenses expired on May 1, 2005. As further disclosed in the supplement, IMA subsequently agreed to voluntarily continue the reimbursement arrangement until July 1, 2005. IMA has now determined that, effective July 1, 2005, it is discontinuing the expense reimbursement of the IMSF Money Market, Large Cap Growth and Small Cap Equity Portfolios. IMA may determine to voluntarily continue subsidizing the expenses of the other Portfolios after July 1, 2005.

19. The following tables compare the total operating expenses of the Existing Portfolio and the Replacement Portfolio for each proposed substitution. The comparative fund expenses are generally based on actual expenses, including waivers, for the year ended December 31, 2004. For the IMSF Money Market, Large Cap Growth and Small Cap Equity Portfolios, expenses have been restated to reflect the expenses of those funds without the waivers.

	Existing portfolio: IMSF Intermediate Fixed Income Portfolio (percent)	*Replacement portfolio:* Fidelity VIP II Investment Grade Bond Portfolio (Initial class) (percent)
Management Fee	0.60	0.43
12b–1 Fee	None	None
Other Expenses	2.16	0.13
Total Expenses	2.76	0.56
Waivers	*1.96	**0
Net Expenses	0.80	0.56

*The adviser has voluntarily agreed to reimburse certain expenses of the Portfolio until July 1, 2005 so that the annual expenses do not exceed 0.80%.

**Effective February 1, 2005, the adviser has voluntarily agreed to reimburse the Initial Class to the extent that total operating expenses (excluding interest, taxes, certain securities lending costs, brokerage commissions, and extraordinary expenses), as a percentage of the Initial Class' average net assets, exceed 0.58%.

	Existing portfolio: IMSF Mid Cap Equity Portfolio (percent)	*Replacement portfolio* Fidelity VIP III Mid Cap Portfolio (Initial class) (percent)
Management Fee	0.80	0.57
12b–1 Fee	None	None
Other Expenses	1.93	0.14
Total Expenses	2.73	0.71
Waivers	*1.83	**0
Net Expenses	0.90	0.71

*The adviser has voluntarily agreed to reimburse certain expenses of the Portfolio until July 1, 2005 so that the annual expenses do not exceed 0.90%.

**Effective February 1, 2005, the adviser has voluntarily agreed to reimburse the Initial Class to the extent that total operating expenses (excluding interest, taxes, certain securities lending costs, brokerage commissions, and extraordinary expenses), as a percentage of the Initial Class' average net assets, exceed 0.85%.

	Existing portfolio: IMSF Global Fixed Income Portfolio (percent)	*Replacement portfolio:* Fidelity VIP II Investment Grade Bond Portfolio (Initial class) (percent)
Management Fee	0.75	0.43
12b–1 Fee	None	None
Other Expenses	1.85	0.13
Total Expenses	2.60	0.56
Waivers	*1.60	**0
Net Expenses	1.00	0.56

*The adviser has voluntarily agreed to reimburse certain expenses of the Portfolio until July 1, 2005 so that the annual expenses do not exceed 1.00%.

**Effective February 1, 2005, the adviser has voluntarily agreed to reimburse the Initial Class to the extent that total operating expenses (excluding interest, taxes, certain securities lending costs, brokerage commissions, and extraordinary expenses), as a percentage of the Initial Class' average net assets, exceed 0.58%.

	Existing portfolio: IMSF Money Market Portfolio (percent)	*Replacement portfolio:* Fidelity VIP Money Market Portfolio (Initial class) (percent)
Management Fee	0.40	0.20
12b–1 Fee	None	None
Other Expenses	3.07	0.09
Total Expenses	3.47	0.29
Waivers	0*	0
Net Expenses	3.47	**0.29

* Effective July 1, 2005 an expense reimbursement arrangement currently in effect will terminate.

** Effective February 1, 2005, the adviser has voluntarily agreed to reimburse the Initial Class to the extent that total operating expenses (excluding interest, taxes, certain securities lending costs, brokerage commissions, and extraordinary expenses), as a percentage of the Initial Class' average net assets, exceed 0.40%.

	Existing portfolio: IMSF Money Market portfolio (percent)	*Replacement portfolio:* Federated Prime Money Fund II (percent)
Management Fee	0.40	** 0.50
12b–1 Fee	None	None
Shareholder Services Fee	None	*** 0.25
Other Expenses	3.07	**** 0.30
Total Expenses	3.47	1.05
Waivers	*0	0.40
Net Expenses	3.47	0.65

* Effective July 1, 2005 an expense reimbursement arrangement currently in effect will terminate.

** The adviser has voluntarily waived a portion of the management fee. The adviser can terminate this voluntary waiver at any time. The management fee paid by the Fund (after the voluntary waiver) was 0.38% for the fiscal year ended December 31, 2004.

*** The Fund did not pay or accrue the shareholder services fee during the fiscal year ended December 31, 2004. The Fund has no present intention of paying or accruing the shareholder services fee during the fiscal year ending December 31, 2005.

**** The administrator voluntarily waived a portion of its fee. The administrator can terminate this voluntary waiver at any time. Total other expenses paid by the Fund (after the voluntary waiver) were 0.27% for the fiscal year ended December 31, 2004.

	Existing portfolio: IMSF Large Cap Growth Portfolio (percent)	*Replacement portfolio:* T. Rowe Price Blue Chip Growth Portfolio (percent)
Management Fee	0.80	0.85
12b–1 Fee	None	None
Other Expenses	2.01	0
Total Expenses	2.81	0.85
Waivers	* 0	0
Net Expenses	2.81	0.85

* Effective July 1, 2005 an expense reimbursement arrangement currently in effect will terminate.

	Existing portfolio: IMSF Large Cap Growth Portfolio (percent)	*Replacement portfolio:* Equity Growth Portfolio (Class I) (percent)
Management Fee	0.80	0.50
12b–1 Fee	None	None
Other Expenses	2.01	0.35
Total Expenses	2.81	0.85
Waivers	* 0	**
Net Expenses	2.81	0.85

* Effective July 1, 2005 an expense reimbursement arrangement currently in effect will terminate.

** The adviser has voluntarily agreed to reduce its advisory fee and/or reimburse the fund so that total annual operating expenses, excluding certain investment related expenses, will not exceed 0.85%.

	Existing Portfolio: IMSF Balanced Portfolio (percent)	*Replacement Portfolio:* T. Rowe Price Personal Strategy Balaned Portfolio (percent)
Management Fee	0.80	0.90
12b–1 Fee	None	None
Other Expenses	1.78	0
Total Expenses	2.58	0.90
Waivers	* 1.68	.....
Net Expenses	0.90	** 0.90

* The adviser has voluntarily agreed to reimburse certain expenses of the fund until July 1, 2005 so that the annual expenses do not exceed 0.90%.

** Actual expenses paid were 0.87% due to a credit received from investing in the T. Rowe Price Institutional High Yield Fund.

	Existing Portfolio: IMSF Growth & Income Portfolio (percent)	*Replacement Portfolio:* Lord Abbett Growth and Income Portfolio (Class VC shares) (percent)
Management Fee	0.80	0.50
12b–1 Fee	None	None
Other Expenses	1.46	0.39
Total Expenses	2.26	0.89
Waivers	* 1.36	0
Net Expenses	0.90	0.89

* The adviser has voluntarily agreed to reimburse certain expenses of the Portfolio until July 1, 2005 so that the annual expenses do not exceed 0.90%.

	Existing Portfolio: IMSF Large Cap Value Portfolio (percent)	*Replacement Portfolio:* Lord Abbett Growth and Income Portfolio (Class VC shares) (percent)
Management Fee	0.80	0.50
12b–1 Fee	None	None
Other Expenses	2.04	0.39
Total Expenses	2.84	0.89
Waivers	*1.94	0
Net Expenses	0.90	0.89

* The adviser has contractually agreed to reimburse certain expenses of the Portfolio until July 1, 2005 so that the annual expenses do not exceed 0.90%.

	Existing Portfolio: IMSF Small Cap Equity Portfolio (percent)	*Replacement Portfolio:* Dreyfus Emerging Leaders Portfolio (Initial class) (percent)
Management Fee	0.95	0.90
12b–1 Fee	None	None
Other Expenses	2.16	0.23
Total Expenses	3.11	1.13
Waivers	*0	**.04
Net Expenses	3.11	1.09

* Effective July 1, 2005 an expense reimbursement arrangement currently in effect will terminate.

** The adviser's parent has agreed, until December 31, 2005, to waive receipt of its fees and/or assume the expenses of the Portfolio so that the expenses of the Class (excluding taxes, brokerage commissions, extraordinary expenses, interest expenses and commitment fees on borrowings) do not exceed 1.50%.

20. The T. Rowe Price Blue Chip Growth Portfolio and the T. Rowe Price Personal Strategy Balanced Portfolio each has higher management fees than its corresponding Existing Portfolio (higher by .05% and .10%,

respectively). However, each of the two T. Rowe Price Portfolios has a ''unified'' management fee which requires that many of the fund expenses be paid by the adviser out of its fee rather than be charged directly to the fund. Thus, under the unified fee arrangement, the overall expenses of the two T. Rowe Price Portfolios are largely reflected by each Portfolio's management fee. Specifically, each T. Rowe Price Portfolio's management fee pays for investment management services and ordinary, recurring operating expenses, but does not cover interest, taxes, brokerage, nonrecurring and extraordinary items or fees and expenses for the fund's independent directors. The investment adviser of the T. Rowe Price Portfolios has represented to Applicants that the ordinary, recurring operating expenses covered by the management fee of the T. Rowe Price Blue Chip Growth and T. Rowe Price Personal Strategy Balanced Portfolios have exceeded .05% and 0.10%, respectively, for each of the past three years. Effectively, therefore, this makes the management fees of each of the two T. Rowe Price Portfolios lower than the management fees of each of their corresponding Existing Portfolios.

21. The Federated Prime Money Fund II also has a higher management fee than its corresponding Existing Portfolio (higher by .10%) as well as higher overall current total expenses. However, effective July 1, 2005, the expense reimbursement arrangement for the Existing Portfolio will be discontinued. When that occurs, the expenses of the IMSF Money Market Portfolio will increase significantly. In fact, the total expenses of the IMSF Money Market Portfolio are anticipated to be more than double those of the Federated Prime Money Fund II when the waiver with respect to the IMSF Money Market Portfolio is discontinued.

22. In summary, with respect to Fund expenses, given the anticipated discontinuation of the expense reimbursement arrangement for the Existing Portfolios, there will be a dramatic increase in each Existing Portfolio's total expenses resulting in a significant increase in overall expenses to the Contract owners. Without the expense reimbursement arrangement in place for the Existing Portfolios, the total expenses of each Existing Portfolio are substantially higher in all cases than those of the corresponding Replacement Portfolios, even without taking into account any fee waiver/expense reimbursement arrangements of the Replacement Portfolios.

23. The Insurance Companies also considered the performance history of the Existing Portfolios and the Replacement Portfolios and determined that no Contract owners would be materially adversely affected as a result of the substitutions. The following tables compare the performance history of the Existing Portfolio and the Replacement Portfolio for each proposed substitution.

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Intermediate Fixed Income Portfolio	*Replacement portfolio:* Fidelity VIP II Investment Grade Bond Portfolio (Initial class) (percent)
One Year	4.50	4.46
Five Years	6.98	7.90
Ten Years	N/A	7.60
Life of Fund	5.75	
Fund Inception Date	11/13/97	

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Mid Cap Equity (percent)	*Replacement portfolio:* Fidelity VIP III Mid Cap Portfolio (Initial class) (percent)
One Year	16.94	24.92
Five Years	11.11	15.11
Life of Fund	9.80	20.74
Fund Inception Date	11/13/97	12/28/98

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Global Fixed Income Portfolio	*Replacement portfolio:* Fidelity VIP II Investment Grade Bond Portfolio (Initial class) (percent)
One Year	3.71	4.46
Five Years	5.86	7.90
Ten Years	N/A	7.60
Life of Fund	5.31	
Fund Inception Date	11/13/97	

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Money Market Portfolio	*Replacement portfolio:* Fidelity VIP Money Market Portfolio (Initial class) (percent)
One Year	0.85	1.21
Five Years	2.50	2.86
Ten Years	N/A	4.16

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Money Market Portfolio	*Replacement portfolio:* Fidelity VIP Money Market Portfolio (Initial class) (percent)
Life of Fund	3.20	
Fund Inception Date	11/13/97	

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Money Market Portfolio	*Replacement portfolio:* Federated Prime Money Fund II (percent)
One Year	0.85%	0.82
Five Years	2.50%	2.50
Ten Years	N/A	3.69
Life of Fund	3.20%	
Fund Inception Date	11/13/97	

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Large Cap Growth Portfolio (percent)	*Replacement portfolio:* T. Rowe Price Blue Chip Growth Portfolio (percent)
One Year	−1.96	8.69%
Five Years	−10.00	N/A
Life of Fund	0.89	−2.12
Fund Inception Date	11/13/97	12/29/00

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Large Cap Growth Portfolio (percent)	*Replacement portfolio:* Equity Growth Portfolio (Class I) (percent)
One Year	−1.96	7.77
Five Years	−10.00	−6.16
Life of Fund	0.89	6.14
Fund Inception Date	11/13/97	1/2/97

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Balanced Portfolio	*Replacement portfolio;* T. Rowe Price Personal Strategy Balanced Portfolio (percent)	*Custom Benchmark* (percent)	*Merrill Lynch-Wilshire Capital Market Index* (percent)
One Year	20.30%	12.80	9.70	9.54
Five Years	9.80%	5.95	2.12	1.23
Ten Years	N/A	11.12	9.67	10.11
Life of Fund	7.05%.			
Fund Inception Date	11/13/97.			

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Growth & Income Portfolio	*Replacement portfolio:* Lord Abbett Growth and Income Portfolio (Class VC shares) (percent)
One Year	12.60%	12.65
Five Years	5.58%	5.49
Ten Years	N/A	12.77
Life of Fund	8.49%	
Fund Inception Date	11/13/97	

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Large Cap Value Portfolio	*Replacement portfolio:* Lord Abbett Growth and Income Portfolio (Class VC shares) (percent)	*S&P 500 Index* (percent)
One Year	15.77%	12.65	10.85
Five Years	6.25%	5.49	−2.30
Ten Years	N/A	12.77	12.07
Life of Fund	4.75%.		
Fund Inception Date	11/13/97.		

Average annual *total returns* (For years or periods ended December 31, 2004)	*Existing portfolio:* IMSF Small Cap Equity Portfolio (percent)	*Replacement portfolio:* Dreyfus Emerging Leaders Portfolio (Initial Shares) (percent)
One Year	10.86	14.42
Five Years	1.06	14.15
Life of Fund	4.75	15.65
Fund Inception Date	11/13/97	12/15/99

24. Applicants acknowledge with respect to the IMSF Balanced Portfolio—T. Rowe Price Personal Strategy Balanced Portfolio substitution, that the IMSF Balanced Portfolio has had one-year and five-year average annual total returns exceeding those of the T. Rowe Price Personal Strategy Balanced Portfolio. The Applicants believe, however, that the substitution is appropriate and in the best interests of Contract owners even given the superior performance of the IMSF Balanced Portfolio. The IMSF Balanced Portfolio has not attracted sufficient assets to make it a viable fund. The IMSF Balanced Portfolio's operating expenses have been heavily subsidized by IMA and its affiliates since inception. As discussed elsewhere in the Application, IMA anticipates discontinuing the reimbursement arrangement with respect to the IMSF Balanced Portfolio in the near future, possibly as early as July 1, 2005. Once the expense reimbursement arrangement is discontinued, the Portfolio's annual operating expenses will more than double which will result in a substantial decrease in performance. Further, the Replacement Portfolio has significantly outperformed its benchmarks over each of the one year, five year and ten year periods ended December 31, 2004.

25. Applicants acknowledge with respect to the IMSF Large Cap Value Portfolio—Lord Abbett Growth and Income Portfolio substitution, that the IMSF Large Cap Value Portfolio has had one-year and five-year average annual total returns exceeding those of the Lord Abbett Growth and Income Portfolio. The Applicants believe, however, that the substitution is appropriate and in the best interests of Contract owners even given the superior performance of the IMSF Large Cap Value Portfolio. The IMSF Large Cap Value Portfolio has not attracted sufficient assets to make it a viable fund. The operating expenses of the IMSF Large Cap Value Portfolio have been heavily subsidized by IMA and its affiliates since inception. As discussed elsewhere in this Application, IMA anticipates discontinuing the expense reimbursement arrangement with respect to the IMSF Large Cap Value Portfolio in the near future, possibly as early as July 1, 2005. Once the expense reimbursement arrangement is discontinued, the Portfolio's annual operating expenses will more than triple which will result in a substantial decrease in performance. Further, the Replacement Portfolio has outperformed the S&P 500 Index, one of its benchmarks, over each of the one year, five year and ten year periods ended December 31, 2004.

26. Finally, in all cases, the assets of the Replacement Portfolios are substantially larger than those of the Existing Portfolios. It would be anticipated, therefore, that expenses of the Replacement Portfolios would have a greater likelihood going forward to be lower than those of the Existing Portfolios due to greater economies of scale and efficiencies of operation of the Replacement Portfolios. In addition, the Existing Portfolios have failed to attract sufficient assets to make them viable going forward, particularly in light of the anticipated discontinuation of the expense reimbursement arrangement. The Board of Directors of IMSF, in light of the above, has expressed its view that the Existing Portfolios should be liquidated as soon as possible by way of the proposed substitutions.

27. The proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's Contract value, accumulation value, or death benefit or in the dollar value of his or her investment in the Separate Accounts.

28. It is expected that the substitutions will be effected by redeeming shares of an Existing Portfolio for cash and using the cash to purchase shares of the Replacement Portfolio.

29. There will be no increase in Contract fees and expenses, including mortality and expense risk fees and administration fees charged to the Separate Accounts as a result of the substitutions. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or an Insurance Company's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including brokerage, legal, accounting, and other fees and expenses, will be paid by IMA or an affiliate thereof. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions. No fees will be charged on the transfers made at the time of the proposed substitutions because the proposed substitutions will not be treated as a transfer for the purpose of assessing transfer charges or

for determining the number of remaining permissible transfers in a Contract year.

30. The Applicants agree that the Insurance Companies will not increase total separate account charges with respect to the Replacement Portfolio sub-accounts for any outstanding Contracts involved in the proposed substitution on the date of the substitutions for a period of two years from the date of the substitutions.

31. In connection with assets held under variable annuity and variable life insurance contracts affected by the substitutions, BMA will not receive, for three years from the date of the substitutions, any direct or indirect benefits from the Replacement Portfolios, their advisors, or underwriters (or their affiliates) at a rate higher than that which BMA or IMA, IMSF's adviser and an affiliate of BMA, had received from the IMSF Portfolios or their advisors, underwriters or affiliates, including without limitation, 12b–1, shareholder service, advisory, administration or other service fees, revenue sharing or other arrangements in connection with such assets. BMA represents that the substitutions and the selection of Replacement Portfolios were not motivated by any financial consideration paid or to be paid by the Replacement Portfolios, their advisors or underwriters, or their respective affiliates.

32. In connection with assets held under variable annuity contracts affected by the substitutions, Fidelity Security will not receive, for three years from the date of the substitutions, any direct or indirect benefits from the Replacement Portfolios, their advisors, or underwriters (or their affiliates) at a rate higher than that which Fidelity Security had received from the IMSF Portfolios, their advisors or underwriters (or their affiliates), including without limitation, 12b–1, shareholder service, administration or other service fees, revenue sharing or other arrangements in connection with such assets. Fidelity Security represents that the substitutions and the selection of the Replacement Portfolios were not motivated by any financial consideration paid or to be paid by the Replacement Portfolios, their advisors or underwriters, or their respective affiliates.

33. Each Insurance Company also will seek approval of the proposed substitutions from any state insurance regulators whose approval may be necessary or appropriate.

34. By a supplement to the prospectuses for the Contracts and the Separate Accounts, each Insurance Company will notify all owners of the Contacts of its intention to take the necessary actions, including seeking the order requested by this Application, to substitute share of the funds as described herein. The supplement will advise Contract owners that from the date of the supplement until the date of the proposed substitution, owners are permitted to make transfers of Contract value out of the Existing Portfolio sub-account to another sub-account without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without charge. The supplement will also advise Contract owners that for at least 30 days following the proposed substitutions, the Insurance Companies will permit Contract owners affected by the substitutions to make transfers of Contract value out of the Replacement Portfolio sub-account to another sub-account without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without charge.

35. In addition to the prospectus supplements distributed to owners of Contracts, within five business days after the proposed substitutions, Contract owners will be sent a written notice informing them that the substitutions were carried out and that they may transfer all Contract value or accumulation value under a Contract invested in any one of the sub-accounts on the date of the notice to another sub-account available under their Contract at no cost and without regard to the usual limit on the frequency of transfers from the variable account options to the fixed account options. The Insurance Companies will also send each Contract owner current prospectuses for the Replacement Portfolios involved.

Applicants' Legal Analysis

1. Section 26(c) (formerly, Section 26 (b)) of the Act provides that ''[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the [SEC] shall have approved such substitution.'' Section 26(b) of the Act (now Section 26 (c)) was enacted as part of the Investment Company Act Amendments of 1970. Prior to the enactment of these amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five (5) days after the substitution. In 1966, the SEC, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted security, recommended that Section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior SEC approval.

2. Congress responded to the SEC's concerns by enacting Section 26(b) (now Section 26 (c)) to require that the SEC approve all substitutions by the depositor of investments held by unit investment trusts. As the legislative history makes clear, Congress intended Section 26(b) to provide SEC scrutiny of proposed substitutions which could otherwise, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the proceeds of redemption, or both. The section-by-section analysis states in pertinent part:

> The proposed amendment recognizes that in the case of the unit investment trust holding the securities of a single issuer notification to shareholders does not provide adequate protection since the only relief available to shareholders, if dissatisfied, would be to redeem their shares. A shareholder who redeems and reinvests the proceeds in another unit investment trust or in an open-end company would under most circumstances be subject to a new sales load. The proposed approval of the substitution would close this gap in shareholder protection by providing for [SEC] approval of the substitution. The [SEC] would be required to issue an order approving the substitution if it finds the substitution consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

3. The Proposed substitutions appear to involve substitutions of securities within the meaning of Section 26(c) of the Act.

4. Applicants therefore request an Order of the SEC pursuant to Section 26(c) of the Act to permit them to effect the Substitution on the terms set forth in this Application. Section 26(c) of the Act provides:

> It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the [SEC] shall have approved such substitution. The [SEC] shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.

Applicants believe that their requests for approval meet the standards set forth in Section 26(c) and are consistent with applicable precedent.

5. The Contracts expressly reserve to the applicable Insurance Company the right, subject to compliance with applicable law, to substitute shares of another investment company for shares of an investment company held by a sub-account of the Separate Accounts. The prospectuses for the Contracts and the Separate Accounts contain appropriate disclosure of this right.

6. With respect to each proposed substitution, Contract owners with balances invested in the Replacement Portfolios will have a lower expense ratio in most cases. Moreover, it is expected that the expense reimbursement arrangements for the Existing Portfolios will be discontinued in the near future which will result in a dramatic increase in the expenses of the Existing Portfolios causing them to far exceed those of the Replacement Portfolios.

7. The proposed Replacement Portfolio for each Existing Portfolio has an investment objective that is at least substantially similar to that of the Existing Portfolio. Moreover, the principal investment policies of the Replacement Portfolios are similar to those of the corresponding Existing Portfolios.

8. In each case, the applicable Insurance Companies believe that it is in the best interests of the Contract owners to substitute the Replacement Portfolio for the Existing Portfolio. The Insurance Companies believe that the advisers and sub-advisers of the Replacement Portfolios will, over the long term, be positioned to provide at least comparable performance to that of the Existing Portfolios' adviser or sub-advisers.

9. The Applicants anticipate that Contract owners will be better off with the array of sub-accounts offered after the proposed substitutions than they have been with the array of sub-accounts offered prior to the substitutions. The proposed substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. If the proposed substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer Contract values and accumulation values between and among approximately the same number of sub-accounts as they could before the proposed substitutions.

Conclusion

Applicants submit, for all of the reasons stated herein, that their request meets the standards set out in Section 26(c) of the Act and that an Order should, therefore, be granted. Accordingly, Applicants request an Order pursuant to Section 26(c) of the Act approving the substitution.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3257 Filed 6–22–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51862; File No. SR–NASD–2005–039]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change to Incorporate the Brut System Book Feed Into the TotalView Entitlement

June 16, 2005.

On March 30, 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''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change to incorporate Brut's System Book Feed into the TotalView entitlement. The proposed rule change was published for comment in the **Federal Register** on May 17, 2005.[3] The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization.[4] In particular, the Commission believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act,[5] which requires, among other things, that the rules of the association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

Nasdaq has proposed to modify NASD Rule 7010(q)(1) to incorporate Brut's System Book Feed within Nasdaq's TotalView entitlement. Nasdaq's TotalView data feed provides information regarding all quotes and orders in the Nasdaq Market Center (including, but not limited, to Brut orders), while the Brut System Book Feed, contains the same information with respect to orders in Brut. In the Notice, Nasdaq stated that it would make this proposal effective on July 1, 2005.

The Commission believes that the inclusion of the Brut System Book Feed into Nasdaq's TotalView entitlement for fee purposes should enable Nasdaq to equitably charge for Brut depth of book information, regardless of the source from which it is received. In approving the proposed rule change, the Commission notes that Nasdaq has stated that TotalView subscribers may obtain the Brut System Book Feed upon request of Nasdaq. In addition, the Commission notes that Nasdaq has stated that, in order to ease the transition of market participants to a single platform, it intends to distribute Brut order information via both TotalView and the System Book Feed as long as Brut remains a separate Nasdaq facility.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–NASD–2005–039) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3263 Filed 6–22–05; 8:45 am]

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[4] The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78o–3(b)(5).

[6] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51860; File No. SR–NASD–2005–061]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend for an Additional Two-Year Period NASD's Authority Under the Cease and Desist Pilot Program

June 16, 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 11, 2005, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. NASD has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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

NASD is proposing a rule change to extend for an additional two-year period, to June 23, 2007, NASD's authority under the cease and desist pilot program. At this time, NASD is not proposing any substantive changes to the rules covered by the pilot program. NASD's proposed changes would only extend the pilot's expiration date to June 23, 2007, and make technical changes to certain cross-references in rules covered by the pilot program. Below is the text of the revised rule change. Proposed new language is in italics; proposed deletions are in [brackets].[5]

* * * * *

9556. Failure to Comply with Temporary and Permanent Cease and Desist Orders

(Rule 9556, and amendments adopted by SR–NASD–98–80 to Rule 8310, IM–8310–2(d)(1), 9120(x), 9241(c), 9290, 9311(b), 9312(b), 9360 and the Rule 9800 Series, shall expire on June 23, [2005] *2007*, unless extended or permanently adopted by the Association pursuant to SEC approval at or before such date.)

* * * * *

9800. Temporary Cease and Desist Orders

(The entire Rule 9800 Series, and related amendments adopted by SR–NASD–98–80 to Rule 8310, IM–8310–2(d)(1), 9120(x), 9241(c), 9290, 9311(b), 9312(b), *and* 9360, *and by SR–NASD–2003–110 to Rule* 9556, shall expire on June 23, [2005] *2007*, unless extended or permanently adopted by the Association pursuant to SEC approval at or before such date.)

* * * * *

9860. Violation of Temporary Cease and Desist Orders

A Respondent who violates a temporary cease and desist order imposed under this Rule Series may have its association or membership suspended or canceled under [the] Rule *9556* [9510 Series]. The President of NASD Regulatory Policy and Oversight or the Executive Vice President for NASD Regulatory Policy and Programs must authorize the initiation of any such proceeding in writing.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In May 2003, the Commission approved, on a two-year pilot basis, a rule change that gave NASD authority to issue temporary cease and desist orders (''TCDOs'') and made explicit NASD's ability to impose permanent cease and desist orders as a remedy in disciplinary cases.[6] The pilot program also gave NASD authority to enforce cease and desist orders. The pilot program expires on June 23, 2005. NASD proposes to extend the pilot program for an additional two-year period, to June 23, 2007. Such an extension would enable NASD to continue to issue and enforce temporary and permanent cease and desist orders. NASD's authority to issue TCDOs would expire after the additional two-year period, unless the pilot program is further extended or adopted on a permanent basis with Commission approval.

NASD currently seeks only to extend the pilot program period and to make technical changes to certain cross-references in rules covered by the pilot program. NASD is not proposing any substantive changes to the rules covered by the pilot program at this time. Since the pilot program was first approved in 2003, NASD has issued only one TCDO and one permanent cease and desist order (in the same case, which is described below). Consequently, NASD believes that additional time is needed to make a meaningful determination about whether certain specific provisions eventually should be modified and, if so, to what extent.

In the one case initiated under the pilot program, NASD's Department of Enforcement (''Enforcement'') alleged that the member in question was engaged in widespread fraud that included, among other things, making material misrepresentations and omissions in connection with the private offering of its own stock, effecting unauthorized transactions, and using customer funds improperly. Enforcement showed that not only was the member attempting to continue the fraudulent offering, it also was funneling money and assets to a non-NASD member affiliate. Enforcement alleged, and a hearing panel found, that a TCDO was necessary because the member's continuation of the misconduct was likely to result in further dissipation or conversion of assets and other significant harm to investors before the completion of the underlying disciplinary proceeding. After the hearing panel issued a permanent cease and desist order following a full disciplinary hearing, the parties settled the case, resulting in the expulsion of the member, the bar of its owner, and the imposition of almost $12 million in fines and restitution.

[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] NASD represents that the rule language contained in parentheses in NASD Rules 9556 and 9800 is, and will continue to be, italicized in NASD's manual. However, the existing rule language in the parentheses that will not be modified by NASD's proposed rule change is not italicized for purposes of this **Federal Register** publication so that it will not appear as proposed new text.

[6] *See* Securities Exchange Act Release No. 47925 (May 23, 2003), 68 FR 33548 (June 4, 2003).

The proposed extension of the pilot program for an additional two years would provide NASD with a mechanism to continue to take appropriate remedial action against a member or an associated person who has engaged (or is engaging) in violative conduct that could cause continuing harm to the investing public if not addressed expeditiously. At the same time, the pilot program continues to contain numerous procedural checks and safeguards to ensure that cease and desist proceedings are used prudently, sparingly and fairly. In addition, the extension of the pilot program would allow NASD to analyze more thoroughly the pilot program's overall effectiveness. Accordingly, NASD believes it is appropriate to extend the pilot period regarding cease and desist orders for another two years.

The proposed rule change is effective upon filing, would be operative on June 23, 2005, and would expire on June 23, 2007, unless extended or permanently adopted by NASD pursuant to Commission approval at or before such date.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(7) of the Act,[8] which provides that NASD members, or persons associated with its members, are appropriately disciplined for violations of any provisions of the Act or NASD's rules. NASD believes that the extension of the pilot program is consistent with NASD's obligations under the Act because cease and desist orders are designed to stop violative conduct that is likely to cause dissipation or conversion of assets or other significant harm to investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[7] 15 U.S.C. 78o–3(b)(6).

[8] 15 U.S.C. 78o–3(b)(7).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

NASD has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

In accordance with Rule 19b–4,[11] NASD submitted written notice of its intent to file the proposed rule change extending the pilot, along with a brief description and text of the proposal, at least five business days prior to the date of filing. NASD proposes to make the proposed rule change operative on June 23, 2005. The rule change would expire on June 23, 2007, unless extended or permanently adopted by NASD pursuant to Commission approval at or before such date.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2005–061 on the subject line.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2005–061. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal offices 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–2005–061 and should be submitted on or before July 14, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3264 Filed 6–22–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51859: File No. SR-NASD–2005–068]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Regarding a New Order Type for the Pre-Market Trading Session

June 16, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

[12] 17 CFR 200.30–3(a)(12).

''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on May 25, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. 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 establish a new order type called the Total Good-till-Canceled Order, which would be eligible for execution during the pre-market trading session.[3] The text of the proposed rule change is set forth below. Proposed new language is in italics.[4]

* * * * *

4701. Definitions

(a)–(ss) No Change.

(tt) The term ''Total Good-till-Cancelled'' *or ''GTX Order''* shall mean,

(a) for orders *in ITS Securities* so designated, that if after entry into the Nasdaq Market Center, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display between 7:30 a.m. and 6:30 p.m. and for potential execution between market open (*9:30 a.m.*) and 6:30 p.m., until cancelled by the entering party, or until 1 year after entry, whichever comes first.

(b) for orders in Nasdaq-listed securities so designated, that if after entry into the Nasdaq Market Center, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display between 7:30 a.m. and 4 p.m. and for execution between 8 a.m. and 4 p.m., until cancelled by the entering party, or until 1 year after entry, whichever comes first.

(uu) No Change.

* * * * *

4704. Opening Process For Nasdaq-Listed Securities

(a) No Change.

(b) Trading Prior To Normal Market Hours. The system shall process all eligible Quotes/Orders in Nasdaq-listed securities at 8 a.m. in the following manner to prevent the creation of locked/crossed markets.

(1) At 8 a.m., the system shall open in time priority all eligible Quotes as stated in paragraph (5) below and all eligible Orders in accordance with Rule 4701(ss)*, (tt)* and (uu). Quotes/Orders whose limit price would not lock or cross the book shall be added to the book in strict time priority. Quotes/Orders whose limit price would lock or cross the book shall be placed in an ''In Queue'' state except as provided in paragraph (4).

(2) No Change.

(3) Once the process set forth in subparagraphs (1)–(2) is complete, the system shall begin processing Quotes and X*, GTX* and IOX Orders in accordance with their entry parameters.

(4)–(7) No Change.

(c)–(d) 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

On April 18, 2005, Nasdaq launched a voluntary pre-market trading session of the execution service of the Nasdaq Market Center that begins at 8 a.m. rather than at 9:25 a.m. Currently, Nasdaq has two extended hours order types that are eligible for execution during the pre-market trading session: the Total Day Order (''X Order'') described in NASD Rule 4701(ss) and the Total Immediate or Cancel Order (''IOX Order'') described in NASD Rule 4701(uu). The X Order interacts with Nasdaq systems exactly as does the Day Order, except that it is eligible for display and execution during extended hours trading (trading that occurs outside normal market hours of 9:30 a.m. EST and 4 p.m. EST). Likewise, the IOX Order interacts with Nasdaq systems exactly as does the Immediate or Cancel Order (''IOC Order'') except that it too is eligible for execution during extended hours trading.

Nasdaq is proposing to introduce for Nasdaq-listed securities the ''Total Good-till-Cancelled'' or ''GTX'' order type that is currently available for exchange-listed securities only. The GTX Order for Nasdaq-listed securities would be processed precisely as the Good-till-Cancelled order, except that it would be available for display during the pre-market trading session in addition to the regular trading session. Specifically, Nasdaq proposes to amend NASD Rule 4701(tt) to make GTX Orders available for entry and display at 7:30 a.m., at which time they would receive a time stamp for purposes of determining time priority. In addition, Nasdaq is proposing to amend NASD Rule 4704(b)(1) to make GTX Orders eligible for execution between 8 a.m. and 4 p.m just as X and IOX orders are today.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[5] in general, and with Section 15A(b)(6) of the Act,[6] in particular, in that Section 15A(b)(6) requires 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 result in more orderly trading of Nasdaq stocks. It would also promote price discovery, order interaction and transparency during the pre-market trading session by encouraging the submission of additional orders into the Nasdaq market center.

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

Nasdaq neither solicited nor received written comments with respect to the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq neglected to complete this sentence. The staff of the Division of Market Regulation of the Commission therefore completed the sentence to include a summary description of the proposed rule change.

[4] The proposed rule change is marked to show changes from the rule text appearing in the NASD Manual available at *http://www.nasd.com.*

[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78*o*–3(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2005–068 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–2005–068. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–068 and should be submitted on or before July 14, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3265 Filed 6–22–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51857; File No. SR–NASD–2004–011]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendments Nos. 1, 2, 3, and 4 Thereto to Amend NASD Arbitration Rules for Industry Disputes

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 January 16, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. On February 26, 2004, NASD filed Amendment No. 1 to the proposed rule change. On January 3, 2005, NASD amended the proposed rule change a second time. On April 8, 2005, and June 10, 2005, NASD filed Amendments No. 3 and 4, respectively, to the proposed rule change. 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

NASD is proposing amend the NASD Code of Arbitration Procedure (''Code'') to reorganize the current rules, simplify the language, codify current practices, and implement several substantive changes. NASD is proposing to reorganize its current dispute resolution rules (Rules 10000 *et seq.*) into three separate procedural codes: The NASD Code of Arbitration Procedure for Customer Disputes (''Customer Code''); the NASD Code of Arbitration Procedure for Industry Disputes (''Industry Code''); and the NASD Code of Mediation Procedure (''Mediation Code''). The three new codes will replace the current NASD Code in its entirety. NASD is also proposing to make certain substantive amendments to the Code as described herein. This rule filing contains the proposed Industry Code, the text of which is available on the NASD Web site at *http://www.nasd.com/web/idcplg?IdcService=SS_GET_PAGE&ssDocName=NASDW_009295&ssSourceNodeId=801*.[3] A chart comparing the current Code and the proposed Industry Code, as well as an old-to-new conversion guide, are also available at the same URL.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD has included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

This rule filing is part of a comprehensive plan to reorganize and simplify the NASD Code of Arbitration Procedure. Specifically, NASD is proposing to:

- Reorganize its dispute resolution rules in a more logical, user-friendly way, including creating separate Codes

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed Customer Code and proposed Mediation Code have been filed separately with the Commission as SR–NASD–2003–158 and SR–NASD–2004–013, respectively.

[4] For purposes of this filing, the version of the current Code used in the comparison and conversion charts includes all NASD Dispute Resolution rule filings that have been approved by the Commission since the proposed rule change was filed on January 16, 2004.

for customer and industry arbitrations, and for mediations;

• Simplify the language and structure of the rules in each of the proposed Codes in a manner consistent with the SEC's plain English initiative; and

• Implement several substantive rule changes to the Industry and Customer Codes, including codifying several common practices, to provide more guidance to parties and arbitrators, and to streamline the administration of arbitrations in the NASD forum.

Reorganization

One of the most frequent criticisms of the current Code is that it is poorly organized. Parties, particularly infrequent users of the forum, have difficulty finding the rules they are looking for, because the rules are not presented in a logical order. The confusion is compounded by the fact that certain rules in the Code apply only to customer cases, some apply only to industry cases, and still others apply to both types of disputes. In addition, the current Code contains the NASD mediation rules, despite the fact that many matters are submitted directly to mediation, and do not arise out of an arbitration proceeding.

To address these concerns, NASD is proposing to divide the current Code into three separate Codes: the Customer Code, the Industry Code, and the Mediation Code. This rule filing contains the proposed Industry Code. NASD believes that maintaining separate Codes will make it easier for parties to find the rules that apply to their disputes, particularly for parties to disputes that are submitted directly to mediation. NASD will maintain electronic versions of each code on its Web site, *http://www.nasd.com*, and will make paper copies available upon request.

In keeping with the current NASD rule numbering system, each of the three codes will be numbered in the thousands, and major sections will be numbered in the hundreds. Individual rules within those sections will be numbered in the tens (or ones, if necessary). The current method for numbering and lettering paragraphs within individual rules will remain unchanged. The Customer Code will use the Rule 12000 series, which is currently unused. The Industry Code will use the Rule 13000 series, and the Mediation Code will use the Rule 14000 series, both of which are also currently unused. NASD will reserve the Rule 10000 series, which is currently used for NASD's dispute resolution rules, for future use.

The proposed Industry Code is divided into nine parts, which are intended to approximate the chronological order of a typical arbitration. Specifically, the proposed Industry Code is organized as follows:

• Part I (Rule 13100 *et seq.*) contains definitions, as well as other rules relating to the organization and authority of the forum;

• Part II (Rule 13200 *et seq.*) contains general arbitration rules, including what claims are subject to arbitration in the NASD forum;

• Part III (Rule 13300 *et seq.*) contains rules explaining how to initiate a claim, how to respond to a claim, how to amend claims, and when claims may be combined and separated;

• Part IV (Rule 13400 *et seq.*) contains rules relating to the appointment, authority and removal of arbitrators;

• Part V (Rule 13500 *et seq.*) contains rules governing the prehearing process, including proposed new rules relating to motions and discovery;

• Part VI (Rule 13600 *et seq.*) contains rules relating to hearings;

• Part VII (Rule 13700 *et seq.*) contains rules relating to the dismissal, withdrawal, or settlement of claims;

• Part VIII (Rule 13800 *et seq.*) contains rules relating to simplified (small cases) arbitrations; default proceedings; statutory employment discrimination claims; and injunctive relief.

• Part IX (Rule 13900 *et seq.*) contains rules relating to fees and awards.

Relationship Between Proposed Customer and Industry Codes

The proposed Customer Code has been organized in the same manner described above, and with only a few exceptions, the Codes have been numbered so the same rules have the same last three digits in both Codes. For example, proposed Rules 12500 and 13500 govern initial prehearing conferences in the Customer and Industry Codes, respectively. This parallelism is possible because, in large part, the rules governing the organization of the forum, the procedures for filing and responding to claims, prehearing and hearing procedures, and the settlement or withdrawal of claims, are the same in both Codes.

There are some differences between the two Codes, which fall into two categories. The first category consists of those rules in the current Code that contain different provisions for customer and industry disputes. For example, current Rule 10308, governing arbitrator selection, requires that three-arbitrator panels in customer cases consist of a majority of public arbitrators, while the composition of the panel in industry disputes depends on the nature of the claim. For such rules, the Customer Code version of the panel composition rule (proposed Rule 12402) contains only the provisions that relate to customer disputes, while the Industry Code counterpart (proposed Rule 13402) contains only the provisions that relate to industry cases.

The second category of rules that differ between the proposed Customer and Industry Codes consists of those rules in the current Code that apply only to industry disputes. These rules, which include current Rules 10210 and 10211, governing statutory employment discrimination claims, and current Rule 10335, governing injunctive relief, are included in the proposed Industry Code (proposed Rules 13802–13804), but have no counterpart in the proposed Customer Code.

Although these rules have been rewritten and reorganized in a manner consistent with the proposed Codes, NASD is not proposing any substantive changes to those parts of the current Code that are unique to industry cases.

Plain English

In 1998, the SEC launched an initiative to encourage issuers and self-regulatory organizations (''SROs'') to use ''plain English'' in disclosure documents and other materials used by investors. At that time, the SEC published a ''Plain English Handbook,'' to provide guidance to issuers and SROs in drafting such materials. The Plain English Handbook recommended using shorter, more common words; breaking long rules into shorter ones; using the active voice whenever possible; and using easy-to-read formatting, such as bullet points. In revising the Codes, NASD has implemented these guidelines wherever possible.

Description of Other Changes

NASD is also proposing to make several other changes to the Customer and Industry Codes that are intended to make the NASD arbitration process as simple, uniform and transparent as possible. Some of the proposed changes codify or clarify current NASD practice. Others are substantive changes that are intended to provide guidance to parties, resolve open questions, or streamline or standardize the administration of NASD arbitrations.

In general, the same substantive changes have been made to both the Customer and Industry Codes. Because this rule filing relates to the proposed Industry Code, it will refer only to the proposed Industry Code rule numbers.

However, differences between the Customer and Industry Code versions of the proposed rule changes will be noted.

Only proposed substantive changes are discussed in detail below. Any proposed changes to the Industry Code that are not discussed are intended to be nonsubstantive revisions.

The proposed changes are discussed below, in the order that they appear in the Industry Code.

Agreement of the Parties (Proposed Rule 13105)

Both the current and proposed Codes permit parties to an arbitration to agree to modify certain provisions, such as the number of arbitrators on a panel, or the time to respond to a pleading. Occasionally, all active parties to an arbitration agree to modify a provision, but an inactive party does not respond to notices or participate in the decision. Under a literal reading of the current Code, the active parties to the arbitration would not be able to agree to the modification, even though the inactive party was not participating in the arbitration. This can cause unnecessary delay and frustration for the active parties.

NASD believes that the non-appearance of an inactive party should not prevent active parties to an arbitration from exercising control over the arbitration process. To address this concern, proposed Rule 13105 would provide that, when the Code allows the parties to an arbitration to modify a provision of the Code, or a decision of the Director or the panel, the agreement of all named parties is required, unless the Director or panel determines that a party is inactive in the arbitration or has failed to respond after adequate notice has been given.

Use of the Forum (Proposed Rule 13203)

Currently, Rule 10301(b) provides that the Director of Arbitration, upon approval of the National Arbitration and Mediation Committee (''NAMC'') or its Executive Committee, may decline the use of the NASD arbitration forum if the ''dispute, claim, or controversy is not a proper subject matter for arbitration.''

Occasionally, situations arise in which the Director believes that it is in the best interest of the forum to deny use of the forum for reasons other than subject matter. For example, the current rule does not specifically permit the Director to deny the forum when NASD has reason to believe that a party would present a security risk to the forum or to other parties. Furthermore, the requirement that the Director must first obtain approval of either the NAMC or its Executive Committee is burdensome and time-consuming, making it difficult for the Director or the forum to respond appropriately in emergency situations.

To address this concern, proposed Rule 13203(a) would provide that the Director may decline to permit the use of the NASD arbitration forum if the Director determines that, given the purposes of NASD and the intent of the Code, the subject matter of the dispute is inappropriate, or that accepting the matter would pose a risk to the health or safety of the parties or their representatives, arbitrators, or NASD. The provision requiring approval of the NAMC or its Executive Committee would be deleted. However, to ensure that the authority to deny the forum could not be delegated by the Director, the rule would provide that only the Director or the President of NASD Dispute Resolution may exercise the Director's authority under the rule. NASD believes that this rule change will give the Director limited, but crucial, flexibility to protect the integrity and the security of the NASD forum.

Shareholder Derivative Actions (Proposed Rule 13205)

Currently, the Code does not specifically address whether shareholder derivative actions may be arbitrated at NASD. Such claims are not eligible for arbitration at NASD because, by definition, they involve corporate governance disputes that do not arise out of or in connection with the business of a member firm or an associated person. Nonetheless, the question arises from time to time, occasionally after a claimant has filed a statement of claim.

Proposed Rule 13205, which is consistent with New York Stock Exchange Rule 600(e), would clarify that shareholder derivative actions are not eligible for arbitration at NASD. NASD believes that the inclusion of this rule would help avoid confusion, provide guidance to parties, and conserve resources expended when parties seek to arbitrate such matters at NASD.

Extensions of Deadlines (Proposed Rule 13207)

Currently, Rule 10314(b)(5) provides that deadlines established by the Code for filing or serving pleadings may be extended by the Director, or with the consent of the initial claimant. This provision does not provide guidance with respect to the extension of other deadlines established by the Code, or by the panel or Director, and can also cause confusion with respect to responsive pleadings filed by the initial claimant. The current rule also provides that extensions of time for filing an answer are disfavored and will only be granted in extraordinary circumstances.

To eliminate confusion, and to provide more comprehensive guidance regarding when and under what circumstances deadlines may be extended, proposed Rule 13207 would provide that the parties may agree in writing to extend or modify any deadline for serving an answer; returning arbitrator or chairperson lists; responding to motions; or exchanging documents or witness lists. If the parties agree to extend or modify a deadline, the proposed rule would require that they notify the Director of the new deadline in writing. The proposed rule would also provide that the panel may extend or modify any deadline listed above, or any other deadline set by the panel, either on its own initiative or upon motion of a party.

Finally the rule would provide that the Director may modify or extend any deadline or time period (1) set by the Code for good cause, or (2) set by the panel in extraordinary circumstances. Although good cause is a lower standard than extraordinary circumstances, which refers to unexpected and uncontrollable events such as weather-related or security emergencies, good cause is not a negligible standard. In the context of the proposed rule, the good cause requirement means that extensions of Code deadlines by the Director are generally disfavored, and that the Director must take into account the effect of the extension on all parties before granting such a request.

Ex Parte Communications (Proposed Rule 13210)

The current Code does not address ex parte communications. To provide additional guidance to arbitrators and parties, and to further ensure the integrity of the NASD arbitration process, the revised Code would include Proposed Rule 13210 explicitly to prohibit ex parte communications between parties and arbitrators, except as provided in Proposed Rule 13211.[5] Proposed Rule 13210 is based on general ex parte rules applicable in court proceedings, and reflects current NASD practice. The NASD Arbitrators' Manual and NASD arbitrator training materials direct arbitrators to avoid ex

[5] Proposed Rule 13211 (Rule 10334 in the current Code), allows direct communication between parties and arbitrators subject to certain conditions. These conditions include the representation of parties by counsel, an agreement to use direct communication by all arbitrators and parties, an agreement regarding the scope of the direct communication, and facsimile or e-mail capability by all arbitrators and parties.

parte communications with parties, and arbitrators receive training on how and why to do so. Materials provided to parties also advise parties to avoid ex parte communications with arbitrators. For example, NASD's ''Top Ten'' Standards Of Good Practice At Arbitration Hearings (available on NASD's Web site, *http://www.nasd.com*), state that participants in NASD arbitrations ''should not engage in conversation with arbitrators in the absence of the other party(ies).''

Sanctions (Proposed Rule 13212)

Currently, Rule 10305(b), governing the dismissal of proceedings, provides that the ''arbitrators may dismiss a claim, defense, or proceeding with prejudice as a sanction for willful and intentional material failure to comply with an order of the arbitrator(s) if lesser sanctions have proven ineffective.'' In addition, the NASD Discovery Guide states that ''[t]he panel has wide discretion to address noncompliance with discovery orders. For example, the panel may make an adverse inference against a party or assess adjournment fees, forum fees, costs and expenses, and/or attorneys' fees caused by noncompliance.''

Proposed Rule 13212 would codify the sanction options available to arbitrators that are described in the Discovery Guide, and extend them beyond the discovery context to apply to non-compliance with any provision of the Code, or order of the panel or a single arbitrator authorized to act on behalf of the panel. The proposed rule would also allow the panel to dismiss a claim, defense, or arbitration under the same conditions as it may currently, although it would use the term ''prior'' rather than ''lesser'' sanctions, in order to avoid potential confusion regarding whether a prior sanction was ''lesser'' or ''greater.'' NASD believes that this rule change will encourage parties to comply with both the Code and with orders of the panel, and will also clarify the authority of arbitrators to ensure the fair and efficient administration of arbitration proceedings when parties fail to do so.

Hearing Locations (Proposed Rule 13213)

NASD currently maintains more than 55 designated hearing locations for NASD arbitrations and mediations. Generally, in industry cases involving an associated person and a member, NASD selects the hearing location closest to where the associated person was employed at the time the dispute arose. Otherwise, NASD considers a number of factors in selecting the hearing location, including: the parties' signed agreement to arbitrate, if any; which party initiated the transaction or business in issue; and the location of essential witnesses and documents.

To make the arbitration process more transparent, proposed Rule 13213 would codify this practice.[6] The proposed rule would also clarify that before arbitrator lists are sent to the parties under Rule 13403, the parties may agree in writing to a different hearing location other than the one selected by the Director, and that the Director may change the hearing location upon motion of a party. NASD believes that the proposed rule will provide useful guidance to parties about where their arbitration will take place.

Time to Answer Counterclaims and Cross Claims (Proposed Rules 13304 and 13305)

Currently, Rule 10314 provides that claimants have only 10 days to answer a counterclaim, but a respondent answering a cross claim has 45 days to file an answer to the cross claim, even if the respondent has already answered the initial claim. This discrepancy can cause delay in the proceedings. NASD believes that parties who have already filed or served a pleading should have the same amount of time to respond to subsequent pleadings. NASD also believes that 10 days is insufficient, while 45 days is too long. NASD believes that 20 calendar days is the appropriate amount of time for parties to respond to both counter and cross claims.

Therefore, proposed Rule 13304 would extend the time that a claimant has to file a response to a counterclaim from 10 to 20 days from receipt of the counterclaim. In addition, proposed Rule 13305 would shorten the time that a respondent has to respond to a cross claim from 45 days to 20 days from the date that the respondent's answer to the statement of claim is due, or from the receipt of the cross claim.

Deficient Claims (Proposed Rule 13307)

Under current NASD practice, if a claimant files a deficient, or incomplete, claim, NASD will notify the claimant, and the claimant is given 30 days to correct the deficiency. If the deficiency is not corrected within that time, the claim is dismissed without prejudice. Reasons for deficiencies include failure to include required information in the statement of claim, failure to pay required fees, and failure to properly execute the NASD Uniform Submission Agreement.

NASD's practice with respect to deficiencies is consistent with the Arbitration Procedures published by the Securities Industry Conference on Arbitration (''SICA''). However, the current Code does not expressly address what constitutes a deficiency, or explain the process for identifying and correcting deficiencies. Proposed Rule 13307 would codify NASD's deficiency practice. Specifically, it would provide that the Director will not serve a deficient, or incomplete, claim, and will enumerate the most common types of deficiencies.[7] The proposed rule would also provide that the Director will notify the claimant in writing if the claim is deficient. If all deficiencies are not corrected within 30 calendar days from the time the claimant receives notice, the Director will close the case without serving the claim, and will not refund any filing fees paid by the claimant. The proposed rule would also make clear that the same standards apply to deficient counterclaims, cross claims and third party claims served directly by parties, and would prohibit arbitrators from considering such claims unless the deficiencies were corrected within the time allowed. NASD believes that including the deficiency standards and practice in the Code will provide useful guidance to parties, and will reduce delay in NASD arbitrations by reducing the number of deficient claims.

Amending Pleadings to Add Parties (Proposed Rule 13309)

Under the current Code, parties may amend their pleadings at any time prior to the appointment of the arbitration panel. After panel appointment, parties must obtain approval of the arbitrators before amending a pleading. If a party is added to an arbitration proceeding before the Director has consolidated the other parties' arbitrator rankings under current Rule 10308, the Director will send the arbitrator lists to the newly-added party, and the newly-added party may participate in the arbitrator selection process. However, if a party amends a pleading to add a new party to the proceeding between the time that the Director consolidates the arbitrator lists and the time the panel is appointed, the newly-added party is not able to participate in the arbitrator

[6] The proposed Customer Code also contains a rule codifying NASD's current practice for selecting hearing locations, but that rule (proposed Rule 12213) differs slightly, providing that in customer cases, NASD will generally select the hearing location closest to the customer's residence at the time the dispute arose.

[7] Proposed Rule 13307 differs slightly from its Customer Code counterpart (Proposed Rule 12307), because the Customer Code version includes failure to identify the customer's residence at the time the dispute arose as a possible deficiency.

selection process, or to object to being added to the arbitration.

To address this issue, which has been the subject of concern among some users of the forum, proposed Rule 13309 would provide that no party may amend a pleading to add a party during the time between the date that ranked arbitrator lists are due to the Director and the panel is appointed. Proposed Rule 13309(c) would provide that the party to be added after panel appointment must be given an opportunity to be heard before the panel decides the motion to amend. This change will ensure that a party added to an arbitration by amendment either will be able to participate in the arbitrator selection process, or will have the opportunity to object to being added to the proceeding.

Time to Answer Amended Pleadings (Proposed Rule 13310)

Currently, Rule 10328 provides that parties have 10 business days to answer an amended pleading. Other rules in the current Code refer to calendar days. In the interest of uniformity, proposed Rule 13100(h) defines the term ''day'' to mean calendar day. To reflect this definition, proposed Rule 13310 would give parties 20 calendar days, rather than 10 business days, to respond to amended pleadings. Although this represents a slight extension of time, it is consistent with the time to respond to counterclaims and cross claims under proposed Rules 13304 and 13305. Because standardizing time frames is part of NASD's plain English initiative, NASD believes that 20 calendar days is an appropriate time period for responding to amended pleadings.

Neutral List Selection System and Arbitrator Rosters (Proposed Rule 13400)

Currently, parties to NASD arbitrations select their arbitrators by a process of striking and ranking arbitrators from lists generated by NASD's Neutral List Selection System (''NLSS''), NASD's computerized system for generating lists of arbitrators from NASD's rosters of arbitrators for the selected hearing location. Once the panel is appointed, the parties jointly select the chairperson from the panel, or, if the parties do not agree, the Director appoints the highest-ranked arbitrator on the panel to serve as chairperson.[8]

Although NASD provides voluntary chairperson training to its arbitrators, arbitrators who serve as chairperson are not currently required to have chairperson training, to have any particular experience, or to meet any other specific criteria beyond the requirements for serving as an arbitrator. Over the years, one of the most frequent suggestions for improving the quality and efficiency of NASD arbitrations is to ensure that chairpersons, who play a vital role in the administration of cases, have some degree of arbitrator experience and training.

NASD agrees that requiring trained and experienced chairpersons would significantly enhance the quality of its arbitration forum. However, NASD also believes that the criteria or training requirements should not prevent arbitrators of any professional or educational background from qualifying to serve as chairpersons of panels.

To address these concerns, the proposed Industry Code would require that NASD create and maintain a third roster of arbitrators who are qualified to serve as chairpersons. The parties would select the chairperson from the chair-qualified list in the same manner and at the same time that they select the other members of the panel. In single-arbitrator cases, the arbitrator would be selected from a list of chair-qualified arbitrators, unless the parties agreed otherwise.

In cases in which the panel consists of a majority of non-public arbitrators, the list of chair-qualified arbitrators would consist of non-public arbitrators. In cases in which the panel consists of a majority of public arbitrators, the chair-qualified list would consist of public arbitrators.[9]

Under proposed Rule 13400, arbitrators would be eligible for the chairperson roster if they have completed chairperson training provided by NASD, or have substantially equivalent training or experience, and either:

- Have a law degree and are a member of a bar of at least one jurisdiction and have served as an arbitrator through award on at least two arbitrations administered by a SRO in which hearings were held; or
- Have served as an arbitrator through award on at least three arbitrations administered by an SRO in which hearings were held.

Substantially equivalent training or experience would include service as a judge or administrative hearing officer, chairperson training offered by another recognized dispute resolution forum, or the like. Decisions regarding whether particular training or experience other than NASD chairperson training would qualify under this provision would be in the sole discretion of the Director. NASD believes that these criteria strike the appropriate balance between ensuring that arbitrators who serve as chairpersons or single arbitrators have the requisite experience to fairly and efficiently administer their cases, and allowing arbitrators of all professional backgrounds to qualify as chairpersons. Arbitrators who qualify under these criteria will be placed on the chairperson roster only if they agree to serve as chairpersons; otherwise, they will remain on the general public or non-public arbitrator roster. To avoid duplication of names on the lists sent to parties, arbitrators who are on the chairperson roster will not be on the general public or non-public arbitrator roster.

Number of Arbitrators (Proposed Rule 13401)

Under current Rule 10308(b), if the amount of a claim is $25,000 or less, the arbitration panel consists of one arbitrator, unless that arbitrator requests a three-arbitrator panel. If the claim is more than $25,000 but not more than $50,000, the panel consists of one arbitrator unless either that arbitrator, or any party in its initial pleading, requests a three-arbitrator panel. Claims of more than $50,000 are heard by a three-arbitrator panel.

To streamline the administration of smaller claims, and minimize the cost of pursuing small claims, proposed Rule 13401 would eliminate the ability of the single public arbitrator to request a three-arbitrator panel for any claim of $50,000 or less. Parties in cases involving more than $25,000, but not more than $50,000, could still request a three-arbitrator panel.

Generating and Sending Lists to the Parties (Proposed Rule 13403)

Proposed Rule 13403 would implement several changes to the operation of NLSS.[10] In addition, the proposed Code would eliminate the ability of parties to unilaterally request arbitrators with particular expertise, a

[8] NASD estimates that parties agree on a chairperson only about 20% of the time.

[9] The proposed Customer Code would require that chairpersons in customer cases be public arbitrators unless the parties agree otherwise.

[10] NLSS would generate arbitrator names from the NASD rosters on a random, rather than rotational, basis. Changes to NLSS were primarily driven by computer programming requirements. *See* Exchange Act Rel. No. 51339 (Mar. 9, 2005), 70 FR 12763 (Mar. 15, 2005) (Order Approving Proposed Rule Change and Amendment No. 1 Thereto by NASD Relating to the Random Selection of Arbitrators by NLSS); Exchange Act Rel. No. 51083 (Jan. 26, 2005), 70 FR 5497 (Feb. 2, 2005) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Random Selection of Arbitrators by NLSS).

practice that is an ongoing source of controversy, as well as burdensome for the NASD staff to administer.

In addition, proposed Rules 13403 and 13404 would expand the number of names of proposed arbitrators provided to the parties to seven names for each arbitrator on the panel, but would limit the number of arbitrators that each party may strike from each list to five. NASD believes that expanding the lists, but limiting the number of strikes each party may exercise, will expedite panel appointment and minimize the likelihood that the Director will have to appoint an arbitrator who was not on the original lists sent to parties. Currently, parties are allowed unlimited strikes, which often results in no arbitrators being left on the consolidated list. In such cases, the administration of the arbitration is delayed, and the Director must appoint arbitrators to fill the panel.

Collectively, NASD believes that these modifications to NLSS would streamline and simplify the arbitrator selection process and enhance the quality of NASD arbitrations.

Appointment of Arbitrators (Proposed Rule 13406)

In the past, questions have occasionally arisen regarding when appointment of arbitrators occurs. To address these questions, proposed Rule 13406 would clarify that appointment of arbitrators occurs when the Director sends notice to the parties of the names of the arbitrators on the panel. In addition, as part of the chronological reorganization of the Code, the arbitrator oath requirement that is currently in Rule 10327 has been included in proposed Rule 13406.

Arbitrator Recusal (Proposed Rule 13409)

Under current NASD practice, parties may request that an arbitrator recuse himself or herself from the panel at any time. However, the current Code does not address arbitrator recusal. To provide guidance to parties, proposed Rule 13409 would provide that any party may ask an arbitrator to recuse himself or herself from the panel for good cause. The proposed rule would also clarify that requests for arbitrator recusal are decided by the arbitrator who is the subject of the request. Some users of the forum believe that recusal requests should be made to the full panel. Courts have held, however, that recusal decisions are within the discretion of the individual arbitrator, and therefore, tend to uphold these decisions on appeal.[11] However, the Director may continue to remove arbitrators for cause under proposed Rule 13410 on the same grounds as those under current Rules 10308(d), 10312(d) and 10313.

Replacement of Arbitrators (Proposed Rule 13411)

Under the current Code, the provisions regarding replacement of arbitrators are found in Rules 10308(d)(3) and 10313, which contain numerous cross-references to other rules. Proposed Rule 13411 would consolidate the various current rules. The proposed rule also would extend the option of electing to proceed with only the remaining arbitrators to all stages of the proceeding, and eliminate the 5-day limit on electing that option contained in current Rule 10313. NASD believes that parties should have the right to decide jointly to proceed with only the remaining arbitrators regardless of when the replacement occurs, and that the parties should be able to elect that option up until the time the replacement arbitrator is appointed. Otherwise, proposed Rule 13411 does not contain any substantive changes from the current rules upon which it is based.

Determinations of Arbitration Panel (Proposed Rule 13414)

Under the current Code, Rule 10325 requires that all rulings and determinations of the panel be made by a majority of the arbitrators. Proposed Rule 13414 would provide that all rulings and determinations of the panel must be made by a majority of the arbitrators, unless the parties agree, or the Code or applicable law provides otherwise. The proposed rule reflects that under the Code, and applicable law, some decisions may be made by a single member of a three-arbitrator panel. For example, proposed Rule 13503 provides that some motions may be decided by a single arbitrator. Also, applicable law may permit a single arbitrator to issue a subpoena.[12]

Initial Prehearing Conferences (Proposed Rule 13500)

Proposed Rule 13500 would codify the portion of the NASD Discovery Guide relating to initial prehearing conferences (''IPHCs''). Since the adoption of the Discovery Guide in 1999, IPHCs have been standard practice in NASD arbitrations. The IPHC gives the panel and the parties an opportunity to organize the management of the case, set a discovery cut-off date, identify and establish a schedule for potential motions, schedule hearing dates, determine whether mediation is desirable, and resolve many other preliminary issues. Users of the forum have found the IPHC to be a valuable tool in managing the administration of arbitrations. NASD believes that the proposed rule, which provides that an IPHC will be held in every case unless the parties jointly agree on certain scheduling and other enumerated issues in advance, will provide valuable guidance to parties and arbitrators about the role of IPHCs in NASD arbitrations.

Recording Prehearing Conferences (Proposed Rule 13502)

Currently the Code is silent with respect to whether and under what circumstances a prehearing conference will be tape-recorded. Proposed Rule 13502 would provide that prehearing conferences are generally not tape-recorded as a matter of course (with the exception of prehearing conferences to decide dispositive motions, discussed below). However, the rule would permit the panel to decide to tape-record a prehearing conference on its own initiative, or at the request of a party. The rule would also provide that, if the prehearing conference is tape-recorded, the Director will provide a copy of the tape to any party upon request, for a nominal fee.

The rule does not specify the fee because the fee may vary slightly depending on the rates charged by NASD's telephone service provider, which normally makes the initial recording of telephonic hearing sessions. The current fee is $15 per tape. (Because NASD must arrange in advance to have telephonic hearing sessions taped, NASD will instruct arbitrators that they should notify NASD at least 24 hours in advance when they decide that a prehearing conference should be taped.)

Motions (Proposed Rule 13503)

Although motions are increasingly common in arbitration, the current Code does not refer to motions or provide any guidance with respect to motions

[11] *See, e.g., Florasynth, Inc.* v. *Pickholz*, 750 F.2d 171, 174 (2d Cir. 1984); *ANR Coal Co.* v. *Cogentrix of North Carolina, Inc.*, 173 F.3d 493, 499–502 (4th Cir. 1999); *Consolidation Coal Co.* v. *Local 1643, United Mine Workers of Am.*, 48 F.3d 125, 127–130 (4th Cir. 1995); *Jason* v. *Halliburton Co.*, 2002 U.S. Dist. LEXIS 19706, 10–16 (E.D. La. 2002); *Jeereddi A. Prasad, M.D., Inc.* v. *Investors Assoc., Inc.*, 82 F. Supp. 2d 365, 370, n. 9 (D. N.J. 2000); *Arial, Inc.* v. *Ryder System, Inc.*, 913 F. Supp. 826, 834 (S.D.N.Y. 1996).

[12] *See* proposed Rule 13512.

practice. As a result, motions practice lacks uniformity, and parties and arbitrators alike are often unsure how motions should be made, responded to or decided. To provide guidance to parties and arbitrators, and to standardize motions practice in the NASD forum, proposed Rule 13503 would establish procedures and deadlines for making, responding to and deciding motions.

Some users of the forum have expressed the concern that adopting a motions practice rule will encourage more motions. Although NASD appreciates this concern, NASD believes that motions have already become a routine part of most arbitrations. Therefore, NASD believes that the Code should provide as much guidance about motions as possible to parties, particularly infrequent users of the forum. However, in an effort to deter unnecessary motions, the rule would require that, before making a motion, a party must make an effort to resolve the matter that is the subject of the motion with the other parties. The rule would also require that every motion, whether written or oral, include a description of the efforts made by the moving party to resolve the matter before making the motion.

Another common concern about adopting a motions practice rule is that it will detract from the informal nature of arbitration. To address this concern, the rule would make clear that most motions may be made either orally or in writing, and that written motions need not take any particular form.

Paragraph (c) of the proposed rule would outline who decides what motions. Paragraph (c)(1) provides that motions relating to the use of the forum under proposed Rule 13203 and removal of an arbitrator under proposed Rule 13401 are decided by the Director, because these motions are filed and decided before a panel has been appointed. Paragraph (c)(2) would provide that motions relating to combining or separating claims or arbitrations, or changing the hearing location, are decided by the Director before a panel is appointed, and by the panel after the panel is appointed. Paragraph (c)(3) provides that discovery-related motions are decided by one arbitrator, generally the chairperson. This provision reflects that while the chairperson is usually the person to decide such motions, the chairperson may not always be available, and the parties or the Director may decide to refer the matter to one of the other arbitrators. The provision also states that the arbitrator who initially hears a discovery-related motion may refer such motions to the full panel, either at his or her own initiative or at the request of a party. The arbitrator must refer motions relating to issues of privilege to the full panel at the request of a party. Paragraph (c)(4) provides that motions relating to arbitrator recusal are decided by the arbitrator who is the subject of the motion, as provided by proposed Rule 12409. Finally, the rule provides that all other motions not covered in the preceding paragraphs of the rule are decided by the full panel, unless the Code provides or the parties agree otherwise.

Motions To Decide Claims Before a Hearing on the Merits (Proposed Rule 13504)

Another recurring question in NASD arbitrations is whether, and to what extent, arbitrators have the authority to decide dispositive motions before a hearing on the merits. In its *Follow-up Report on Matters Relating to Securities Arbitration,* the General Accounting Office (''GAO'') noted that while NASD's arbitration rules do not specifically provide for dispositive motions, case law generally supports the authority of arbitrators to grant motions to dismiss claims prior to the hearing on the merits.[13] Because the Code provides no guidance with respect to this question, arbitrator decisions with respect to it lack uniformity.

Generally, NASD believes that parties have the right to a hearing in arbitration. However, NASD also acknowledges that in certain extraordinary circumstances, it would be unfair to require a party to proceed to a hearing. Specifically, the proposed rule would:

- Provide that, except for motions relating to the eligibility of claims under the Code's six year time limit, motions that would resolve a claim before a hearing on the merits are discouraged, and may only be granted in extraordinary circumstances;
- Require that a prehearing conference before the full panel must be held to discuss the motion before the panel could grant it; and
- Allow the panel to issue sanctions against a party for making a dispositive motion in bad faith.

NASD believes that this rule proposal, which was developed over several years with input from industry and public members of the NAMC, will provide necessary guidance to parties and arbitrators, and make the administration of arbitrations more uniform and transparent. NASD believes that the rule strikes the appropriate balance between allowing the dismissal of claims in limited, extraordinary circumstances and reinforcing the general principle that parties are entitled to a hearing in arbitration.

Discovery (Proposed Rules 13505–13511)

One of the most frequent comments made by users of the NASD forum is that discovery procedures are routinely ignored, resulting in significant delay and the frequent need for arbitrator intervention in the discovery process. To address these concerns, proposed Rules 13505–13511 would expand on the discovery procedures contained in current Rule 10321, with certain substantive changes.[14] The proposed rules would provide more specific guidance about how to make and respond to discovery requests, and would make clear that either producing or objecting to documents requested by parties, is mandatory. The proposed rules also would extend the time parties have to respond to document requests from 30 to 60 days, but would also provide more serious consequences when parties fail to respond, or when parties frivolously object to requests to produce documents or information. In addition, proposed Rule 13511 would codify the sanctions provisions currently contained in the NASD Discovery Guide, clarifying the authority of arbitrators to sanction parties for non-compliance with discovery rules or orders of the panel. NASD believes that, collectively, these changes will significantly minimize the number of discovery disputes in NASD arbitrations.

Subpoenas (Proposed Rule 13512)

Current Rule 10322 provides that the arbitrators and any counsel of record to the proceeding shall have the power of the subpoena process as provided by law, and that all parties must be given a copy of a subpoena upon its issuance. The rule also provides that parties shall produce documents and make witnesses available to each other to the fullest extent possible without resort to the subpoena process. Proposed Rule 13512 is substantially identical to the current rule Code, but would also require that if a subpoena is issued, the issuing party must send copies to all other parties at the same time and in the same manner as the party issued the subpoena. This modification is intended to ensure that

[13] U.S. General Accounting Office, *Follow-up Report on Matters Relating to Securities Arbitration* (April 11, 2003).

[14] These rules differ slightly from their counterparts in the proposed Customer Code (Proposed Rules 12505–12511), because NASD's Document Production Lists do not apply to industry disputes.

parties receive notice of the subpoena in a timely manner.

Exchange of Documents and Witness Lists (Proposed Rule 13514)

Current Rule 10321(d) requires that at least 20 days before a hearing on the merits is scheduled to begin, all parties must exchange copies of all documents in their possession that they intend to present at the hearing, and must identify all witnesses they intend to present at the hearing. As a practical matter, many of the documents will already have been exchanged through discovery. Users of the forum have advised NASD that this rule would be less burdensome, and more useful, if it were amended to require only that parties exchange all documents they intend to use at the hearing that have not previously been exchanged. The proposed rule would make this change and would increase the consequences of failing to comply with this requirement. Under the current rule, the panel may exclude evidence not exchanged in a timely manner. Proposed Rule 13514 would create a presumption that parties could not use any documents at the hearing that were not exchanged, or call any witnesses at the hearing who were not identified, within the time provided by the rule, unless the panel determines that good cause exists. The proposed rule specifically provides that good cause includes the need to use documents or call witnesses for rebuttal or impeachment purposes based on developments at the hearing.

Postponements (Proposed Rule 13601)

In the proposed Code, hearing adjournments are referred to as hearing postponements, for plain English purposes. Paragraph (a) of proposed Rule 13601 has been amended to provide that the panel may not grant requests to postpone a hearing that are made within 10 days of a scheduled hearing session unless the panel determines that good cause exists. This provision is intended to reduce the number of last minute requests for postponements, a practice that many users of the forum believe results in unnecessary delay and unfairness to parties.

Paragraph (b) of the proposed rule provides that, except as otherwise provided, a postponement fee equal to the applicable hearing session fee, as set forth in Proposed Rule 13902, will be charged for each postponement agreed to by the parties, or granted upon request of one or more parties. Therefore, the fee would no longer increase for a second or subsequent request by the same party. This change is intended to simplify the rule and to avoid confusion when one party requesting a postponement has made a previous request, but one or more of the other parties requesting the same postponement have not made previous requests.

The proposed rule also gives the panel the authority to allocate the postponement fees among non-requesting parties if the panel determines that the non-requesting party caused or contributed to the need for the postponement.

Withdrawing Claims (Proposed Rule 13702)

The current Code does not contain any guidance with respect to withdrawing claims. This occasionally causes confusion, particularly with respect to the consequences of withdrawing a claim at a particular stage in an arbitration. To provide guidance to parties, proposed Rule 13702 would provide that before a claim has been answered by a party, a claimant may withdraw the claim against that party with or without prejudice. However, after a claim has been answered by a party, a claimant may only withdraw its claim against that party with prejudice, unless the panel decides, or the claimant and that party agree, otherwise. NASD believes that the proposed rule strikes the appropriate balance between allowing claimants to withdraw their claims without prejudice before a respondent has expended significant resources responding to the claim, and protecting the respondent from having to respond to the same claim multiple times.

Simplified Arbitration Rule (Proposed Rule 13800)

The simplified arbitration rule would be significantly shortened. Currently, in addition to the procedures that are unique to simplified arbitrations, Rule 10302 repeats some, but not all, of the general provisions that apply to both regular and simplified cases. The proposed rule would include only those provisions that are unique to simplified cases.

The proposed rule would eliminate the current provisions establishing special time limits or deadlines for pleadings in simplified cases, and the time limits would now be the same as those in regular cases. Frequent users of the forum report that the time limits in simplified cases are routinely extended under the current rule. To provide better guidance to parties, NASD believes that the Code should reflect that, in practice, the time to answer in simplified cases is typically the same as it is in regular cases.

Under proposed Rule 13800, the single arbitrator would be selected from the chairperson roster, unless the parties agree in writing otherwise. The single arbitrator would not be able to request a three-arbitrator panel, and the arbitrator would no longer have the option of dismissing without prejudice a counterclaim or other responsive pleading that increased the amount in dispute above the simplified case threshold. If a pleading increased the amount in dispute above the threshold, the case would be administered under the regular provisions of the Code. If an arbitrator has been appointed, that arbitrator will remain on the panel. If a three-arbitrator panel is required, the remaining arbitrators will be appointed by the Director. The proposed rule would also eliminate the ability of the single arbitrator to require a hearing.

NASD believes that these changes will make the simplified arbitration rule easier for parties to understand, and will also streamline and simplify the administration of small claims in the NASD forum.

Fees (Proposed Rules 13900–13903)

One of the most frequent criticisms of the current Code is that the fee schedules are difficult to understand, particularly with respect to what claimants must pay at the time of filing. Currently, claimants must pay a non-refundable filing fee, and an initial hearing session deposit that may be refundable under certain circumstances. In addition, parties also must pay hearing session fees for each hearing session. Although the filing fee and the initial hearing session deposit are both due upon filing, they are presented in the Code as separate fees, making it hard for some parties to understand the total amount due upon filing. To address this issue, and to make the fee schedules easier to read, the fee schedules have been revised in two significant ways.

First, the filing fee and the hearing session deposit have been combined into one single fee that is paid when a claim is filed. With two exceptions, described below, the amounts paid by claimants would not change. Although what is now the refundable hearing session deposit would no longer be paid separately, an amount equal to the current hearing session deposit or a portion thereof may be refunded if NASD receives notice that the case has been settled more than 10 calendar days prior to the hearing on the merits. (Under the current Code, the initial hearing session deposit may be refunded if NASD receives, prior to 8

days before the hearing on the merits, notice that the case has been settled; this has been changed to 10 days as part of the overall effort to standardize the time frames used in the Code.) The consolidation of the filing fee and the hearing session deposit is intended to make it easier for claimants to understand how much they have to pay when they file a claim and what, if any, portion of that fee may be refunded.

Second, several sets of brackets in the filing fee schedule would be condensed. Currently, there are 14 separate fee brackets in the customer filing fee schedule. Some of the fees for different brackets are the same; others are separated by amounts ranging from $25 to $100. The result is a schedule that is confusing and difficult to read. To simplify the schedule, the fees for claims filed by associated persons would be reorganized as follows: the $25,000 to $30,000 bracket ($600) and the $30,000 to $50,000 bracket ($625) would be combined, and the filing fee for the new bracket would be $600; and the $1 million to $3 million bracket ($1,700), the $3 million to $5 million bracket ($1,800), the $5 million to $10 million bracket ($1,800) and the over $10 million bracket ($1,800) would be combined, and the filing fee for the new bracket would be $1,800.

The proposed changes would not result in a change in the total amount of fees paid by associated persons when filing a claim, except that for claims of $30,000 to $50,000, the associated person's overall filing fees would decrease by $25; and for claims of $1 million to $3 million, the associated person's overall filing fees would increase by $100. Corresponding changes would be made to the member filing fee schedule.

NASD believes that these changes will greatly simplify the fee schedule, eliminate three repetitive high-end brackets, and align the brackets in the filing fee schedule with the brackets in the member filing fee and surcharge schedules.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that reorganizing and revising its rules relating to industry arbitrations will protect the public interest by making the arbitration process more transparent for parties, providing useful guidance to parties, arbitrators and staff, and helping to standardize and streamline the administration of NASD arbitrations. If the proposed Code is approved, NASD will offer training on the new Code to arbitrators, users of the forum, and staff.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. In particular, the Commission solicits comments on whether the proposed rule change provides for arbitration procedures that are fair to associated persons for the resolution of their disputes. In addition, the Commission solicits comments on the following questions:

A. *Differences from Uniform Code of Arbitration:* Generally, where provisions in the Proposed Rules differ from their counterparts in the Uniform Code of Arbitration (''Uniform Code''), developed by SICA, which alternative is preferable? Why? With respect to specific provisions:

1. *Appointment of Arbitrators:* Section 17(d) of the Uniform Code provides that if it becomes necessary for the Director to appoint an arbitrator, then each side in the arbitration will be given one peremptory strike per case.[15]

Under Proposed NASD Rules 13406, Appointment of Arbitrators/Discretion to Appoint Arbitrators Not on List; 13410, Removal of Arbitrator by Director; and 13411, Replacement of Arbitrators, each side in the arbitration would not be given a peremptory strike automatically in the event it becomes necessary for the Director to appoint an arbitrator. Rather, a party's request to remove an arbitrator would be granted if it is reasonable to infer, based on information known at the time of the request, that the arbitrator is biased, lacks impartiality, or has a direct or indirect interest in the outcome of the arbitration.[16] The interest or bias must be direct, definite, and capable of reasonable demonstration, rather than remote or speculative.[17]

Where the Uniform Code differs from the Proposed NASD Rules with respect to appointment of arbitrators by the Director, which alternative is preferable? Why?

2. *Subpoenas:* Section 23(c)(1) of the Uniform Code provides that arbitrators and any counsel of record may issue subpoenas as provided by law, and that parties will produce witnesses and present proof at the hearing whenever possible without using subpoenas.[18]

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[15] Section 17(d) of the Uniform Code provides as follows:

(d) Appointment of Arbitrators.

The Director will appoint one or more arbitrators for the panel from the SRO's pool of arbitrators if:

- the parties do not agree on a complete panel;
- acceptable arbitrators are unable to serve; or
- arbitrators cannot be found from the lists for any other reason.

In the event the Director's appointment becomes necessary, then each side will be given one peremptory strike per case.

[16] Proposed NASD Rule 12410(a)(1).

[17] *Id.*

[18] Section 23(c) of the Uniform Code provides as follows:

(c) Subpoenas.

(1) Arbitrators and any counsel of record may issue subpoenas as provided by law. The party who requests or issues a subpoena must send a copy of the request or subpoena to all parties and the entity receiving the subpoena in a manner that is reasonably expected to cause the request or subpoena to be delivered to all parties and the entity receiving the subpoena on the same day. The parties will produce witnesses and present proof at the hearing whenever possible without using subpoenas.

(2) No subpoenas seeking discovery shall be issued to or served upon non-parties to an arbitration unless, at least 10 days prior to the issuance or service of the subpoena, the party seeking to issue or serve the subpoena sends notice of intention to serve the subpoena, together with a copy of the subpoena, to all parties to the arbitration.

(3) In the event a party receiving such a notice objects to the scope or propriety of the subpoena, that party shall, within the 10 days prior to the issuance or service of the subpoena, file with the

Similarly, Proposed NASD Rule 13512, Subpoenas, provides that subpoenas for documents or the appearance of witnesses may be issued as provided by law, and that parties should produce documents and make witnesses available to each other without the use of subpoenas. Proposed NASD Rule 13512 requires that a party issuing a subpoena send copies of the subpoena to all other parties at the same time and in the same manner in which the subpoenas was issued.

Section 23(c)(2) of the Uniform Code further requires, however, that parties seeking to issue a subpoena to non-parties send notice and a copy of the subpoena to all other parties to the arbitration at least 10 days before issuing the subpoena. Parties receiving the notice then have an opportunity to object, and the issuing party has an opportunity to respond.[19] The arbitrator shall rule on the issuance and scope of the subpoena.[20] The notice and objection procedures do not apply when the subpoena is for a non-party's appearance at a hearing before the arbitrators.[21]

Where Section 23 of the Uniform Code and Proposed NASD Rule 13512 differ, which alternative is preferable? Why?

B. *Nonsubstantive Changes:* Are any changes that are intended to be nonsubstantive actually substantive changes? If so, why are they substantive, and how will they affect the arbitration process or the rights of the parties? Are these proposed changes preferable to their counterparts in the current Code, or vice versa?

In particular, are any changes in the following proposed rules substantive changes from their counterparts in current Code: Proposed Rules 13200, Required Arbitration; 13201, Statutory Employment Discrimination Claims; 13202, Claims Involving Registered Clearing Agencies; 13213, Hearing Locations; 13402, Composition of Arbitration Panels Not Involving a Statutory Discrimination Claim; 13403, Generating and Sending Lists to the Parties; 13406, Appointment of Arbitrators/Discretion to Appoint Arbitrators Not on List; 13802, Statutory Employment Discrimination Claims; 13803, Coordination of Statutory Employment Discrimination Claims Filed in Court and in Arbitration; and 13804, Temporary Injunctive Orders/Requests for Permanent Injunctive Relief? If so, why are they substantive, and how will they affect the arbitration process or the rights of the parties? Are these proposed changes preferable to their counterparts in the current Code, or vice versa?

C. *Proposed Rule 13105, Agreement of the Parties:* This proposed rule provides that if the Code permits the parties to modify a provision of the Code, or a decision of the Director or the panel, the written agreement of all named parties is required for such a modification. If the Director or the panel determines that a named party is inactive in the arbitration, or has failed to respond after adequate notice has been given, however, the Director or the panel may determine that the written agreement of that party to such modification is not required while the party is inactive or not responsive.

Is it sufficiently clear what an inactive party is? If not, how could the proposed rule be clarified?

D. *Proposed Rule 13400, Neutral List Selection System and Arbitrator Rosters:* This proposed rule provides that NASD would maintain three separate rosters of arbitrators: one of non-public arbitrators, one of public arbitrators, and one of arbitrators who are eligible to serve as chairpersons. NASD has stated that arbitrators who qualify to be chairpersons will be placed on the chairperson roster only if they agree to serve as chairpersons; otherwise, they will remain on the general public or non-public arbitrator roster. NASD also has stated that to avoid duplication of names on the lists sent to parties, arbitrators who are on the chairperson roster will not be on the general public or non-public arbitrator roster. Does limiting arbitrators on the chairperson roster to service only as chairpersons limit the pool of arbitrators available to serve on panels, particularly in regions where relatively few arbitrators are available? Should chairpersons be permitted to serve in a non-chairperson capacity as well?

E. *Proposed Rule 13408, Disclosures of Arbitrators:* This proposed rule would require arbitrators to disclose any existing or past service as a mediator before they are appointed to a panel.[22] Does the proposed rule indicate that arbitrators must disclose only any service as a mediator that might preclude the arbitrator from rendering an objective and impartial determination in the proceeding? Alternatively, do commenters understand from the rule that arbitrators must disclose any existing or past service as a mediator, even it has no connection with the proceeding? Should the rule be revised to reflect more clearly one or the other of these readings? If so, which?

F. *Proposed Rule 13600(c), Required Hearings:* This proposed rule would provide that if a hearing will be held, the Director will notify the parties of the time and place of the hearing at least 10 days before the hearing begins, unless the parties agree to a shorter time. Do parties need notice of the hearing earlier than 10 days before the hearing, or is 10 days sufficient?

G. *Proposed Rule 13702, Withdrawal of Claims:* This proposed rule provides that before a claim has been answered by a party, the claimant may withdraw the claim against the party with or without prejudice. After a claim has been answered by a party, the claimant may only withdraw it against that party with prejudice unless the panel decides, or the claimant and that party agree, otherwise. Does the proposed rule appropriately address the concern of allowing claimants to withdraw claims without prejudice, while protecting the respondent from expending significant resources to respond to a claim (that is later withdrawn) or having to respond to the same claim multiple times? How prevalent are the problems of respondents (1) expending significant resources to respond to a claim that is later withdrawn, or (2) having to respond to the same claim multiple times? Are there other ways to address these competing concerns? Would the proposed rule unnecessarily deter claimants from filing claims? Would the proposed rule encourage respondents to increase the amount in controversy in the arbitration, and therefore the fees that the parties may have to bear? Should the proposed rule exclude arbitrations involving $25,000 or less, *i.e.*, those to which Proposed Rule 13800, Simplified Arbitrations, apply?

Director, with copies to all other parties, written objections. The party seeking to issue or serve the subpoena may respond thereto. The arbitrator appointed pursuant to this Code shall rule promptly on the issuance and scope of the subpoena.

(4) In the event an objection to a subpoena is filed under paragraph (c)(3), the subpoena may only be issued or served prior to the arbitrator's ruling if the party seeking to issue or serve the subpoena advises the subpoenaed party of the existence of the objection at the time the subpoena is served, and instructs the subpoenaed party that it should preserve the subpoenaed documents, but not deliver them until a ruling is made by the arbitrator.

(5) Rule 23(c)(2) and (3) do not apply to subpoenas addressed to parties or non-parties to appear at a hearing before the arbitrators.

(6) The arbitrator(s) shall have the power to quash or limit the scope of any subpoena.

[19] Uniform Code, Section 23(c)(3).

[20] *Id.*

[21] Uniform Code, Section 23(c)(5).

[22] This amendment seeks to incorporate in IM–10308, relating to arbitrators who also serve as mediators, which was adopted earlier this year. *See* Exchange Act Rel. No. 51325 (Mar. 7, 2005), 70 FR 12522 (Mar. 14, 2005) (Order Approving Proposed Rule Change); Exchange Act Rel. No. 51097 (Jan. 28, 2005), 70 FR 5715 (Feb. 3, 2005) (Notice of Proposed Change).

H. *Proposed Rule 13800, Simplified Arbitrations:* This proposed rule provides that all provisions of the Code apply to simplified arbitrations, unless otherwise provided under proposed rule 13800. This means that the time within which parties must answer a statement of claim in simplified arbitrations is 45 days, as in regular arbitrations. Should this time be shortened for simplified arbitrations, as they are meant to be more expedient than regular arbitrations? If so, what would be an appropriate amount of time?

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2004–011 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 20549–9303.

All submissions should refer to File Number SR–NASD–2004–011. 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 at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–NASD–2004–011 and should be submitted on or before July 14, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3266 Filed 6–22–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51855; File No. SR–NASD–2004–013]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto to Amend NASD Arbitration Rules for Mediation Proceedings

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 January 23, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), and amended on January 3, 2005 and April 8, 2005, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. 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

NASD is proposing to amend the NASD Code of Arbitration Procedure (''Code'') to reorganize the current rules, simplify the language, codify current practices, and implement several substantive changes. NASD is proposing to reorganize its current dispute resolution rules (Rules 10000 *et seq.*) into three separate procedural codes: The NASD Code of Arbitration Procedure for Customer Disputes (''Customer Code''); the NASD Code of Arbitration Procedure for Industry Disputes (''Industry Code''); and the NASD Code of Mediation Procedure (''Mediation Code''). The three new codes will replace the current NASD Code in its entirety.

This rule filing contains the proposed Mediation Code, the text of which is available on the NASD Web site at *http://www.nasd.com/web/idcplg?IdcService=SS_GET_PAGE&ssDocName=NASDW_009003&ssSourceNodeId=801.*[3] Also available at the same URL are a chart comparing the current mediation rules and the proposed Mediation Code and an old-to-new conversion guide.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD has included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

This rule filing is part of a comprehensive plan to reorganize and simplify the NASD Code of Arbitration Procedure. Specifically, NASD is proposing to reorganize its dispute resolution rules in a more logical, user-friendly way, including creating separate Codes for customer and industry arbitrations, and for mediations. At the same time, it is proposing to rewrite the three Codes using plain English, in accordance with the Commission's plain English guidelines. Although NASD is also proposing to implement several substantive rule changes to its arbitration rules, as described in the Customer and Industry Code rule filings, NASD is not proposing any substantive changes to the current rules governing mediations.

Reorganization

One of the most frequent criticisms of the current Code is that it is poorly organized. Parties, particularly infrequent users of the forum, have difficulty finding the rules they are looking for, because the rules are not presented in a logical order. The

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[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed Customer Code and the proposed Industry Code have been filed separately with the Commission as SR–NASD–2003–158 and SR–NASD–2004–011, respectively.

confusion is compounded by the fact that certain rules in the Code apply only to customer cases, some apply only to industry cases, and still others apply to both types of disputes. In addition, the current Code contains the NASD mediation rules, despite the fact that many matters are submitted directly to mediation, and do not arise out of an arbitration proceeding.

To address these concerns, NASD is proposing to divide the current Code into three separate Codes: The Customer Code, the Industry Code, and the Mediation Code. NASD believes that maintaining separate Codes will make it easier for parties to find the rules that apply to their disputes, particularly for parties to disputes that are submitted directly to mediation. NASD will maintain electronic versions of each code on its Web site, *http://www.nasd.com*, and will make paper copies available upon request.

In keeping with the current NASD rule numbering system, each of the three codes will be numbered in the thousands, and major sections will be numbered in the hundreds. Individual rules within those sections will be numbered in the tens (or ones, if necessary). The current method for numbering and lettering paragraphs within individual rules will remain unchanged. The Customer Code will use the Rule 12000 series, the Industry Code will use the Rule 13000 series, and the Mediation Code will use the Rule 14000 series, all of which are also currently unused. NASD will reserve the Rule 10000 series, which is currently used for NASD's dispute resolution rules, for future use.

Plain English

In 1998, the SEC launched an initiative to encourage issuers and self-regulatory organizations (''SROs'') to use ''plain English'' in disclosure documents and other materials used by investors. At that time, the SEC published a ''Plain English Handbook,'' to provide guidance to issuers and SROs in drafting such materials. The Plain English Handbook recommended using shorter, more common words; breaking long rules into shorter ones; using the active voice whenever possible; and using easy-to-read formatting, such as bullet points. NASD has implemented these guidelines wherever possible in revising the proposed Mediation Code, as well as the proposed Customer and Industry Codes.

Proposed Definitions Rule

NASD is also proposing to add a comprehensive definitions rule to the Mediation Code (proposed Rule 14100). This rule would include definitions of terms used throughout the proposed Mediation Code. NASD believes that this rule will provide useful clarification for parties and mediators.

No Substantive Changes

The proposed rule change would establish a separate Mediation Code, and would shorten and simplify NASD's current mediation rules in a manner consistent with the proposed Customer and Industry Codes. However, with the exception of adding a definitions rule, as described above, NASD is not proposing any substantive changes to its current rules governing mediations.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will protect the public interest by making its mediation rules easier to find, and by making the mediation process more accessible to parties.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. In particular, the Commission solicits comments on whether the proposed rule change provides for mediation procedures that are fair to investors in customer disputes and to associated persons in industry disputes. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2004–013 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 20549–9303.

All submissions should refer to File Number SR–NASD–2004–013. The 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 will also be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to SR–2004–013 and should be submitted on or before July 14, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3267 Filed 6–22–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51856; File No. SR–NASD–2003–158]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto To Amend NASD Arbitration Rules for Customer Disputes

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 the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') on October 15, 2003, and amended on January 3, 2005, January 19, 2005, April 8, 2005, and June 10, 2005, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. 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

NASD is proposing to amend the NASD Code of Arbitration Procedure (''Code'') to reorganize the current rules, simplify the language, codify current practices, and implement several substantive changes. NASD is proposing to reorganize its current dispute resolution rules (Rules 10000 *et seq.*) into three separate procedural codes: The NASD Code of Arbitration Procedure for Customer Disputes (''Customer Code''); the NASD Code of Arbitration Procedure for Industry Disputes (''Industry Code''); and the NASD Code of Mediation Procedure (''Mediation Code''). The three new codes will replace the current NASD Code in its entirety. NASD is also proposing to make certain substantive amendments to the Code as described herein. This rule filing contains the proposed Customer Code, the text of which is available on the NASD Web site at *http://www.nasd.com/web/idcplg?IdcService=SS_GET_PAGE&ssDocName=NASDW_009306&ssSourceNodeId=802*.[3] A chart comparing the current Code and the proposed Customer Code, as well as an old-to-new conversion guide, are also available at the same URL.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD has included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

In 1998, the SEC launched an initiative to encourage issuers and self-regulatory organizations (''SROs'') to use ''plain English'' in disclosure documents and other materials used by investors. Because the Code is used by investors, including investors who appear pro se in the NASD forum, NASD undertook to rewrite the current Code in ''plain English.'' Over time, the goals of the plain English initiative expanded beyond simplifying the language and sentence structure of the rules in the Code to include:

- Reorganizing the Code in a more logical, user-friendly way, including creating separate Codes for customer and industry arbitrations, and for mediations; and
- Implementing several substantive rule changes, including codifying several common practices, to provide more guidance to parties and arbitrators, and to streamline the administration of arbitrations in the NASD forum.

Plain English

When it launched its ''plain English'' initiative in 1998, the SEC published a ''Plain English Handbook,'' to provide guidance to issuers and SROs in drafting materials intended to be used by investors. The SEC's Plain English Handbook recommended using shorter, more common words; breaking long rules into shorter ones; using the active voice whenever possible; and putting lists into easy-to-read formatting, such as bullet points.

In revising the Code, NASD has implemented these guidelines wherever possible. Throughout the proposed Code, NASD has simplified language and eliminated unnecessarily legalistic or arcane terminology. Long rules, such as current Rule 10308, governing arbitrator selection, and current Rule 10321, governing filing and responding to an arbitration claim, have been broken into several shorter rules. (*See* proposed Rules 12400–12406, and proposed Rules 12300–12313, respectively.) Where appropriate, lists are presented in bullet point format, and active verbs are used.

The proposed Code also contains a new definitions rule (proposed Rule 12100) that defines commonly used terms applicable throughout the Code. In the current Code, some rules, such as Rule 10308, contain definitions applicable to that rule only, but there is not a general definitions rule that applies to the entire Code. NASD believes that a comprehensive definitions rule will make the Code easier to understand and to use, and will help eliminate confusion about the meaning and scope of frequently used terms. It will also allow NASD to use shorter phrases, or single words, in place of longer phrases. For example, the phrase ''dispute, claim, or controversy'' has been replaced by the word ''dispute,'' which has been defined in Rule 12100 to mean the longer phrase. This makes rules easier to read and understand, without changing the meaning of the Code.

Reorganization

One of the most frequent criticisms of the current Code is that it is poorly organized. Parties, particularly infrequent users of the forum, have difficulty finding the rules they are looking for, because the rules are not presented in a logical order. The confusion is compounded by the fact that certain rules in the Code apply only to customer cases, some apply only to industry cases, and still others apply to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed Industry Code and proposed Mediation Code have been filed separately with the Commission as SR–NASD–2004–011 and SR–NASD–2004–013, respectively.

[4] For purposes of this filing, the version of the current and proposed Codes used in the comparison and conversion charts reflects all Dispute Resolution rule filings approved by the Commission since the proposed rule change was filed on October 15, 2003.

both types of disputes. In addition, the current Code contains the NASD mediation rules, despite the fact that many matters are submitted directly to mediation, and do not arise out of an arbitration proceeding.

To address these concerns, NASD is proposing to divide the current Code into three separate Codes: The Customer Code, the Industry Code, and the Mediation Code. Although many of the rules in the Customer and Industry Codes will be identical, NASD believes that maintaining separate arbitration codes will eliminate confusion regarding which rules are applicable to which disputes. NASD also believes that maintaining a separate Mediation Code will be particularly useful to parties submitting matters directly to mediation. NASD will maintain electronic versions of each code on its Web site, *http://www.nasd.com*, and will make paper copies available upon request.

In keeping with the current NASD rule numbering system, each code will be numbered in the thousands, and major sections will be numbered in the hundreds. Individual rules within those sections will be numbered in the tens (or ones, if necessary). The current method for numbering and lettering paragraphs within individual rules will remain unchanged. For example, the Customer Code will use the Rule 12000 series, which is currently unused. The Industry Code will use the Rule 13000 series, and the Mediation Code will use the Rule 14000 series, both of which are also currently unused. NASD will reserve the Rule 10000 series, which is currently used for NASD's dispute resolution rules, for future use.

To make it easier to find specific rules, the Customer Code will be divided into the following nine parts, which are intended to approximate the chronological order of a typical arbitration:

- Part I (Rule 12100 *et seq.*) contains definitions, as well as other rules relating to the organization and authority of the forum;
- Part II (Rule 12200 *et seq.*) contains general arbitration rules, including what claims are subject to arbitration in the NASD forum;
- Part III (Rule 12300 *et seq.*) contains rules explaining how to initiate a claim, how to respond to a claim, how to amend claims, and when claims may be combined and separated;
- Part IV (12400 *et seq.*) contains rules relating to the appointment, authority and removal of arbitrators;
- Part V (Rules 12500 *et seq.*) contains rules governing the prehearing process, including proposed new rules relating to motions and discovery;
- Part VI (Rules 12600 *et seq.*) contains rules relating to hearings;
- Part VII (Rules 12700 *et seq.*) contains rules relating to the dismissal, withdrawal, or settlement of claims;
- Part VIII (Rules 12800 *et seq.*) contains rules relating to simplified (small cases) arbitrations and default proceedings; and
- Part IX (Rules 12900 *et seq.*) contains rules relating to fees and awards.

Description of Other Changes

In addition to simplifying and reorganizing the Code, the proposed rule change includes several other changes to the Customer Code that are intended to make the NASD arbitration process as simple, uniform and transparent as possible. Some of the proposed changes codify or clarify current NASD practice. Others are substantive changes that are intended to provide guidance to parties, resolve open questions, or streamline or standardize the administration of NASD arbitrations. Only proposed substantive changes are discussed in detail below. Any proposed changes to the Code that are not discussed are intended to be nonsubstantive revisions.

The proposed changes are discussed below, in the order that they appear in the Customer Code.

Agreement of the Parties (Proposed Rule 12105)

Both the current Code and proposed Customer Code permit parties to an arbitration to agree to modify certain provisions, such as the number of arbitrators on a panel, or the time to respond to a pleading. Occasionally, all active parties to an arbitration agree to modify a provision, but an inactive party does not respond to notices or participate in the decision. Under a literal reading of the current Code, the active parties to the arbitration would not be able to agree to the modification, even though the inactive party was not participating in the arbitration. This can cause unnecessary delay and frustration for the active parties.

NASD believes that the non-appearance of an inactive party should not prevent active parties to an arbitration from exercising control over the arbitration process. To address this concern, proposed Rule 12105 would provide that, when the Code allows the parties to an arbitration to modify a provision of the Code, or a decision of the Director or the panel, the agreement of all named parties is required, unless the Director or panel determines that a party is inactive in the arbitration or has failed to respond after adequate notice has been given.

Use of the Forum (Proposed Rule 12203)

Currently, Rule 10301(b) provides that the Director of Arbitration, upon approval of the National Arbitration and Mediation Committee (''NAMC'') or its Executive Committee, may decline the use of the NASD arbitration forum if the ''dispute, claim, or controversy is not a proper subject matter for arbitration.''

Occasionally, situations arise in which the Director believes that it is in the best interest of the forum to deny use of the forum for reasons other than subject matter. For example, the current rule does not specifically permit the Director to deny the forum when NASD has reason to believe that a party would present a security risk to the forum or to other parties. Furthermore, the requirement that the Director must first obtain approval of either the NAMC, or its Executive Committee, is burdensome and time-consuming, making it difficult for the Director or the forum to respond appropriately in emergency situations.

To address this concern, proposed Rule 12203(a) would provide that the Director may decline to permit the use of the NASD arbitration forum if the Director determines that, given the purposes of NASD and the intent of the Code, the subject matter of the dispute is inappropriate, or that accepting the matter would pose a risk to the health or safety of parties or their representatives, arbitrators or NASD staff. In addition, the provision requiring approval of the NAMC or its Executive Committee would be deleted. However, to ensure that the authority to deny the forum could not be delegated by the Director, the rule would provide that only the Director or the President of NASD Dispute Resolution may exercise the Director's authority under the rule. NASD believes that this rule change will give the Director limited, but crucial, flexibility to protect the integrity and the security of the NASD forum.

Shareholder Derivative Actions (Proposed Rule 12205)

Currently, the Code does not specifically address whether shareholder derivative actions may be arbitrated at NASD. Such claims are not eligible for arbitration at NASD because, by definition, they involve corporate governance disputes that do not arise out of or in connection with the business of a member firm or an associated person. Nonetheless, the question arises from time to time,

occasionally after a claimant has filed a statement of claim.

Proposed Rule 12205, which is consistent with New York Stock Exchange Rule 600(e), would clarify that shareholder derivative actions are not eligible for arbitration at NASD. NASD believes that the inclusion of this rule would help avoid confusion, provide guidance to parties, and conserve resources expended when parties seek to arbitrate such matters at NASD.

Extensions of Deadlines (Proposed Rule 12207)

Currently, Rule 10314(b)(5) provides that deadlines established by the Code for filing or serving pleadings may be extended by the Director, or with the consent of the initial claimant. This provision does not provide guidance with respect to the extension of other deadlines established by the Code, or by the panel or Director, and can also cause confusion with respect to responsive pleadings filed by the initial claimant. The current rule also provides that extensions of time for filing an answer are disfavored and will only be granted in extraordinary circumstances.

To eliminate confusion, and to provide more comprehensive guidance regarding when and under what circumstances deadlines may be extended, proposed Rule 12207 would provide that the parties may agree in writing to extend or modify any deadline for serving an answer; returning arbitrator or chairperson lists; responding to motions; or exchanging documents or witness lists. If the parties agree to extend or modify a deadline, the proposed rule would require that they notify the Director of the new deadline in writing. The proposed rule would also provide that the panel may extend or modify any deadline listed above, or any other deadline set by the panel, either on its own initiative or upon motion of a party. Finally, the rule would provide that the Director may modify or extend any deadline or time period (1) set by the Code for good cause, or (2) set by the panel in extraordinary circumstances. Although good cause is a lower standard than extraordinary circumstances, which refers to unexpected and uncontrollable events such as weather-related or security emergencies, good cause is not a negligible standard. In the context of the proposed rule, the good cause requirement means that extensions of Code deadlines by the Director are generally disfavored, and that the Director must take into account the effect of the extension on all parties before granting such a request.

Ex Parte Communications (Proposed Rule 12210)

The current Code does not address ex parte communications. To provide additional guidance to arbitrators and parties, and to further ensure the integrity of the NASD arbitration process, the revised Code would include proposed Rule 12210 expressly to prohibit ex parte communications between parties and arbitrators, except as provided in proposed Rule 12211.[5] The proposed rule is based on general ex parte rules applicable in court proceedings, and reflects current NASD practice. The NASD Arbitrators' Manual and NASD arbitrator training materials direct arbitrators to avoid ex parte communications with parties, and arbitrators receive training on how and why to do so. Materials provided to parties also advise parties to avoid ex parte communications with arbitrators. For example, NASD's 'Top Ten' Standards Of Good Practice At Arbitration Hearings (available on NASD's Web site, *http://www.nasd.com*), states that participants in NASD arbitrations ''should not engage in conversation with arbitrators in the absence of the other party(ies).''

Sanctions (Proposed Rule 12212)

Currently, Rule 10305(b), governing the dismissal of proceedings, provides that the ''arbitrators may dismiss a claim, defense, or proceeding with prejudice as a sanction for willful and intentional material failure to comply with an order of the arbitrator(s) if lesser sanctions have proven ineffective.'' In addition, the NASD Discovery Guide states that ''[t]he panel has wide discretion to address noncompliance with discovery orders. For example, the panel may make an adverse inference against a party or assess adjournment fees, forum fees, costs and expenses, and/or attorneys' fees caused by noncompliance.''

Proposed Rule 12212 would codify the sanction options available to arbitrators that are described in the Discovery Guide, and extend them beyond the discovery context to apply to non-compliance with any provision of the Code, or order of the panel or a single arbitrator authorized to act on behalf of the panel. The proposed rule would also allow the panel to dismiss a claim, defense, or arbitration under the same conditions as they may currently, although it would use the term ''prior'' rather than ''lesser'' sanctions, in order to avoid potential confusion regarding whether a prior sanction was ''lesser'' or ''greater.'' NASD believes that this rule change will encourage parties to comply with both the Code and with orders of the panel, and will also clarify the authority of arbitrators to ensure the fair and efficient administration of arbitration proceedings when parties fail to do so.

Hearing Locations (Proposed Rule 12213)

NASD currently maintains more than 55 designated hearing locations for NASD arbitrations and mediations. Generally, when a claim is filed in a case involving a customer, NASD selects the hearing location that is closest to where the customer lived at the time the events giving rise to the dispute arose. To make the arbitration process more transparent, proposed Rule 12213 would codify this practice. (The use of the term ''generally'' reflects that fact that while the default location is the one closest to where the customer lived at the time the dispute arose, the Director does have discretion to select another location that would be more appropriate or less burdensome to the parties given the specific facts of the case. For example, if the customer lived in California at the time the dispute arose, but has since moved to New York, and the firm does business in New York, the Director could select New York as the hearing location.)

The proposed rule would also clarify that before arbitrator lists are sent to the parties under Rule 12403, the parties may agree in writing to a different hearing location other than the one selected by the Director, and that the Director may change the hearing location upon motion of a party. NASD believes that the proposed rule will provide useful guidance to parties about where their arbitration will take place, which may be particularly helpful to investors who may be considering filing a claim in arbitration.

Time to Answer Counterclaims and Cross Claims (Proposed Rules 12304 and 12305)

Currently, Rule 10314 provides that claimants have only 10 days to answer a counterclaim, but a respondent answering a cross claim has 45 days to file an answer to the cross claim, even if the respondent has already answered the initial claim. This discrepancy can cause delay in the proceedings. NASD believes that parties who have already

[5] Proposed Rule 12211 (Rule 10334 in the current Code), allows direct communication between parties and arbitrators subject to certain conditions. These conditions include the representation of parties by counsel, an agreement to use direct communication by all arbitrators and parties, an agreement regarding the scope of the direct communication, and facsimile or e-mail capability by all arbitrators and parties.

filed or served a pleading should have the same amount of time to respond to subsequent pleadings. NASD also believes that 10 days is insufficient, while 45 days is too long. NASD believes that 20 calendar days is the appropriate amount of time for parties to respond to both counter and cross claims.

Therefore, proposed Rule 12304 would extend the time that a claimant has to file a response to a counterclaim from 10 to 20 days from receipt of the counterclaim. In addition, proposed Rule 12305 would shorten the time that a respondent has to respond to a cross claim from 45 days to 20 days from the date that the respondent's answer to the statement of claim is due, or from the receipt of the cross claim.

Deficient Claims (Proposed Rule 12307)

Under current NASD practice, if a claimant files a deficient, or incomplete, claim, NASD will notify the claimant, and the claimant is given 30 days to correct the deficiency. If the deficiency is not corrected within that time, the claim is dismissed without prejudice. Reasons for deficiencies include failure to include required information in the statement of claim, failure to pay required fees, and failure to properly execute the NASD Uniform Submission Agreement.

NASD's practice with respect to deficiencies is consistent with the Arbitration Procedures published by the Securities Industry Conference on Arbitration (''SICA''). However, the current Code does not expressly address what constitutes a deficiency, or explain the process for identifying and correcting deficiencies. Proposed Rule 12307 would codify NASD's deficiency practice. Specifically, it would provide that the Director will not serve a deficient, or incomplete, claim, and will enumerate the most common types of deficiencies. The proposed rule would also provide that the Director will notify the claimant in writing if the claim is deficient. If all deficiencies are not corrected within 30 calendar days from the time the claimant receives notice, the Director will close the case without serving the claim, and will not refund any filing fees paid by the claimant. The proposed rule would also make clear that the same standards apply to deficient counterclaims, cross claims and third party claims served directly by parties, and would prohibit arbitrators from considering such claims unless the deficiencies were corrected within the time allowed. NASD believes that including the deficiency standards and practice in the Code will provide useful guidance to parties, and will reduce delay in NASD arbitrations by reducing the number of deficient claims.

Amending Pleadings to Add Parties (Proposed Rule 12309)

Under the current Code, parties may amend their pleadings at any time prior to the appointment of the arbitration panel. After panel appointment, parties must obtain approval of the arbitrators before amending a pleading. If a party is added to an arbitration proceeding before the Director has consolidated the other parties' arbitrator rankings under current Rule 10308, the Director will send the arbitrator lists to the newly-added party, and the newly-added party may participate in the arbitrator selection process. However, if a party amends a pleading to add a new party to the proceeding between the time that the Director consolidates the arbitrator lists and the time the panel is appointed, the newly-added party is not able to participate in the arbitrator selection process, or to object to being added to the arbitration.

To address this issue, which has been the subject of concern among some users of the forum, proposed Rule 12309 would provide that no party may amend a pleading to add a party during the time between the date that ranked arbitrator lists are due to the Director and the panel is appointed. Proposed Rule 12309(c) would provide that the party to be added after panel appointment must be given an opportunity to be heard before the panel decides the motion to amend. This change will ensure that a party added to an arbitration by amendment either will be able to participate in the arbitrator selection process, or will have the opportunity to object to being added to the proceeding.

Time to Answer Amended Pleadings (Proposed Rule 12310)

Currently, Rule 10328 provides that parties have 10 business days to answer an amended pleading. Other rules in the current Code refer to calendar days. In the interest of uniformity, proposed Rule 12100(h) defines the term ''day'' to mean calendar day. To reflect this definition, proposed Rule 12310 would give parties 20 calendar days, rather than 10 business days, to respond to amended pleadings. Although this represents a slight extension of time, it is consistent with the time to respond to counterclaims and cross claims under proposed Rules 12304 and 12305. Because standardizing time frames is part of NASD's plain English initiative, NASD believes that 20 calendar days is an appropriate time period for responding to amended pleadings.

Neutral List Selection System and Arbitrator Rosters (Proposed Rule 12400)

Currently, NASD maintains a roster of public and non-public arbitrators. Depending on the amount in dispute, an arbitration panel in a customer dispute will consist either of one public arbitrator, or two public arbitrators and one non-public arbitrator. Parties in three-arbitrator cases receive two lists: one of non-public arbitrators and one of public arbitrators. The lists are generated by the Neutral List Selection System (''NLSS''), NASD's computerized system for generating lists of arbitrators from NASD's rosters of arbitrators for the selected hearing location. By a process of striking and ranking the listed arbitrators, the parties select one non-public and two public arbitrators from the lists generated by NLSS. Once the panel is appointed, the parties jointly select the chairperson from the panel, or, if the parties do not agree, the Director appoints the highest-ranked public arbitrator on the panel to serve as chairperson.[6]

Although NASD provides voluntary chairperson training to its arbitrators, arbitrators who serve as chairperson are not currently required to have chairperson training, to have any particular experience, or to meet any other specific criteria beyond the requirements for serving as an arbitrator. Over the years, one of the most frequent suggestions for improving the quality and efficiency of NASD arbitrations is to ensure that chairpersons, who play a vital role in the administration of cases, have some degree of arbitrator experience and training.

NASD agrees that requiring trained and experienced chairpersons would significantly enhance the quality of its arbitration forum. However, NASD also believes that the criteria or training requirements should not prevent public arbitrators of any professional or educational background from qualifying to serve as chairpersons of panels in customer cases.

To address these concerns, the proposed Customer Code would require that NASD create and maintain a third roster of public arbitrators who are qualified to serve as chairpersons. In three-arbitrator cases, parties would receive three lists of arbitrators: A non-public list, a public list and a public chair-qualified list. The parties would select the chairperson from the chair-qualified list in the same manner and at the same time that they select the other members of the panel. In single-

[6] NASD estimates that parties agree on a chairperson only about 20% of the time.

arbitrator cases, the arbitrator would be selected from a list of public chair-qualified arbitrators, unless the parties agreed otherwise.

Under proposed Rule 12400, public arbitrators would be eligible for the chairperson roster if they have completed chairperson training provided by NASD, or have substantially equivalent training or experience, and either:

- Have a law degree and are a member of a bar of at least one jurisdiction and have served as an arbitrator through award on at least two arbitrations administered by a SRO in which hearings were held; or
- Have served as an arbitrator through award on at least three arbitrations administered by an SRO in which hearings were held.

Substantially equivalent training or experience would include service as a judge or administrative hearing officer, chairperson training offered by another recognized dispute resolution forum, or the like. Decisions regarding whether particular training or experience other than NASD chairperson training would qualify under this provision would be in the sole discretion of the Director. NASD believes that these criteria strike the appropriate balance between ensuring that arbitrators who serve as chairpersons or single arbitrators have the requisite experience to fairly and efficiently administer their cases, and allowing arbitrators of all professional backgrounds to qualify as chairpersons. Public arbitrators who qualify under these criteria will be placed on the chairperson roster only if they agree to serve as chairpersons; otherwise, they will remain on the general public arbitrator roster. To avoid duplication of names on the lists sent to parties, arbitrators who are on the chairperson roster will not be on the general public arbitrator roster.

Number of Arbitrators (Proposed Rule 12401)

Under current Rule 10308(b), if the amount of a claim is $25,000 or less, the arbitration panel consists of one public arbitrator, unless that arbitrator requests a three-arbitrator panel. If the claim is more than $25,000 but not more than $50,000, the panel consists of one public arbitrator unless either that arbitrator, or any party in its initial pleading, requests a three-arbitrator panel. Claims of more than $50,000 are heard by a three-arbitrator panel.

To streamline the administration of smaller claims, and minimize the cost of pursuing small claims, proposed Rule 12401 would eliminate the ability of the single public arbitrator to request a three-arbitrator panel for any claim of $50,000 or less. Parties in cases involving more than $25,000, but not more than $50,000, could still request a three-arbitrator panel.

Generating and Sending Lists to the Parties (Proposed Rule 12403)

Proposed Rule 12403 would implement several changes to the operation of NLSS.[7] In addition, the proposed Code would eliminate the ability of parties to unilaterally request arbitrators with particular expertise, a practice that is an ongoing source of controversy, as well as burdensome for the NASD staff to administer.

Finally, proposed Rule 12403 would expand the number of names of proposed arbitrators provided to the parties to seven, but would limit the number of arbitrators that each party may strike from each list to five. NASD believes that expanding the lists, but limiting the number of strikes each party may exercise, will expedite panel appointment and minimize the likelihood that the Director will have to appoint an arbitrator who was not on the original lists sent to parties. Currently, parties are allowed unlimited strikes, which often results in no arbitrators being left on the consolidated list. In such cases, the administration of the arbitration is delayed, and the Director must appoint arbitrators to fill the panel.

Collectively, NASD believes that these modifications to NLSS would streamline and simplify the arbitrator selection process and enhance the quality of NASD arbitrations.

Appointment of Arbitrators (Proposed Rule 12406)

In the past, questions have occasionally arisen regarding when appointment of arbitrators occurs. To address these questions, paragraph (d) of proposed Rule 12406 would clarify that appointment of arbitrators occurs when the Director sends notice to the parties of the names of the arbitrators on the panel. In addition, as part of the chronological reorganization of the Code, the arbitrator oath requirement that is currently in Rule 10327 has been included in proposed Rule 12406.

Arbitrator Recusal (Proposed Rule 12409)

Under current NASD practice, parties may request that an arbitrator recuse himself or herself from the panel at any time. However, the current Code does not address arbitrator recusal. To provide guidance to parties, proposed Rule 12409 would provide that any party may ask an arbitrator to recuse himself or herself from the panel for good cause. The proposed rule would also clarify that requests for arbitrator recusal are decided by the arbitrator who is the subject of the request. Some users of the forum believe that recusal requests should be made to the full panel. Courts have held, however, that recusal decisions are within the discretion of the individual arbitrator, and therefore, tend to uphold these decisions on appeal.[8] However, the Director may continue to remove arbitrators for cause under proposed Rule 12410 on the same grounds as those under current Rules 10308(d), 10312(d) and 10313.

Replacement of Arbitrators (Proposed Rule 12411)

Under the current Code, the provisions regarding replacement of arbitrators are found in Rules 10308(d)(3) and 10313, which contain numerous cross-references to other rules. Proposed Rule 12411 would consolidate the various current rules. The proposed rule also would extend the option of electing to proceed with only the remaining arbitrators to all stages of the proceeding, and eliminate the 5-day limit on electing that option contained in current Rule 10313. NASD believes that parties should have the right to decide jointly to proceed with only the remaining arbitrators regardless of when the replacement occurs, and that the parties should be able to elect that option up until the time the replacement arbitrator is appointed. Otherwise, proposed Rule 12411 does not contain any substantive changes from the current rules upon which it is based.

[7] NLSS would generate arbitrator names from the NASD rosters on a random, rather than rotational, basis. Changes to NLSS were primarily driven by computer programming requirements. *See* Exchange Act Rel. No. 51339 (Mar. 9, 2005), 70 FR 12763 (Mar. 15, 2005) (Order Approving Proposed Rule Change and Amendment No. 1 Thereto by NASD Relating to the Random Selection of Arbitrators by NLSS); Exchange Act Rel. No. 51083 (Jan. 26, 2005), 70 FR 5497 (Feb. 2, 2005) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Random Selection of Arbitrators by NLSS).

[8] *See, e.g., Florasynth, Inc.* v. *Pickholz,* 750 F.2d 171, 174 (2d Cir. 1984); *ANR Coal Co.* v. *Cogentrix of North Carolina, Inc.,* 173 F.3d 493, 499–502 (4th Cir. 1999); *Consolidation Coal Co.* v. *Local 1643, United Mine Workers of Am.,* 48 F.3d 125, 127–130 (4th Cir. 1995); *Jason* v. *Halliburton Co.,* 2002 U.S. Dist. LEXIS 19706, 10–16 (E.D. La. 2002); *Jeereddi A. Prasad, M.D., Inc.* v. *Investors Assoc., Inc.,* 82 F. Supp. 2d 365, 370, n. 9 (D. N.J. 2000); *Arial, Inc.* v. *Ryder System, Inc.,* 913 F. Supp. 826, 834 (S.D.N.Y. 1996).

Determinations of Arbitration Panel (Proposed Rule 12414)

Under the current Code, Rule 10325 requires that all rulings and determinations of the panel be made by a majority of the arbitrators. Proposed Rule 12414 would provide that all rulings and determinations of the panel must be made by a majority of the arbitrators, unless the parties agree, or the Code or applicable law provides otherwise. The proposed rule reflects that under the Code, and applicable law, some decisions of the panel may be made by a single member of a three-arbitrator panel. For example, Proposed Rule 12503 provides that some motions may be decided by a single arbitrator. Also, applicable law may permit a single arbitrator to issue a subpoena.

Initial Prehearing Conferences (Proposed Rule 12500)

Proposed Rule 12500 would codify the portion of the NASD Discovery Guide relating to initial prehearing conferences (''IPHCs''). Since the adoption of the Discovery Guide in 1999, IPHCs have been standard practice in NASD arbitrations. The IPHC gives the panel and the parties an opportunity to organize the management of the case, set a discovery cut-off date, identify and establish a schedule for potential motions, schedule hearing dates, determine whether mediation is desirable, and resolve many other preliminary issues. Users of the forum have found the IPHC to be a valuable tool in managing the administration of arbitrations. NASD believes that the proposed rule, which provides that an IPHC will be held in every case unless the parties jointly agree on certain scheduling and other enumerated issues in advance, will provide valuable guidance to parties and arbitrators about the role of IPHCs in NASD arbitrations.

Recording Prehearing Conferences (Proposed Rule 12502)

Currently the Code is silent with respect to whether and under what circumstances a prehearing conference will be tape-recorded. Proposed Rule 12502 would provide that prehearing conferences are generally not tape-recorded as a matter of course (with the exception of prehearing conferences to decide dispositive motions, discussed below). However, the rule would permit the panel to decide to tape-record a prehearing conference on its own initiative, or at the request of a party. The rule would also provide that, if the prehearing conference is tape-recorded, the Director will provide a copy of the tape to any party upon request, for a nominal fee. The rule does not specify the fee because the fee may vary slightly depending on the rates charged by NASD's telephone service provider, which normally makes the initial recording of telephonic hearing sessions. The current fee is $15 per tape. (Because NASD must arrange in advance to have telephonic hearing sessions taped, NASD will instruct arbitrators that they should notify NASD at least 24 hours in advance when they decide that a prehearing conference should be taped.)

Motions (Proposed Rule 12503)

Although motions are increasingly common in arbitration, the current Code does not refer to motions or provide any guidance with respect to motions practice. As a result, motions practice lacks uniformity, and parties and arbitrators alike are often unsure how motions should be made, responded to or decided. To provide guidance to parties and arbitrators, and to standardize motions practice in the NASD forum, proposed Rule 12503 would establish procedures and deadlines for making, responding to and deciding motions.

Some users of the forum have expressed the concern that adopting a motions practice rule will encourage more motions. Although NASD understands this concern, NASD believes that motions have already become an inescapable part of most arbitrations. Therefore, NASD believes that the Code should provide as much guidance about motions as possible to parties, particularly infrequent users of the forum. However, in an effort to deter unnecessary motions, the rule would require that, before making a motion, a party must make an effort to resolve the matter that is the subject of the motion with the other parties. The rule would also require that every motion, whether written or oral, include a description of the efforts made by the moving party to resolve the matter before making the motion.

Another common concern about adopting a motions practice rule is that it will detract from the informal nature of arbitration. To address this concern, the rule would make clear that most motions may be made either orally or in writing, and that written motions need not take any particular form.

Paragraph (c) of the proposed rule would outline who decides what motions. Paragraph (c)(1) provides that motions relating to the use of the forum under proposed Rule 12203 and removal of an arbitrator under proposed Rule 12410 are decided by the Director, because these motions are filed and decided before a panel has been appointed. Paragraph (c)(2) would provide that motions relating to combining or separating claims or arbitrations, or changing the hearing location, are decided by the Director before a panel is appointed, and by the panel after the panel is appointed. Paragraph (c)(3) provides that discovery-related motions are decided by one arbitrator, generally the chairperson. This provision reflects that while the chairperson is usually the person to decide such motions, the chairperson may not always be available, and the parties or the Director may decide to refer the matter to one of the other arbitrators. The provision also states that the arbitrator who initially hears a discovery-related motion may refer such motions to the full panel, either at his or her own initiative or at the request of a party. The arbitrator must refer motions relating to issues of privilege to the full panel at the request of a party. Paragraph (c)(4) provides that motions relating to arbitrator recusal are decided by the arbitrator who is the subject of the motion, as provided by proposed Rule 12409. Finally, the rule provides that all other motions not covered in the preceding paragraphs of the rule are decided by the full panel, unless the Code provides or the parties agree otherwise.

Motions to Decide Claims Before a Hearing on the Merits (Proposed Rule 12504)

Another recurring question in NASD arbitrations is whether, and to what extent, arbitrators have the authority to decide dispositive motions before a hearing on the merits. In its *Follow-up Report on Matters Relating to Securities Arbitration,* the General Accounting Office (''GAO'') noted that while NASD's arbitration rules do not specifically provide for dispositive motions, case law generally supports the authority of arbitrators to grant motions to dismiss claims prior to the hearing on the merits.[9] Because the Code provides no guidance with respect to this question, arbitrator decisions with respect to it lack uniformity.

Generally, NASD believes that parties have the right to a hearing in arbitration. However, NASD also acknowledges that in certain extraordinary circumstances, it would be unfair to require a party to proceed to a hearing. Specifically, the proposed rule would:

- Provide that, except for motions relating to the eligibility of claims under

[9] U.S. General Accounting Office, *Follow-up Report on Matters Relating to Securities Arbitration* (April 11, 2003).

the Code's six year time limit, motions that would resolve a claim before a hearing on the merits are discouraged, and may only be granted in extraordinary circumstances;

- Require that a prehearing conference before the full panel must be held to discuss the motion before the panel could grant it; and
- Allow the panel to issue sanctions against a party for making a dispositive motion in bad faith.

NASD believes that this rule proposal, which was developed over several years with input from industry and public members of the NAMC, will provide necessary guidance to parties and arbitrators, and make the administration of arbitrations more uniform and transparent. NASD believes that the rule strikes the appropriate balance between allowing the dismissal of claims in limited, extraordinary circumstances and reinforcing the general principle that parties are entitled to a hearing in arbitration.

Discovery (Proposed Rules 12505—12511)

One of the most frequent comments made by users of the NASD forum is that the discovery procedures outlined in NASD's Discovery Guide are routinely ignored, resulting in significant delay and the frequent need for arbitrator intervention in the discovery process. This is partly due to the fact that the Discovery Guide establishes guidelines rather than mandatory procedures.

To address these concerns, proposed Rules 12505–12511 would codify the discovery procedures currently outlined in the NASD Discovery Guide, with certain substantive changes. The proposed Code would not contain the actual Document Production Lists, which would remain in the Discovery Guide, but it would make clear that either producing or objecting to documents on applicable lists, as well as other documents requested by parties, is mandatory. The proposed rules also would extend the time parties have to respond to Document Production Lists and other discovery requests from 30 to 60 days, but would also provide more serious consequences when parties fail to respond, or when parties frivolously object to requests to produce documents or information. In addition, proposed Rule 12512 would codify the sanctions provisions of the Discovery Guide, clarifying the authority of arbitrators to sanction parties for non-compliance with discovery rules or orders of the panel. NASD believes that, collectively, these changes will significantly minimize the number of discovery disputes in NASD arbitrations.

Because much of what is currently contained in the Discovery Guide would be incorporated into the Code, the Discovery Guide would be amended to include only the remaining information, including the Document Production Lists themselves. The proposed amended Discovery Guide is available at *http://www.nasd.com/web/idcplg?IdcService=SS_GET lowbar;PAGE&ssDocName=NASDW_009306&ssSourceNodeId=802.*

Subpoenas (Proposed Rule 12512)

Current Rule 10322 provides that the arbitrators and any counsel of record to the proceeding shall have the power of the subpoena process as provided by law, and that all parties must be given a copy of a subpoena upon its issuance. The rule also provides that parties shall produce documents and make witnesses available to each other to the fullest extent possible without resort to the subpoena process.

Proposed Rule 12512 is substantially identical to the current rule Code, but would also require that if a subpoena is issued, the issuing party must send copies to all other parties at the same time and in the same manner as the party that issued the subpoena. This modification is intended to ensure that parties receive notice of the subpoena in a timely manner.

Exchange of Documents and Witness Lists (Proposed Rule 12514)

Current Rule 10321(d) requires that at least 20 days before a hearing on the merits is scheduled to begin, all parties must exchange copies of all documents in their possession that they intend to present at the hearing, and must identify all witnesses they intend to present at the hearing. As a practical matter, many of the documents will already have been exchanged through discovery. Users of the forum have advised NASD that this rule would be less burdensome, and more useful, if it were amended to require only that parties exchange all documents they intend to use at the hearing that have not previously been exchanged. The proposed rule would make this change and would increase the consequences of failing to comply with this requirement. Under the current rule, the panel may exclude evidence not exchanged in a timely manner. Proposed Rule 12514 would create a presumption that parties could not use any documents at the hearing that were not exchanged, or call any witnesses at the hearing who were not identified, within the time provided by the rule, unless the panel determines that good cause exists. The proposed rule specifically provides that good cause includes the need to use documents or call witnesses for rebuttal or impeachment purposes based on developments at the hearing.

Postponements (Proposed Rule 12601)

In the proposed Code, hearing adjournments are referred to as hearing postponements, for plain English purposes. Paragraph (a) of proposed Rule 12601 has been amended to provide that the panel may not grant requests to postpone a hearing that are made within 10 days of a scheduled hearing session unless the panel determines that good cause exists. This provision is intended to reduce the number of last minute requests for postponements, a practice that many users of the forum believe results in unnecessary delay and unfairness to parties.

Paragraph (b) of the proposed rule provides that, except as otherwise provided, a postponement fee equal to the applicable hearing session fee, as set forth in Proposed Rule 12902, will be charged for each postponement agreed to by the parties, or granted upon request of one or more parties. Therefore, the fee would no longer increase for a second or subsequent request by the same party. This change is intended to simplify the rule and to avoid confusion when one party requesting a postponement has made a previous request, but one or more of the other parties requesting the same postponement have not made previous requests.

The proposed rule also gives the panel the authority to allocate the postponement fees among non-requesting parties if the panel determines that the non-requesting party caused or contributed to the need for the postponement.

Withdrawing Claims (Proposed Rule 12702)

The current Code does not contain any guidance with respect to withdrawing claims. This occasionally causes confusion, particularly with respect to the consequences of withdrawing a claim at a particular stage in an arbitration. To provide guidance to parties, proposed Rule 12702 would provide that before a claim has been answered by a party, a claimant may withdraw the claim against that party with or without prejudice. However, after a claim has been answered by a party, a claimant may only withdraw its claim against that party with prejudice, unless the panel decides, or the claimant and that

party agree, otherwise. NASD believes that the proposed rule strikes the appropriate balance between allowing claimants to withdraw their claims without prejudice before a respondent has expended significant resources responding to the claim, and protecting the respondent from having to respond to the same claim multiple times.

Simplified Arbitration Rule (Proposed Rule 12800)

The simplified arbitration rule would be significantly shortened. Currently, in addition to the procedures that are unique to simplified arbitrations, Rule 10302 repeats some, but not all, of the general provisions that apply to both regular and simplified cases. The proposed rule would include only those provisions that are unique to simplified cases.

The proposed rule would eliminate the current provisions establishing the special time limits or deadlines for pleadings in simplified cases, and the time limits would now be the same as those in regular cases. Frequent users of the forum report that the time limits in simplified cases are routinely extended under the current rule. To provide better guidance to parties, NASD believes that the Code should reflect that, in practice, the time to answer in simplified cases is typically the same as it is in regular cases.

Under proposed Rule 12800, the single arbitrator would be selected from the chairperson roster, unless the parties agree in writing otherwise. The single arbitrator would not be able to request a three-arbitrator panel, and the arbitrator would no longer have the option of dismissing without prejudice a counterclaim or other responsive pleading that increased the amount in dispute above the simplified case threshold. If a pleading increased the amount in dispute above the threshold, the case would be administered under the regular provisions of the Code. If an arbitrator has been appointed, that arbitrator will remain on the panel. If a three-arbitrator panel is required, the remaining arbitrators will be appointed by the Director. The proposed rule would also eliminate the ability of the single arbitrator to require a hearing. However, a hearing would still be held upon the customer's request.

NASD believes that these changes will make the simplified arbitration rule easier for parties to understand, and will also streamline and simplify the administration of small claims in the NASD forum.

Fees (Proposed Rules 12900—12903)

One of the most frequent criticisms of the current Code is that the fee schedules are difficult to understand, particularly with respect to what claimants must pay at the time of filing. Currently, claimants must pay a non-refundable filing fee, and an initial hearing session deposit that may be refundable under certain circumstances. In addition, parties also must pay hearing session fees for each hearing session. Although the filing fee and the initial hearing session deposit are both due upon filing, they are presented in the Code as separate fees, making it hard for some parties to understand the total amount due upon filing. To address this issue, and to make the fee schedules easier to read, the fee schedules have been revised in two significant ways.

First, the filing fee and the hearing session deposit have been combined into one single fee that is paid when a claim is filed. With two exceptions, described below, the amounts paid by claimants would not change. Although what is now the refundable hearing session deposit would no longer be paid separately, an amount equal to the current hearing session deposit or a portion thereof may be refunded if NASD receives notice that the case has been settled more than 10 calendar days prior to the hearing on the merits. (Under the current Code, the initial hearing session deposit may be refunded if NASD receives, prior to 8 days before the hearing on the merits, notice that the case has been settled; this has been changed to 10 days as part of the overall effort to standardize the time frames used in the Code.) The consolidation of the filing fee and the hearing session deposit is intended to make it easier for claimants to understand how much they have to pay when they file a claim and what, if any, portion of that fee may be refunded.

Second, several sets of brackets in the filing fee schedule would be condensed. Currently, there are 14 separate fee brackets in the customer filing fee schedule. Some of the fees for different brackets are the same; others are separated by amounts ranging from $25–$100. The result is a schedule that is confusing and difficult to read. To simplify the schedule, the customer filing fee brackets would be reorganized as follows: The $25,000–$30,000 bracket ($600) and the $30,000–50,000 bracket ($625) would be combined, and the filing fee for the new bracket would be $600; and the $1 million–$3 million bracket ($1,700), the $3 million–$5 million bracket ($1,800), the $5 million—$10 million bracket ($1,800) and the over $10 million bracket ($1,800) would be combined, and the filing fee for the new bracket would be $1,800.

The proposed changes would not result in an increase in the total amount of fees paid by customers or associated persons when filing a claim, except that for claims of $30,000 to $50,000, the customer's overall filing fees would decrease by $50, and for claims of $1 million to $3 million, the customer's overall filing fees would increase by $100. Corresponding changes would be made to the member filing fee schedule.

NASD believes that these changes will greatly simplify the fee schedule, eliminate three repetitive high-end brackets, and align the brackets in the filing fee schedule with the brackets in the member filing fee and surcharge schedules.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed Customer Code will protect investors and the public interest by making the arbitration process more transparent for parties, providing useful guidance to parties, arbitrators and staff, and helping to standardize and streamline the administration of NASD arbitrations. If the proposed Code is approved, NASD will offer training on the new Code to arbitrators, users of the forum, and staff.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. In particular, the Commission solicits comments on whether the proposed rule change, as amended, provides for arbitration procedures that are fair to and consistent with the protection of investors for the resolution of their disputes. In addition, the Commission solicits comments on the following questions:

A. *Differences from Uniform Code of Arbitration:* Generally, where provisions in the Proposed Rules differ from their counterparts in the Uniform Code of Arbitration (''Uniform Code''), developed by SICA, which alternative is preferable? Why? With respect to specific provisions:

1. *Appointment of Arbitrators:* Section 17(d) of the Uniform Code provides that if it becomes necessary for the Director to appoint an arbitrator, then each side in the arbitration will be given one peremptory strike per case.[10]

Under Proposed NASD Rules 12406, Appointment of Arbitrators/Discretion to Appoint Arbitrators Not on List; 12410, Removal of Arbitrator by Director; and 12411, Replacement of Arbitrators, each side in the arbitration would not be given a peremptory strike automatically in the event it becomes necessary for the Director to appoint an arbitrator. Rather, a party's request to remove an arbitrator would be granted if it is reasonable to infer, based on information known at the time of the request, that the arbitrator is biased, lacks impartiality, or has a direct or indirect interest in the outcome of the arbitration.[11] The interest or bias must be direct, definite, and capable of reasonable demonstration, rather than remote or speculative, and close questions regarding challenges to an arbitrator by a customer would be resolved in favor of the customer.[12]

Where the Uniform Code differs from the Proposed NASD Rules with respect to appointment of arbitrators by the Director, which alternative is preferable? Why?

2. *Subpoenas:* Section 23(c)(1) of the Uniform Code provides that arbitrators and any counsel of record may issue subpoenas as provided by law, and that parties will produce witnesses and present proof at the hearing whenever possible without using subpoenas.[13] Similarly, Proposed NASD Rule 12512, Subpoenas, provides that subpoenas for documents or the appearance of witnesses may be issued as provided by law, and that parties should produce documents and make witnesses available to each other without the use of subpoenas. Proposed NASD Rule 12512 requires that a party issuing a subpoena send copies of the subpoena to all other parties at the same time and in the same manner in which the subpoenas was issued.

Section 23(c)(2) of the Uniform Code further requires, however, that parties seeking to issue a subpoena to non-parties send notice and a copy of the subpoena to all other parties to the arbitration at least 10 days before issuing the subpoena. Parties receiving the notice then have an opportunity to object, and the issuing party has an opportunity to respond.[14] The arbitrator shall rule on the issuance and scope of the subpoena.[15] The notice and objection procedures do not apply when the subpoena is for a non-party's appearance at a hearing before the arbitrators.[16]

Where Section 23 of the Uniform Code and Proposed NASD Rule 12512 differ, which alternative is preferable? Why?

B. *Nonsubstantive Changes:* Are any changes that are intended to be nonsubstantive actually substantive changes? If so, why are they substantive, and how will they affect the arbitration process or the rights of the parties? Are these proposed changes preferable to their counterparts in the current Code, or vice versa?

C. *Proposed Rule 12105, Agreement of the Parties:* This proposed rule provides that if the Code permits the parties to modify a provision of the Code, or a decision of the Director or the panel, the written agreement of all named parties is required for such a modification. If the Director or the panel determines that a named party is inactive in the arbitration, or has failed to respond after adequate notice has been given, however, the Director or the panel may determine that the written agreement of that party to such modification is not required while the party is inactive or not responsive.

Is it sufficiently clear what an inactive party is? If not, how could the proposed rule be clarified?

D. *Proposed Rule 12400, Neutral List Selection System and Arbitrator Rosters:* This proposed rule provides that NASD would maintain three separate rosters of arbitrators: one of non-public arbitrators, one of public arbitrators, and one of arbitrators who are eligible to serve as chairpersons. Under Proposed Rule 12400(c), chairpersons must be public arbitrators in customer disputes. NASD has stated that public arbitrators who qualify to be chairpersons will be placed on the chairperson roster only if they agree to serve as chairpersons; otherwise, they will remain on the

[10] Section 17(d) of the Uniform Code provides as follows:

(d) Appointment of Arbitrators.

The Director will appoint one or more arbitrators for the panel from the SRO's pool of arbitrators if:

- the parties do not agree on a complete panel;
- acceptable arbitrators are unable to serve; or
- arbitrators cannot be found from the lists for any other reason.

In the event the Director's appointment becomes necessary, then each side will be given one peremptory strike per case.

[11] Proposed NASD Rule 12410(a)(1).

[12] Id.

[13] Section 23(c) of the Uniform Code provides as follows:

(c) Subpoenas.

(1) Arbitrators and any counsel of record may issue subpoenas as provided by law. The party who requests or issues a subpoena must send a copy of the request or subpoena to all parties and the entity receiving the subpoena in a manner that is reasonably expected to cause the request or subpoena to be delivered to all parties and the entity receiving the subpoena on the same day. The parties will produce witnesses and present proof at the hearing whenever possible without using subpoenas.

(2) No subpoenas seeking discovery shall be issued to or served upon non-parties to an arbitration unless, at least 10 days prior to the issuance or service of the subpoena, the party seeking to issue or serve the subpoena sends notice of intention to serve the subpoena, together with a copy of the subpoena, to all parties to the arbitration.

(3) In the event a party receiving such a notice objects to the scope or propriety of the subpoena, that party shall, within the 10 days prior to the issuance or service of the subpoena, file with the Director, with copies to all other parties, written objections. The party seeking to issue or serve the subpoena may respond thereto. The arbitrator appointed pursuant to this Code shall rule promptly on the issuance and scope of the subpoena.

(4) In the event an objection to a subpoena is filed under paragraph (c)(3), the subpoena may only be issued or served prior to the arbitrator's ruling if the party seeking to issue or serve the subpoena advises the subpoenaed party of the existence of the objection at the time the subpoena is served, and instructs the subpoenaed party that it should preserve the subpoenaed documents, but not deliver them until a ruling is made by the arbitrator.

(5) Rule 23(c)(2) and (3) do not apply to subpoenas addressed to parties or non-parties to appear at a hearing before the arbitrators.

(6) The arbitrator(s) shall have the power to quash or limit the scope of any subpoena.

[14] Uniform Code, Section 23(c)(3).

[15] *Id.*

[16] Uniform Code, Section 23(c)(5).

general public arbitrator roster. NASD also has stated that to avoid duplication of names on the lists sent to parties, arbitrators who are on the chairperson roster will not be on the general public arbitrator roster. Does limiting arbitrators on the chairperson roster to service only as chairpersons limit the pool of arbitrators available to serve on panels, particularly in regions where relatively few arbitrators are available? Should chairpersons be permitted to serve in a non-chairperson capacity as well?

E. *Proposed Rule 12408, Disclosures of Arbitrators:* This proposed rule would require arbitrators to disclose any existing or past service as a mediator before they are appointed to a panel.[17] Does the proposed rule suggest that arbitrators must disclose only any service as a mediator that might preclude the arbitrator from rendering an objective and impartial determination in the proceeding? Alternatively, do commenters understand from the rule that arbitrators must disclose any existing or past service as a mediator, even it has no connection with the proceeding? Should the rule be revised to reflect more clearly one or the other of these readings? If so, which?

F. *Proposed Rule 12600(c), Required Hearings:* This proposed rule would provide that if a hearing will be held, the Director will notify the parties of the time and place of the hearing at least 10 days before the hearing begins, unless the parties agree to a shorter time. Do parties need notice of the hearing earlier than 10 days before the hearing, or is 10 days sufficient?

G. *Proposed Rule 12702, Withdrawal of Claims:* This proposed rule provides that before a claim has been answered by a party, the claimant may withdraw the claim against the party with or without prejudice. After a claim has been answered by a party, the claimant may only withdraw it against that party with prejudice unless the panel decides, or the claimant and that party agree, otherwise. Does the proposed rule appropriately address the concern of allowing claimants to withdraw claims without prejudice, while protecting the respondent from expending significant resources to respond to a claim (that is later withdrawn) or having to respond to the same claim multiple times? How prevalent are the problems of respondents (1) expending significant resources to respond to a claim that is later withdrawn, or (2) having to respond to the same claim multiple times? Are there other ways to address these competing concerns? Would the proposed rule unnecessarily deter claimants from filing claims? Would the proposed rule encourage respondents to increase the amount in controversy in the arbitration, and therefore the fees that the parties may have to bear? Should the proposed rule exclude arbitrations involving $25,000 or less, *i.e.*, those to which Proposed Rule 12800, Simplified Arbitrations, apply?

H. *Proposed Rule 12800, Simplified Arbitrations:* This proposed rule provides that all provisions of the Code apply to simplified arbitrations, unless otherwise provided under proposed rule 12800. This means that the time within which parties must answer a statement of claim in simplified arbitrations is 45 days, as in regular arbitrations. Should this time be shortened for simplified arbitrations, as they are meant to be more expedient than regular arbitrations? If so, what would be an appropriate amount of time? 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–2003–158 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 20549–9303.

All submissions should refer to File Number SR-NASD–2003–158. The 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 will also be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to SR-NASD–2003–158 and should be submitted on or before July 14, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3268 Filed 6–22–05; 8:45 am]

BILLING CODE 8010–01–P

[17] This amendment seeks to incorporate IM–10308, relating to arbitrators who also serve as mediators, which was adopted earlier this year. *See* Exchange Act Rel. No. 51325 (Mar. 7, 2005), 70 FR 12522 (Mar. 14, 2005) (Order Approving Proposed Rule Change); Exchange Act Rel. No. 51097 (Jan. 28, 2005), 70 FR 5715 (Feb. 3, 2005) (Notice of Proposed Change).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51863; File No. SR–NYSE–2005–02]

Self-Regulatory Organizations; New York Stock Exchange, Inc., Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2 and 3 Relating to Amendments to Exchange Rule 607

June 16, 2005.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 4, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed amendments to its arbitration rules as described in Items I, II and III below, which items have been prepared by the NYSE. On May 12, 2005, the NYSE filed Amendment No. 1 to the proposed rule change (''Amendment No. 1'').[4] On May 13, 2005, the NYSE filed Amendment No. 2 to the proposed rule change (''Amendment No. 2).[5] On June 16, 2005, the NYSE filed Amendment No. 3 to the proposed rule change (Amendment No. 3).[6] The Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 was filed and withdrawn by the NYSE on May 12, 2005.

[5] *See* Amendment No. 2. Amendment No. 2 supplemented the initial filing.

[6] *See* Amendment No. 3. Amendment No. 3 supplemented the initial filing and modified certain statements in Amendment No. 2.

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 proposed rule change consists of amendments to Rule 607 concerning the procedures for the appointment of arbitrators to arbitration cases administered by the NYSE. The text of the proposed rule change is available on the NYSE's Web site (*http://www.NYSE.com*), at the NYSE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements, as amended, may be examined at the places specified in Item IV below. The NYSE 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 NYSE currently has several methods by which arbitrators are assigned to cases, including the traditional method pursuant to NYSE Rule 607 where NYSE staff appoints arbitrators to cases.

a. The Pilot Program

On August 1, 2000, the NYSE implemented a two-year pilot program to allow parties, on a voluntary basis, to select arbitrators under three alternative methods (in addition to the traditional method).[7] Upon expiration of the two-year pilot, the NYSE renewed the pilot for an additional two years, ending on July 31, 2004.[8] The pilot was subsequently extended again until January 31, 2005,[9] and further extended until July 31, 2005.[10]

The first alternative under the pilot program is the Random List Selection method, by which the parties are provided randomly-generated (as described below) lists of public- and securities-classified arbitrators. The parties have ten days to strike and rank the names on the lists. Based on mutual ranking of the lists, the highest-ranking arbitrators are invited to serve on the case. If a panel cannot be generated from the first list, a second list is generated, with three potential arbitrators for each vacancy, and one peremptory challenge available to each party for each vacancy. Under the pilot program, if vacancies remain after the second list has been processed, arbitrators are then randomly assigned to serve, subject only to challenges for cause.

The second alternative method under the pilot program is the Enhanced List Selection method, in which six public- and three securities-classified arbitrators are selected by NYSE staff, based on their qualifications and expertise. The lists are then sent to the parties. The parties have three strikes to use and are required to rank the arbitrators not stricken. Based on mutual ranking of the lists, the highest-ranking arbitrators are invited to serve on the case.

Lastly, the pilot program permits parties, pursuant to mutual agreement, to choose arbitrators through any alternative method.

Under the pilot program, the parties must all agree to use either the Random List Selection method, the Enhanced List Selection method or an ''alternative method.'' Absent such agreement, under the pilot program, the traditional method is used.

b. The Initial Filing

The proposed amendments to Rule 607 in the initial filing, filed on January 4, 2005 (the ''Initial Filing'') retained the traditional method of staff appointment of arbitrators as an option. In addition, the proposed amendments modified and made permanent the Random List Selection method by specifying the number of arbitrators on each list (the pilot did not specify the numbers, but the Initial Filing specified that it would be 10 public arbitrators and five securities arbitrators) and limiting the number of strikes (four against the public arbitrators and two against the securities arbitrators). The proposed amendments in the Initial Filing also eliminated the second list of arbitrators. According to the NYSE, this would simplify and shorten the appointment process. The Initial Filing also specified that for simplified arbitrations, the randomly generated list would contain the names of three arbitrators.[11] Further, the Initial Filing gave the customer or non-member the election of choosing to use Random List Selection as the method to appoint arbitrators. If a claim included a customer and a non-member, the election of the customer controlled, and all parties' agreement to use list selection would no longer be required.

The Initial Filing also retained for the Director of Arbitration the discretion to appoint arbitrators to the panel pursuant to the traditional method of appointment in the event a full panel could not be appointed under Random List Selection. Further, in the Initial Filing, because parties rarely request Enhanced List Selection, or other alternative methods pursuant to mutual agreement, the NYSE proposed to eliminate those options as methods for selecting arbitrators.[12] The Initial Filing also provided that a party could request an arbitrator's last three NYSE arbitration decisions, if any, whereas the pilot program had provided that these decisions would be sent automatically. Lastly, the Initial Filing provided that any request for additional information must be made within the ten business days in which the parties must return the lists, and that this time period is applicable to all requests for additional information under NYSE Rule 607 as well as NYSE Rule 608, which governs notice of selection of arbitrators and provides, among other things, that the Director of Arbitration will provide the parties with the names and employment histories of the arbitrators for the past ten years, and that a party may request additional information concerning an arbitrator's background.

c. The Amended Filing.

In response to Commission staff comments, the NYSE filed Amendment No. 2. Amendment No. 2 increased the number of arbitrators and party strikes for simplified arbitrations, and provided that the NYSE would accommodate any reasonable alternative method of appointing arbitrators, if the parties agree, thereby retaining the provision currently in the pilot program. In Amendment No. 2, the NYSE also provided information regarding the random generation of lists or arbitrators. The computer randomly selects arbitrators for appointment after doing a conflicts check based on both brokerage house accounts and securities affiliations. For simplified arbitrations,

[7] The pilot program was implemented originally for a two-year period. Exchange Act Release No. 43214 (August 28, 2000), 65 FR 53247 (September 1, 2000) (SR–NYSE–2000–34).

[8] *See* Exchange Act Release No. 46372 (August 16, 2002), 67 FR 54521 (August 22, 2002) (SR–NYSE–2002–30).

[9] *See* Exchange Act Release No. 49915 (June 25, 2004), 69 FR 39993 (July 1, 2004).

[10] *See* Exchange Act Release No. 51085 (Jan. 27, 2005), 70 FR 5716 (Feb. 3, 2005), corrected at 70 FR 7143 (Feb. 10, 2005).

[11] 11 This provision was changed in Amendment No. 2, discussed below.

[12] In Amendment No. 2, the NYSE reinserted parties' ability to choose alternate methods pursuant to mutual agreement, although it retained the elimination of Enhanced List selection.

the randomly generated list would contain the names of five arbitrators and each party would have two strikes. If a full panel cannot be appointed from the list(s) of proposed arbitrators, the computer continues to select arbitrators, one at a time, randomly until the panel has been filled by arbitrators able to serve. If a panel cannot be filled by arbitrators able to serve pursuant to Random List Selection, the Director of Arbitration would have the discretion to appoint arbitrators to the panel pursuant to the traditional method of appointment. This discretion would only be exercised if the lists of all arbitrators who have indicated their willingness to serve in a particular location, either at their own expense or at the expense of the NYSE, have been exhausted and no acceptable arbitrators on the lists were able to serve.

d. Comparison to SICA Rules.

The proposed amendments resemble the Uniform Code of Arbitration (''UCA'') developed by the Securities Industry Conference on Arbitration (''SICA'').[13] Aside from word choice and punctuation, the principal differences between the NYSE's proposed rules and the SICA-developed UCA are:

- The NYSE retains the traditional method of staff appointment.
- The NYSE specifies the number of arbitrators on the lists.
- The NYSE limits the number of peremptory challenges.
- The NYSE eliminates a second list containing three names for each vacancy under the Random List Selection method.
- The NYSE does not send the two lists of public and industry arbitrators under the Random List Selection method unless and until the customer or non-member requests in writing the use of the Random List Selection method within 45 days from the date of filing of the statement of claim.
- The NYSE does not set a time period in which the director of arbitration must send lists of potential arbitrators to the parties.
- The NYSE sets a ten business day period for the parties to return the lists to the director of arbitration.
- The NYSE sets a ten business day period for the parties to request additional information about a potential arbitrator.
- The NYSE permits the parties to agree to extend the time period in which to return the lists.

[13] The NASD also has a rule that provides for the appointment of arbitrators by list selection. *See* NASD Rule 10308.

2. Statutory Basis

The NYSE believes that the proposed rule change is consistent with Section 6(b)[14] of the Act in general and Section 6(b)(5) of the Act[15] in particular in that it promotes just and equitable principles of trade by ensuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NYSE has not solicited but has received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. We solicit specific comment on whether the Exchange should automatically send parties a potential arbitrator's prior three arbitration decisions, as provided in the pilot program, or whether it is appropriate for the Exchange only to send such decisions upon a party's request. We also solicit specific comment on whether the Exchange should inform parties that prior arbitration decisions are available on its Web site.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

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 e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2005–02 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 20549–9303.

All submissions should refer to File Number SR–NYSE–2005–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–02 and should be submitted on or before July 14, 2005. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–3262 Filed 6–22–05; 8:45 am]

BILLING CODE 8010–01–P

[16] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below: (OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW., Washington, DC 20503; Fax: 202–395–6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235; Fax: 410–965–6400.

I. The information collection listed below is pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

Credit Card Payment Acknowledgement Form—0960–0648. SSA will use the information collected on Form SSA–1414 to process payments from former employees and vendors who have outstanding debts owed to the agency. This form has been developed as a convenient method for respondents to satisfy such debts.

The respondents are former employees and vendors who have debts still owed to the agency.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 500.

Frequency of Response: 12.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 500 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. State Agency Ticket Assignment Form: Ticket to Work and Self Sufficiency Program—0960–0641. SSA uses the information collected on Form SSA–1365 to determine proper assignment under the Ticket to Work program and to monitor services. This will be done through the contracted Program Manager. The State Vocational Rehabilitation Agency (VRA) completes the form and the beneficiary reviews the data. The beneficiary will sign the Form to acknowledge the assignment of their ticket to that agency. Respondents are the State VRAs.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 82.

Frequency of Response: 50.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 205 hours.

2. Farm Arrangement Questionnaire—20 CFR 404.1082(c)—0960–0064. SSA uses the information collected on the SSA–7157–F4 to determine if farm rental income may be considered self-employment income for Social Security benefits coverage purposes. The respondents are individuals alleging self-employment income for the renting of land for farming activities.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 38,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 19,000 hours.

3. Application for Benefits under a U.S. International Social Security Agreement—20 CFR 404.1925—0960–0448. The information collected on the SSA–2490–BK is required to determine entitlement to old-age, survivors or disability benefits from the United States or from a country that has entered into a Social Security agreement with the United States. The respondents are individuals who are applying for benefits from the U.S. or from a totalization agreement country.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 23,200.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Average Burden: 11,600 hours.

4. Letter to Landlord Requesting Rental Information—20 CFR 416.1130(b)—0960–0454. Form SSA–L5061 provides a nationally uniform vehicle for collecting information from landlords for use in making rental subsidy determinations in the Supplemental Security Income (SSI) program. The information is used in deciding whether income limits are met for SSI eligibility. Respondents are landlords who provide subsidized rental arrangements to SSI applicants and recipients.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 49,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 8,167 hours.

5. Plan for Achieving Self-Support—20 CFR 416.1180–1182, 416.1225–1227, 416.110(e)—0960–0559. The information on form SSA–545 is collected by SSA when an SSI applicant/recipient desires to use available income and resources to obtain education and/or training in order to become self-supporting. The information is used to evaluate the recipient's plan for achieving self-support to determine whether the plan may be approved under the provisions of the SSI program. The respondents are SSI applicants/recipients who are blind or disabled.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 7,000.

Frequency of Response: 1.

Average Burden Per Response: 2 hours.

Estimated Annual Burden: 14,000 hours.

6. Disability Update Report—20 CFR 404.1589–404.1595, 20 CFR 416.988–416.996–0960–0511. Forms SSA–455 and SSA–455–OCR–SM are used by SSA to collect information when the continuing disability review diary of a recipient of SSA-administered benefits, based on disability, has matured or there is an indication of possible medical improvement. The information

collected from beneficiaries is reviewed by specialists in the evaluation of work and earnings and in disability adjudication. The respondents are recipients of benefits, based on disability, under title II and/or XVI of the Social Security Act.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 981,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 245,250 hours.

Dated: June 16, 2005.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 05–12286 Filed 6–22–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5070]

Cultural Property: Nicaragua; Pre-Hispanic Archaeological Material, U.S. Import Restrictions, Memorandum of Understanding

Notice of Proposal to Extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Nicaragua Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures of the Republic of Nicaragua.

The Government of the Republic of Nicaragua has informed the Government of the United States of its interest in an extension of the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Nicaragua Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures of the Republic of Nicaragua, which entered into force on October 20, 2000.

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Memorandum of Understanding is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of this Memorandum of Understanding, the designated list of restricted categories of material, and related information can be found at the following Web site: *http://exchanges.state.gov/culprop.*

Dated: June 8, 2005.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–12457 Filed 6–22–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5071]

Notice of Meeting of the Cultural Property Advisory Committee

In accordance with the provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*), there will be a meeting of the Cultural Property Advisory Committee on Wednesday, July 13, 2005, from approximately 9 a.m. to 5 p.m., and on Thursday, July 14, from approximately 9 a.m. to 2 p.m., at the Department of State, Annex 44, Room 840, 301 4th St., SW., Washington, DC. During its meeting the Committee will review a proposal to extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Nicaragua Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures of the Republic of Nicaragua. The Government of the Republic of Nicaragua has notified the Government of the United States of America of its interest in such an extension.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*). The text of the Act and subject Memorandum of Understanding, as well as related information may be found at *http://exchanges.state.gov/culprop.* Portions of the meeting on July 13 and 14 will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h). However, on July 13, the Committee will hold an open session from approximately 10:30 a.m. to 11:30 a.m., to receive oral public comment on the proposal to extend. Persons wishing to attend this open session should notify the Cultural Heritage Center of the Department of State at (202) 619–6612 by Wednesday, July 6, 2005, 3 p.m. (E.D.T.) to arrange for admission, as seating is limited.

Those who wish to make oral presentations should request to be scheduled and submit a written text of the oral comments by June 30 to allow time for distribution to Committee members prior to the meeting. Oral comments will be limited to five minutes each to allow time for questions from members of the Committee and must specifically address the determinations under Section 303(a)(1) of the Convention on Cultural Property Implementation Act, 19 U.S.C. 2602, pursuant to which the Committee must make findings. This citation for the determinations can be found at the web site noted above.

The Committee also invites written comments and asks that they be submitted no later than June 30. All written materials, including the written texts of oral statements, should be faxed to (202) 260–4893. If five pages or more, 20 duplicates of written materials should be sent by express mail to: Cultural Heritage Center, Department of State, Annex 44, 301 4th Street, SW., Washington, DC 20547; tel: (202) 619–6612.

Dated: June 8, 2005.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–12458 Filed 6–22–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending June 10, 2005

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number OST–2005–21465.

Date Filed June 7, 2005.

Parties Members of the International Air Transport Association.

Subject 27th IATA CSC held in Lisbon, Portugal on 10 March, 2005. CSC/27/Meet/007/2005 dated 2 June, 2005, Finally Adopted Resolution 600a and Recommended Practice 1606. Intended effective date: 1 October 2005.

Docket Number OST–2005–21466.

Date Filed June 7, 2005.

Parties Members of the International Air Transport Association.

Subject CAC/33/Meet/006/05 dated 1 June, 2005. Normal Resolutions 803/833/833a/851/853/871 (Minutes relevant to the Resolutions are included in CAC/33/Meet/05/05 dated 1 June 2005). Intended effective date: 1 October 2005.

Docket Number OST–2005–21503.

Date Filed June 10, 2005.

Parties Members of the International Air Transport Association.

Subject PTC31 SOUTH 0177 dated 6 June 2005. TC31 South Pacific Resolutions except between French Polynesia, New Caledonia, New Zealand and USA r1-r35. PTC31 SOUTH 0178 dated 6 June 2005. TC31 South Pacific Resolutions between French Polynesia, New Caledonia, New Zealand and USA r36-r51. Minutes: PTC31 SOUTH 0179 dated 9 June 2005. Tables: PTC31 SOUTH Fares 0040 dated 6 June 2005. Intended effective date: 1 October 2005.

Docket Number OST–2005–21516.

Date Filed June 10, 2005.

Parties Members of the International Air Transport Association.

Subject MAIL VOTE NUMBER S 082. RP 1720a–013 Digit Numbering System for Traffic. Documents Form Code for Virtual Multiple Purpose Document (vMPD). Intended effective date: 1 July 2005.

Renee V. Wright,

Acting Program Manager, Docket Operations, Alternate Federal Register Liaison.

[FR Doc. 05–12430 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending June 10, 2005

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2005–21445.

Date Filed: June 6, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 27, 2005.

Description: Joint Application of Atlas Air Worldwide Holdings, Inc., Atlas Air, Inc. and Polar Air Cargo, Inc., requesting the Department commence registration of ''Atlas Air'' as an additional trade name of Polar Air Cargo, Inc. and re-issue all certificates and exemptions held by Polar in the form of ''Polar Air Cargo, Inc. d/b/a Atlas Air and d/b/a Polar Air Cargo,'' effective as of the consummation of the operational merger of Atlas into Polar, expected to occur in January 2006.

Docket Number: OST–2005–21533.

Date Filed: June 10, 2005.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: July 1, 2005.

Description: Application of Friendship Airways, Inc. d/b/a Yellow Air Taxi, requesting issuance of commuter air carrier authority to enable Yellow Air Taxi to engage in interstate and foreign scheduled air transportation operations utilizing small aircraft.

Renee V. Wright,

Acting Program Manager, Docket Operations, Alternate Federal Register Liaison.

[FR Doc. 05–12429 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Interim Operating Authority Granted to Commercial Air Tour Operators Over National Parks and Tribal Lands Within or Abutting National Parks

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: On October 25, 2002, the Federal Aviation Administration (FAA) published the final rule for Title 14, Code of Federal Regulations (14 CFR) part 136, National Parks Air Tour Management (67 FR 65662). The rule became effective on January 23, 2003. On January 27, 2005, the FAA published a notice of opportunity for commercial air tour operators granted interim operating authority (IOA) under the National Parks Air Tour Management Act of 2000 (the Act) to review and self-correct annual authorizations (70 FR 3972). based on the responses to that notice, the FAA made some corrections to interim operating authority. The Act also requires the interim operating authority granted under the Act to be published in the **Federal Register** for notice and the opportunity for comment. This notice fulfills that statutory requirement.

FOR FURTHER INFORMATION CONTACT: Gene Kirkendall, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 385–4510; e-mail *Gene.Kirkendall@FAA.GOV*.

SUPPLEMENTARY INFORMATION: On October 25, 2002, the FAA published a final rule in 14 CFR part 136, National Parks Air Tour Management (67 FR 65662), pursuant to the mandates specified in the Act, enacted on April 5, 2000. This final rule (part 136) completed the definition of ''commercial air tour operation'' by establishing the altitude (5,000 feet above ground level) below which an operator flying over a national park for the purpose of sightseeing would be classified as a commercial air tour operator. The rule also codified provisions of the Act. In accordance with 14 CFR 136.7(b), before commencing commercial air tour operations over a unit of the national park system or tribal lands within or abutting a national park, a commercial air tour operator is required to apply to the Administrator for authority to conduct the operations over the park or tribal lands. Title 14 CFR 136.11(a) states that: ''Upon application for operating authority, the Administrator shall grant interim operating authority under this section to a commercial air tour operator for commercial air tour operations over a national park or tribal land for which the operator is an existing commercial air tour operator.'' Consistent with the Act, 14 CFR 136.11(b)(3) also states that IOA granted under that section would be published in the **Federal Register** to provide notice and opportunity for comment.

Prior to issuing this notice, the FAA became aware that there may have been some errors in the number of commercial air tours initially reported and received. There are several reasons why these errors could have occurred, such as (1) Operators were not required to keep records of the number of commercial air tours conducted over national parks prior to the adoption of the Act; (2) there was a 2½ year time lapse between the passage of the Act and the effective date of the part 136 rule; and (3) there appeared to have been confusion over how to initially report information, especially for operators flying over more than one park. The FAA understood that operators should have requested and received IOA that reflects the actual number of commercial air tours that were conducted during the relevant time period set forth in the statute and the rule and that every effort should be made to standardize the counting of flights requiring IOA.

Consequently, the FAA provided an opportunity for air tour operators to

review and correct, if necessary, their annual authorizations. Specifically, on January 27, 2005, the FAA published ''Notice of Opportunity To Self-Correct Annual Authorizations for Commercial Air Tour Operators Over National Parks and Tribal Lands Within or Abutting National Parks'' (70 FR 3972). This notice informed all operators of the self-correcting process and the rules to follow in counting air tours over parks. Individual notices were also sent by first class mail to all operators who initially reported their number of annual commercial air tour operations. The deadline for completing this review and self-correction was February 21, 2005.

In response to this self-correction process, the FAA received 19 responses from commercial air tour operators. Six operators reported no change in their original reported numbers; three included national parks and/or tribal lands that were unintentionally not listed; three decreased their total annual numbers due to re-examination of their flight paths that were originally thought to penetrate a national park or tribal lands; and seven reported errors made by them or in the data entry process. Based on these responses, the FAA has issued corrected IOA.

The FAA has not confirmed the numbers reported by operators. Operators were notified that if comments are received in response to this current notice that provide substantive information that an operator does not qualify under the law as an existing operator or has erroneously reported the number of flights flown over a park or tribal lands within or abutting the park unit, the FAA may investigate and take corrective action, if necessary, to bring the operator into compliance with the law. IOA may be further amended, if necessary.

In this notice, the FAA is publishing the names of the existing operators who have applied for and received IOA, the national parks and/or tribal lands over which they fly, and the number of operations authorized for each park and/or tribal land. This information is provided so that the public has notice and an opportunity to comment, as required by the Act and 14 CFR part 136. The FAA and the National Park Service (NPS) also will consider this information in the development of Air Tour Management Plans (ATMP) for the parks, which will replace IOA.

The Act and 14 CFR part 136 limit the impacts of commercial air tour operations conducted under IOA by existing operators in several ways. IOA provides annual authorization only for the greater of: (1) The number of flights used by the operator to provide the commercial air tour operations within the 12-month period prior to the date of the Act's enactment; or (2) the average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to the Act's enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period, 49 U.S.C. 40128(c)(2)(A); 14 CFR 136.11(b)(1). Any increase in the authorized number of operations under IOA must be agreed to by the FAA and the NPS, 49 U.S.C. 40128(c)(2)(B); 14 CFR 136.11(b)(2). The Act and part 136 also provide that IOA: (1) May be revoked by the Administrator of the FAA for cause; (2) shall terminate 180 days after the date on which an ATMP is established for the park or tribal lands; (3) shall promote protection of national park resources, visitor experiences, and tribal lands; (4) shall promote safe commercial air tour operations; (5) shall promote the adoption of quiet technology, as appropriate; and (6) shall allow for modifications of the IOA based on experience if the modification improves protection of national park resources and values and of tribal lands, 49 U.S.C. 40128(c)(2)(D)–(I); 14 CFR 136.11(b)(4)–(9).

The Act provides for IOA to allow commercial air tours to continue operating over national parks and tribal lands within or abutting a unit of the national park system pending the establishment of ATMPs. The Act requires that the FAA grant IOA to existing commercial air tour operators ''[u]pon application for operating authority,'' 49 U.S.C. 40128(c)(1), thus allowing these operators to continue to operate without a break in service.[1] The FAA interprets the provisions in the Act requiring that IOA promote protection of national park resources, visitor experiences, and tribal lands; safe commercial air tour operations; and the adoption of quiet technology, as appropriate, to be continuing requirements of IOA rather than being tied to the initial granting of IOA. See 49 U.S.C. 40128(c)(2)(F)–(H).

In consultation with the NPS, and Native American tribes as appropriate, the FAA will monitor impacts of authorized commercial air tour operations on park resources, visitor experiences, and tribal lands within or abutting a unit of the national park system. Consistent with the statutory term ''promote,'' as used in 49 U.S.C. 40128(c)(2)(F)–(H), the FAA will support appropriate voluntary measures to address specific concerns raised by the NPS, or in the case of tribal lands, Native American tribes, regarding impacts from commercial air tour operations conducted under IOA. As noted above, the Act also allows for modification of IOA based on experience if the modification improves protection of national park resources and values and of tribal lands, 49 U.S.C. 40128(c)(2)(I).

Regarding the promotion of safe commercial air tour operations, the FAA will continue to address safety issues in parks covered by IOA in a manner consistent with existing regulations.

Section 805 of the Act directs the National Parks Overflights Advisory Group (NPOAG) to provide advice, information, and recommendations to the FAA and the NPS on ''commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given [ATMP]'' (Pub. L. 106–181, title VIII, section 805(c)(2)). Section 804 of the Act requires the FAA to designate reasonably achievable requirements necessary for aircraft to be considered as employing quiet aircraft technology for purposes relating to commercial air tour operations at the Grand Canyon. Pursuant to section 804 of the Act, the FAA issued a final rule designating quiet aircraft technology for commercial air tour aircraft in Grand Canyon National Park on March 29, 2005 (70 FR 16084). Although the Grand Canyon rule does not address the NPOAG's responsibility under section 805 of the Act, the NPOAG may consider the Grand Canyon rule in making recommendations on ''commonly accepted quiet aircraft technology'' for use in other national parks' ATMPs. Using the advice and recommendations of the NPOAG, the FAA and the NPS will give further consideration to the appropriate promotion of the adoption of quiet technology in IOA.

The FAA solicits comments on all aspects of this notice. Comments about the status of the IOA of a commercial air tour operator or operators, including

[1] The requirement in the Act that the FAA grant IOA ''upon application for operating authority'' also makes impossible compliance with the National Environmental Policy Act. See, *e.g., City of New York* v. *Mineta,* 262 F.3d 169, 178 (2nd Cir. 2001) (concluding that the provisions under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century for the U.S. Department of Transportation to decide within 60 days whether to award slot exemptions at New York's LaGuardia and John F. Kennedy International Airports triggered the exception to NEPA compliance ''when a statute imposes short, mandatory deadlines on an agency, thereby rendering compliance with NEPA's [environmental impact statement] requirement impossible.'')

qualifications to have status as an existing air tour operator over a unit of the national park system or tribal land or the number of flights over a national park or tribal land, should be as specific as possible and include substantive, credible information to support assertions. If comments are received that provide substantive, credible information that an operator does not qualify under the law as an existing operator or has erroneously reported the number of flights flown over a park or related tribal lands, the FAA will investigate and take corrective action, to bring the operator into compliance with the law. IOA may be further amended, if necessary. Comments should be directed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

John M. Allen,

Acting Director, Flight Standard Services.

Name	DBA	National Park/Abutting Tribal Lands	IOA auth / yr
Above It All, Inc.	Benchmark Flight Center, Hawaii Airventures, Hawaii Island Hoppers, Sporty's Academy Hawaii.	Hawaii Volcanoes National Park, HI	3878
Adams, Bruce M	Southwest Safaris	Arches National Park, UT	57
		Aztec Ruins National Monument, NM	83
		Bandelier National Monument, NM	126
		Big Bend National Park, TX	5
		Black Canyon of The Gunnison National Park, CO	7
		Bryce Canyon National Park, UT	23
		Canyon De Chelly National Monument, AZ	147
		Canyonlands National Park, UT	57
		Capitol Reef National Park, UT	57
		Capulin Volcano National Monument, NM	13
		Carlsbad Caverns National Park, NM	18
		Casa Grande Ruins National Monument, AZ	6
		Cedar Breaks National Monument, UT	15
		Chaco Culture National Historic Park, NM	147
		Colorado National Monument, CO	57
		Coronado National Memorial, AZ	5
		Dinosaur National Monument, CO, UT	9
		El Malpais National Monument, NM	43
		El Morro National Monument, NM	43
		Fort Bowie National Historic Site, AZ	5
		Fort Davis National Historic Site, TX	5
		Fort Union National Monument, NM	32
		Gila Cliff Dwellings National Monument, NM	26
		Glen Canyon National Recreation Area, AZ, UT	123
		Great Sand Dunes National Park & Preserve, CO	16
		Guadalupe Mountains National Park, TX	18
		Hohokam Pima National Monument, AZ	5
		Hovenweep National Monument, UT	63
		Hubbell Trading Post National Historic Site, AZ	27
		Lake Mead and Parashant National Recreation Area and National Monument, AZ, NV.	38
		Mesa Verde National Park, CO	63
		Montezuma Castle National Monument, AZ	19
		Natural Bridges National Monument, UT	29
		Navajo National Monument, AZ	57
		Organ Pipe Cactus National Monument, AZ	5
		Pecos National Historic Park, NM	32
		Petrified Forest National Park, AZ	42
		Petroglyph National Monument, NM	45
		Pipe Spring National Monument, AZ	23
		Rainbow Bridge National Monument, UT	52
		Rio Grande Wild and Scenic River, TX	5
		Saguaro National Park, AZ	5
		Salinas Pueblo Missions National Monument, NM	17
		Sunset Crater Volcano National Monument, AZ	37
		Tumacacori National Historic Park, AZ	5
		Tuzigoot National Monument, AZ	19
		Walnut Canyon National Monument, AZ	37
		Wupatki National Monument, AZ	42
		Yucca House National Monument, CO	63
		Zion National Park, UT	15
Aero-Copters of Arizona, Inc	Bryce Canyon Airlines, Bryce Canyon Helicopters, Helivision, Canyon Airlines.	Arches National Park, UT	10
		Bryce Canyon National Park, UT	1481
		Canyonlands National Park, UT	10
		Glen Canyon National Recreaton Area, AZ, UT	39
		Navajo Tribal Lands	38
		Zion National Park, UT	26
Air Grand Canyon Inc		Arches National Park, UT	8

Name	DBA	National Park/Abutting Tribal Lands	IOA auth / yr
		Bryce Canyon National Park, UT	15
		Canyon De Chelly National Monument, AZ	9
		Canyonlands National Park, UT	10
		Capitol Reef National Park, UT	2
		Cedar Breaks National Monument, UT	9
		Glen Canyon National Recreation Area, AZ, UT	65
		Hovenweep National Monument, UT	2
		Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	24
		Montezuma Castle National Monument, AZ	5
		Natural Bridges National Monument, UT	6
		Navajo National Monument, AZ	11
		Petrified Forest National Park, AZ	4
		Pipe Spring National Monument, AZ	3
		Rainbow Bridge National Monument, UT	40
		Saguaro National Park, AZ	13
		Sunset Crater Volcano National Monument, AZ	26
		Tuzigoot National Monument, AZ	38
		Walnut Canyon National Monument, AZ	11
		Wupatki National Monument, AZ	4
		Zion National Park, UT	25
Alika Aviation, Inc	Alexair	Haleakala National Park, HI	2923
American Aviation, Inc.	American Air Charter, Frog Air	Arches National Park, UT	137
		Bryce Canyon National Park, UT	138
		Canyon De Chelly National Monument, AZ	14
		Canyonlands National Park, UT	137
		Capitol Reef National Park, UT	136
		Cedar Breaks National Monument, UT	27
		Glen Canyon National Recreation Arez, AZ, UT	462
		Golden Spike Naional Historic Site, UT	11
		Grand Teton National Park, WY	8
		Havasupai Tribal Lands	14
		Hopi Tribal Lands	14
		Hovenweep National Monument, UT	27
		Hualapai Tribal Lands	14
		Lake Meade and Parashant National Recreation Area and National Monument, AZ, NV.	3
		Natural Bridges National Monument, UT	28
		Navajo National Monument, AZ	14
		Navajo Tribal Lands	16
		Petrified Forest National Park, AZ	14
		Rainbow Bridge National Monument, UT	138
		Sunset Crater Volcano National Museum, AZ	14
		Timpanogos Cave National Monument, UT	254
		Wupatki National Monument, AZ	14
		Yellowstone National Park, ID, MT, WY	8
		Zion National Park, UT	29
Aris, Inc.	Air Maui Helicopter Tours	Haleakala National Park, HI	3996
Arrow West Aviation	Redtail Aviation	Arches National Park, UT	57
		Canyonlands National Park, UT	404
		Capitol Reef National Park, UT	63
		Glen Canyon National Recreation Area, AZ, UT	63
		Natural Bridges National Monument, UT	67
Aviation Ventures, Inc	Vision air, Vision Aviation Management LLC.	Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	6756
Badger Helicopters Inc		Badlands National Park and Pine Ridge Indian Reservation, SD.	4099
Bar Harbor Aviation		Acadia National Park, ME	2000
Big Island Air, Inc.	Hawaii Volcanos National Park, HI.		1643
Black Hills Aerial Adventures, Inc.		Mount Rushmore National Memorial, SD	363
Burrus FlightSeeing Service		Cape Hatteras National Seashore, NC	1500
Call Air, Inc.	Eco air Tours—Hawaii	Haleakala National Park, HI	104
		Hawaii Volcanos National Park, HI	102
		Kalaupapa National Historical Park, HI	198
		Kaloko-Honokohau National Historical Park, HI	37
		Pu'uhonua OHonaunau National Historical Park, HI	37
		Pu'uhoma O Honaunau National Historical Park, HI	88
		U S S Arizona Memorial, HI	198
Carisch Helicopters Inc		Yellowstone National Park, ID< MT. WY	20
Classic Helicopter Corporation		Mount Ranier National park, WA	32
Columbia Air Services–BHB, LLC.		Acadia National Park, ME	2585

Name	DBA	National Park/Abutting Tribal Lands	IOA auth / yr
Courtney Aviation, Inc	Courtney Aviation	Death Valley Naional Park, CA	4
		Sequoia & Kings Canyon National Parks, CA	10
		Yosemite National Park, CA	100
Dairy Air Inc	Outer Banks Airways	Cape Hatteras Naional Seashore, NC	6500
English, Daniel B	Mt. Lassen Aviation	Lassen Volcanic National Park, CA	89
Grand Canyon Airlines, Inc	Grand Canyon Airlines	Arches National Park, UT	4
		Canyon De Chelly National Monument, AZ	5
		Canyonlands National Park, UT	20
		Capitol Reef National Park, UT	6
		Glen Canyon National Recreation Area, AZ, UT	5429
		Lake Mead and Parashant National Recreation Area and National Monument, Az, NV.	257
		Montezuma Castle National Monument, AZ	156
		Navajo National Monument, AZ	185
		Rainbow Bridge National Monument, UT	4472
		Sunset Crater Volcano National Monument, AZ	17
		Zion National Park, UT	3
Great Smoky Mountain Helicopter, Inc.	Cherokee Helicopters, Delta Helicopters, M Helicopters of TN, Smokey Mountain Helicopters.	Great Smoky Mountain National Park, TN, NC/Cherokee Tribal Lands.	120
Gretzke, Robert C	Wings	Big Cypress National Preseve, FL	1260
		Big Cypress Seminole Tribal Lands, FL	200
		Biscayne National Park, FL	200
		Dry Tortugas National Park, FL	100
		Everglades National Park, FL	674
Hawaii Helicopters, Inc		Haleakala National Park, HI	5682
Hawaii Volcanoes		National Park, HI	141
Heli USA Airways, Inc	Heli USA	Bryce Canyon National Park, UT	6
		Death Valley National Park, CA	6
		Lake Mead and Parashant National Recreational Area and National Monument,AZ, NV.	7463
		Zio Naional Park, UT	
Helicopter Consultants of Maui, Inc.	Blue Hawaiian Helicopters	Haleakala National Park, HI	8348
		Hawaii Volcano Naional Park, HI	12413
Helicopter Flight Services, Inc.		Statute of Liberty Monument, NY	3500
Homestead Helicopters, Inc		Glacier National Park, MT and Blackfeet Tribal Land	15
		Yellowstone National Park, ID,MT< WY and adjacent tribal land.	
Island Air, Inc.		Mount Ranier National Park, WA	2
		North Cascades National Park,WA	10
		San Juan National Historical Park, WA	20
Jamestown Flight Center		Colonial National Historical Park	147
K & S Helicopters, Inc	Tropical Helicopters	Hawaii Volcanoes National Park, HI	1684
King Airelines Inc		Bryce Canyon National Park, UT	12
		Cedar Breaks National Monument, UT	12
		Death Valley National Park, CA	12
		Glen Canyon National Recreation Area, AZ, UT	12
		Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	4380
		Rainbow Bridge National Monument, UT	12
		Zion National Park, UT	12
Kruger, James W.	Kruger Helicopter Service	Blackfeet Tribal Lands	750
		Glacier National Park, MT	750
Lake Chelan Air Service Inc	Chelan Airways	Lake Chelan National Recreation Area, WA	350
		North Cascades National Park, WA	50
Las Vegas Helicopters Inc		Bryce Canyon National Park, UT	12
		Death Valley National Park, CA	12
		Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	1376
		Zion National Park, UT	12
Laughlin Aviation LLC		Lake Mead and Parashant National Recreation Area and National Monument, AZ, NV (Lake Mohave).	3015
Liberty Helicopters, Inc		Statue of Liberty National Monument, NY	29432
		Governors Island National Monument, NY	29432
Makarion Air	Makarion Air	Arches National Park, UT	10
		Aztec Ruins National Monument, NM	5
		Black Canyon of The Gunnison National Park, CO	1
		Bryce Canyon National Park, Bryce Canyon, UT	40
		Canyon de Chelly National Monument, AZ	8
		Canyounlands National Park, UT	40
		Capitol Reef National Park, UT	25
		Carlsbad Caverns National Park, NM	1

Name	DBA	National Park/Abutting Tribal Lands	IOA auth / yr
		Casa Grande Ruins National Monument, AZ	25
		Channel Islands National Park, CA	5
		Chiricahua National Monument, AZ	1
		Coronado National Memorial, AZ	5
		Death Valley National Park, CA	40
		Dinosaur National Monument, CO, UT	2
		Glen Canyon National Recreation Area, AZ, UT	40
		Golden Gate National Recreation Area, CA	40
		Great Basin National Park, NV	25
		Great Sand Dunes National Park & Preserve, CO	3
		John Nuir National Historic Site, CA	40
		Joshua Tree National Park, CA	25
		Sequoia & Kings Canyon National Parks, CA	5
		Lassen Volcanic National Park, CA	5
		Lava Beds National Monument, CA	1
		Mesa Verde National Park, CO	10
		Mojave National Preserve, CA	3
		Montezuma Castle National Monument, AZ	10
		Monument Valley Navajo Tribal Park, UT, AZ	50
		Natural Bridges National Monument, UT	5
		Navajo National Monument, AZ	50
		Petrified Forest National Park, AZ	10
		Rainbow Bridge National Monument, UT	50
		Sagauro National Park, AZ	10
		Salinas Pueblo Missions National Monument, NM	1
		San Francisco Maritime National Park, CA	40
		Santa Monica Mountains National Recreation Area, CA	5
		Sequoia & Kings Canyon Nqtional Parks, CA	5
		Sunset Crater Volcano National Monument, AZ	20
		Tonto National Monument, AZ	2
		Walnut Canyon National Monument, AZ	5
		Yellowstone National Park, ID, MT, WY	3
		Yucca House National Monument, CO	1
		Zion National Park, UT	40
Manuiwa Airways, Inc	Volcano Heli-Tours, Volcano Helicopters.	Hawaii Volcanoes National Park, HI	800
Maui Island Air, Inc	Maui Air, Volcano Air Tours	Haleakala National Park, HI	130
		Hawaii Volcanoes National Park, HI	611
Maverick Helicopters, Inc		Arches National Park, UT	15
		Bryce Canyoun National Park, UT	15
		Canyonlands National Park, UT	
		Capitol Reef National Park, UT	15
		Cedar Breaks National Monument, UT	15
		Death Valley National Park, CA	15
		Glen Canyon National Recreation Area, AZ, UT	15
		Grand Teton National Park, WY	15
		Havasu pai Tribal Lands	15
		Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	9603
		Mojave National Preserve, CA	15
		Monument Valley Navajo Tribal Park, UT, AZ	15
		Natural Bridges National Monument, UT	15
		Rainbow Bridge National Monument, UT	15
		Yosemite National Park, CA	15
		Zion National Park, UT	15
McClelland, John and Terri	S.F. Helicopter Tours	Devils Postpile National Monument, CA	2900
		Fort Point National Historic Site, CA	2900
		Golden Gate National Recreation Area, CA	11600
		John Muir National Historic Site, CA	2900
		Muir Woods National Monument, CA	2900
		Point Reyes National Seashore, CA	2900
		Redwood National and State Parks, CA	2900
		Rosie the Riveter WWII Home Front National Historical Park, CA.	2900
		San Francisco Maritime National Historical Park, CA	2900
Minuteman Aviation Inc		Blackfeet Tribal Lands	717
		Glacier National Park, MT	717
Mokulele Flight Service, Inc		Hawaii Volcanoes National Park, HI	60
Montana Aircraft, Inc	Montana Aircraft Wings of Montana.	Grand Teton National Park, WY	6
		Yellowstone National Park, ID, MT, WY	60
Montana By Air L L C		Blackfeet Tribal Lands	12
		Glacier National Park, MT	12
Natures Designs, Inc	Vashon Island Air	Mount Rainier National Park, WA	74

Name	DBA	National Park/Abutting Tribal Lands	IOA auth / yr
New York Helicopter Charter, Inc.		Statue of Liberty National Monument, NY	2655
North East Air and Sea Services LLC.		Statue of Liberty National Monument, NY	125
Osprey Aero		Glacier National Park, MT	60
Papillon Airways Inc	Grand Canyon Helicopters Papillon Grand Canyon Helicopters.	Arches National Park, UT	12
		Bryce Canyon National Park, UT	12
		Canyonlands National Park, UT	12
		Capitol Reef National Park, UT	5
		Death Valley National Park, CA	12
		Glen Canyon National Recreation Area, AZ, UT	48
		Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	11322
		Zion National Park, UT	12
Paragon Air, Inc		Haleakala National Park, HI	219
		Hawaii Volcanoes National Park, HI	1019
		Kalaupapa National Historical Park, HI	730
		U S S Arizona Memorial, HI	18
Pavco, Inc		Mount Rainier National Park, WA	60
		Olympic National Park, WA	27
Platt, Phil	Pelican Airways	Cape Hatteras National Seashore, NC	170
Rainbow Pacific Helicopters, Ltd.	Magnum Helicopters	Haleakala National Park, HI	45
		Hawaii Volcanoes National Park, HI	45
		Kalaupapa National Historical Park, HI	45
		Kaloko-Honokohau National Historical Park, HI	45
		Pu'uhonua O Honaunau National Historical Park, HI	45
		Puukohola Heiau National Historic Site, HI	45
		U S S Arizona Memorial, HI	1500
Rambo Helicopter Charter, Inc	Scenic Helicopter Tours	Great Smoky Mountain, National park, TN, NC	1800
Red Eagle Aviation, Inc		Blackfeet Tribal Lands	159
		Glacier National Park, MT	159
Rite Bros Aviation Inc		Mount Rainier National Park, WA	2
		North Cascades National Park, WA	2
		Olympic National Park, WA	76
Rogers Helicopters Inc	Dam Helicopter Company, Inc., Hall Air Ambulance Service, Inc., ROAM, Rogers Aviation Sky Life.	Lake Mead and Parashant National Recreation Area and National Monument, AZ, NV.	9000
Rushmore Helicopters, Inc		Mount Rushmore National Memorial, SD	5200
Safari Aviation, Inc	Safari Helicopter Tours	Hawaii Volcanoes National Park, HI	3920
Scenic Airlines, Inc		Bryce Canyon National Park, UT	1094
		Glen Canyon National Recreation Area, AZ, UT	3153
		Lake Mead and Parashant National Recreation Area and National Monument, AZ, NV.	14707
		Monument Valley Navajo Tribal Park, UT, AZ	1303
		Rainbow Bridge National Monument, UT	1303
		Zion National Park, UT	547
Schuman Aviation Company, Ltd.	Makani Kai Helicopters	Haleakala National Park, HI	25
		Hawaii Volcanoes National Park, HI	25
		Kalaupapa National Historical Park, HI	25
		Kaloko-Honokohau National Historical Park, HI	25
		Pu'uhonua O Hoanunau National Historical Park, HI	25
		Puukohola Heiau National Historic Site, HI	25
		U S S Arizona Memorial, HI	2100
Selway Aviation LLC		Glacier National Park, MT	20
Slickrock Air Guides, Inc		Arches National Park, UT	323
		Canyonlands National Park, UT	323
		Glen Canyon National Recreation Area, AZ, UT	323
		Navajo Tribal Lands	323
Spirit Moutain Aviation LLC		Grand Teton National Park, WY	45
		Yellowstone National Park, ID, MT, WY	45
Steve Winters d/b/a M & S Aero.	M & S Aero	Bryce Canyon National Park, UT	326
		Glen Canyon National Recreational Area	10
		Zion National Park, UT	25
Sundance Helicopters Inc	Helicop Tours, Helicopter Services Sundance Helicopters.	Bryce Canyon National Park, UT	12
		Death Valley National Park, CA	6

Name	DBA	National Park/Abutting Tribal Lands	IOA auth / yr
		Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	865
		Zion National Park, UT	12
Sunshine Helicopters, Inc		Haleakala National Park, HI	4853
		Hawaii Volcanoes National Park, HI	2100
		Kalaupapa National Historical Park, HI	1252
Swanstrom, Paul N	Mountain Flying Service	Arches National Pak, UT	50
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		Capitol Reef National Park, UT	50
		Glen Canyon National Recreeation Area, AZ, UT	50
		Natural Bridges National Monument, UT	50
		Navajo Tribal Lands	50
Van Air, Inc		Voyageurs National Park, MN	60
Ventura Air Services, Inc		Statute of Liberty National Monument, NY	125
Westwind Aviation, Inc	Westwind Air Service	Bryce Canyon National Park, UT	130
		Glen Canyon National Recreation Area, AZ, UT	4270
		Navajo Tribal Lands	2664
		Rainbow Bridge National Monument, UT	4140
Wilson Aviation, LLC		Glacier National Park, UT	60
Windrock Aviation Inc	Sky Eye Air Tours, Windrock Airlines, Windrock Aviation.	Arches National Park, UT	2
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		Canyon De Chelly National Monument, AZ	2
		Canyonlands National Park, UT	1
		Cedar Breaks National Monument, UT	1
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		Lake Mead and Parashant National Recreational Area and National Monument, AZ, NV.	5
		Montezuma Castle National Monument, AZ	5
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Wings of Wenatchee, Inc		Lake Chelan National Recreation Area, WA	15
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[FR Doc. 05–12380 Filed 6–22–05; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Agency Information Collection Activities

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of OMB approvals.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.5(b), this notice announces that new information collections requirements (ICRs) listed below have been approved by the Office of Management and Budget (OMB). These new ICRs pertain to 49 CFR Parts 224, 229, and 238. Additionally, FRA hereby announces that other ICRs listed below have been re-approved by the Office of Management and Budget (OMB). These ICRs pertain to Parts 220, and 244. The OMB approval numbers, titles, and expiration dates are included herein under supplementary information.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Victor Angelo, Office of Support Systems, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6470). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to display OMB control numbers and inform respondents of their legal significance once OMB approval is obtained. The following new FRA information collections were approved: (1) OMB No. 2130–0560, Use of Locomotive Horns at Highway-Rail Grade Crossings (49 CFR 222) (Final Rule). The expiration date for this collection of information is April 30, 2007. In a previous notice published on October 8, 2004 (see 69 FR 60457), FRA mistakenly listed this approval as the interim final rule. (2) OMB No. 2130–0563, Railroad Trespasser Death Study (Form FRA F 6180.117). The expiration date for this collection of information is January 31, 2008. (3) OMB No. 2130–0564, Locomotive Crashworthiness (49 CFR 229 and 238) (NPRM). The expiration date for this collection of information is May 31, 2008. (4) OMB No. 2130–0565, Safety Appliance Concern Recommendation Report; Safety Appliance Checklist Forms (Forms FRA F 6180.4(a)–(m)). The expiration date for this collection of information is May 31, 2008. (5) OMB No. 2130–0566, Reflectorization of Freight Rolling Stock (49 CFR 224) (Final Rule). The expiration date for this collection of information is April 30, 2008.

The following information collections were re-approved: (1.) OMB No. 2130–0524, Railroad Communications (49

CFR 220). The new expiration date for this information collection is January 31, 2008. (2) OMB No. 2130–0557, Safety Integration Plans (Part 244). The new expiration date for this information collection is May 31, 2008.

Persons affected by the above referenced information collections are not required to respond to any collection of information unless it displays a currently valid OMB control number. These approvals by the Office of Management and Budget (OMB) certify that FRA has complied with the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and with 5 CFR 1320.5(b) by informing the public about OMB's approval of the information collection requirements of the above cited forms and regulations.

Authority: 44 U.S.C. 3501–3520.

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

D.J. Stadtler,

Director, Office of Budget, Federal Railroad Administration.

[FR Doc. 05–12406 Filed 6–22–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub–No. 5) (2005–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 2005 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2005 RCAF (Unadjusted) is 1.136. The third quarter 2005 RCAF (Adjusted) is 0.552. The third quarter 2005 RCAF–5 is 0.528.

DATES: Effective July 1, 2005.

FOR FURTHER INFORMATION CONTACT: Mac Frampton, (202) 565–1541. (Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site *http://www.stb.dot.gov.* To purchase a copy of the full decision, write to, e-mail or call the Board's contractor, ASAP Document Solutions; 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail *asapdc@verizon.net;* phone (202) 306–4004. (Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.)

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: June 16, 2005.

By the Board, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. 05–12443 Filed 6–22–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34707]

Kettle Falls International Railway, LLC—Lease and Operation Exemption—BNSF Railway Company [1]

Kettle Falls International Railway, LLC (KFR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from BNSF Railway Company (BNSF) and operate approximately 0.50 miles of rail line between milepost 61.0 and milepost 60.5 near Chewelah, WA.

KFR certifies that the projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

The transaction was scheduled to be consummated on or shortly after June 3, 2005.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34707, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, Suite 225, 1455 F Street, NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

[1] Effective January 22, 2005, the name of The Burlington Northern and Santa Fe Railway Company was changed to ''BNSF Railway Company.''

Decided: June 16, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–12382 Filed 6–22–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209826–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–209826–96, Application of the Grantor Trust Rules to Nonexempt Employees' Trusts (§ 1.671–1(h)(3)(iii)).

DATES: Written comments should be received on or before August 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6510, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application of the Grantor Trust Rules to Nonexempt Employees' Trusts.

OMB Number: 1545–1498.

Regulation Project Number: REG–209826–96.

Abstract: This regulation provides rules for the application of the grantor trust rules to certain nonexempt employee's trusts. Under section 1.671–1(h)(3)(iii) of the regulation, the overfunded amount for certain foreign employees' trusts will be reduced to the

extent the taxpayer demonstrates to the Commissioner, and indicates on a statement attached to a timely filed Form 5471, that the overfunded amount is attributable to a reasonable funding exception. The IRS needs this information to determine accurately the portion of the trust that is properly treated as owned by the employer.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 13, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–3258 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106876–00]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulation, REG–106876–00 Revision of Income Tax Regulations under Sections 897, 1445, and 6109 to require use of Taxpayer Identifying Numbers on Submission under the Section 897 and 1445 regualtions.

DATES: Written comments should be received on or before August 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, Room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202)622–3179, or through the Internet at Larnice.Mack@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Revision of Income Tax Regulations under Section 897, 1445, and 6109 to require use of Taxpayer Identifying Numbers on Submission under the Section 897 and 1445 regulations.

OMB Number: 1545–1797. Regulation Project Number: REG–106876–00.

Abstract: The collection of information relates to applications for withholding certificates under Treas. Reg-1.1445–3 to be filed with the IRS with respect to (1) dispositions of U.S. real property interests that have been used by foreign persons as a principle residence within the prior 5 years and excluded from gross income under section 121 and (2) dispositions of U.S. real property interests by foreign persons in deferred like kind exchanges that qualify for nonreognition under section 1031.

Current Actions: There are no changes to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and Business or other for-profit.

Estimated Total Annual Reporting Burden: 600.

Estimated Average Annual Burden per Respondent: 4.

Estimated Number of Respondents: 150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 10, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–3260 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via teleconference. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 20, 2005, at 1 p.m., eastern time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or 414–297–1611.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, July 20, 2005, at 1 p.m. eastern time via a telephone conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611, or write Barbara Toy, TAP Office, MS–1006–MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to 414–297–1623, or you can contact us at *http://www.improveirs.org*. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Barbara Toy.

Ms. Toy can be reached at 1–888–912–1227 or 414–297–1611, or by FAX at 414–297–1623.

The agenda will include the following: Monthly committee summary report, discussion of issues brought to the joint committee, office report, and discussion of next meeting.

Dated: June 16, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–3259 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 19, 2005, from 1:30 p.m. to 3 p.m. e.t.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Tuesday, July 19, 2005 from 1:30 p.m. to 3 p.m. e.t. via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or (954) 423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or (954) 423–7977, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: various IRS issues.

Dated: June 16, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–3261 Filed 6–22–05; 8:45 am]

BILLING CODE 4830–01–P

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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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