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Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

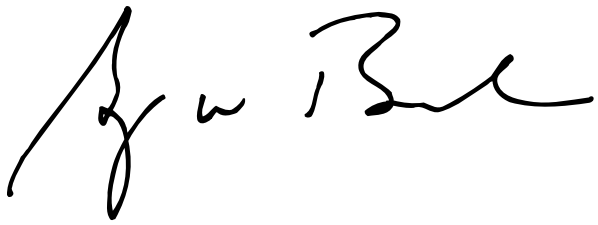
Presidential Determination No. 2005–29 of July 14, 2005

Waiver of Restrictions on Providing Funds to the Palestinian Authority

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and laws of the United States, including section 550(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Div. D, Public Law 108–447)(the ''Act''), I hereby certify that it is important to the national security interests of the United States to waive the provisions of section 550(a) of the Act, in order to provide funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 to the Ministry of Finance of the Palestinian Authority in direct assistance for use on new projects in Gaza.

You are authorized and directed to transmit this determination to the Congress, accompanied by a report in accordance with section 550(d) of the Act, and to publish the determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 14, 2005.

[FR Doc. 05–14610
Filed 7–21–05; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 70, No. 140
Friday, July 22, 2005

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206–AJ39

Law Enforcement Officer and Firefighter Retirement

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final rules that permit certain police officers with the Metropolitan Washington Airports Authority (MWAA) to elect coverage under the special retirement provisions for law enforcement officers. We are also amending the regulations governing special retirement provisions for law enforcement officers and officers and firefighters employed under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). These changes were made to clarify and interpret previously promulgated regulations.

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

FOR FURTHER INFORMATION CONTACT: Mary Ellen Wilson, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On July 25, 2001, we published (at 66 FR 38524) interim regulations to implement provisions of section 636 of the Treasury and General Government Appropriations Act, 2001, enacted December 21, 2000, which is incorporated by reference as Appendix C to the Consolidated Appropriations Act, 2001, Public Law 106–554 (114 Stat. 2763). Section 636 of the Treasury and General Government Appropriations Act, 2001, permits certain police officers with the Metropolitan Washington Airports Authority (MWAA) to elect coverage under the special retirement provisions for law enforcement officers. The interim rules issued on July 25, 2001, established procedures for these MWAA police officers to elect coverage under the special retirement provisions for law enforcement officers. The interim rule also made other amendments to previously promulgated rules regulating law enforcement officer and firefighter retirement coverage under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

OPM received comments from one Federal agency. The commentor noted that the revised definition of *agency head* at 5 CFR 831.902 and 5 CFR 842.802 deleted language from the second sentence of the definition. Specifically, the phrase ''for provisions dealing with law enforcement officers and firefighters'' was deleted from the definition of *agency head* at 5 CFR 842.802, and the phrase ''or to the deputy department head'' was deleted from the definition of *agency head* at 5 CFR 831.902 and 5 CFR 842.802. The commentor noted that the deletion of these phrases could be interpreted as a new restriction on an agency's ability to delegate decision-making authority. We agree with the commentor. The definition of *agency head* was revised only to clarify and interpret the existing extent of an agency head's authority. We are restoring the deleted language to indicate that the existing ability of an agency head to delegate decision-making authority is unchanged.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect a small number of employees of the Metropolitan Washington Airports Authority.

List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, the interim rule amending 5 CFR parts 831 and 842, which was published at 66 FR 38524 on July 25, 2001, is adopted as a final rule with the following change:

PART 831—RETIREMENT

■ 1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and section 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under section 7(b) and (e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under section 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.301 also issued under section 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and section 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337; Sec. 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1965–1965 Comp. p. 317; Sec. 831.663 also issued under section 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; Sec. 831.912 also issued under section 636 of Appendix C to Pub. L. 106–554, 114 Stat. 2763A–164; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart I—Law Enforcement Officers and Firefighters

■ 2. Amend § 831.902 by revising the definition of *agency head* to read as follows:

§ 831.902 Definitions.

* * * * *

Agency head means, for the executive branch agencies, the head of an

executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For the purpose of an approval of coverage under this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department. For the purpose of a denial of coverage under this subpart, *agency head* is also deemed to include the designated representative of the *agency head*, as defined in the first sentence of this definition, at any level within the agency.

* * * * *

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

■ 3. The authority citation for part 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112, Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec, 842.106 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 aslo issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under section 4005 of Pub. L. 101–239, 103 Stat. 2106 and section 7001 of Pub. L. 101–508, 104 Stat. 1388, subpart H also issued under 5 U.S.C. 1104; sec. 842.810 also issued under Appendix C to Pub. L. 106–554, 114 Stat. 2763A–164.

Subpart H—Law Enforcement Officers, Firefighters, and Air Traffic Controllers

■ 4. Amend § 842.802 by revising the definition of *agency head* to read as follows:

§ 842.802 Definitions

* * * * *

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legialative branch, the Secretary of State, the Clerk of the House of representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For the purpose of an approval of coverage under this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that, for provisions dealing with law enforcement officers and firefighters, the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such represenative for the entire department. For the purpose of a denial coverage under this subpart, *agency head* is also deemed to include the designated representative of the *agency head*, as defined in the first sentence of this definition, at any level within the agency.

* * * * *

[FR Doc. 05–14240 Filed 7–21–05; 8:45 am]

BILLING CODE 6325–39–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. PY–05–001]

RIN 0581–AC44

Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are being increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

DATES: Effective September 25, 2005.

FOR FURTHER INFORMATION CONTACT: David Bowden, Jr., Chief, Standardization Branch, (202) 720–3506.

SUPPLEMENTARY INFORMATION:

Background

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) authorizes official voluntary grading and certification of eggs, poultry, and rabbits on a user-fee basis. The AMA provides that reasonable fees be collected from users of program services to cover, as nearly as practicable, the costs of services rendered. The AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable.

A recent review determined that the existing fee schedule, effective January 1, 2004, would not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance in FY 2006. Costs in FY 2006 are projected at $31.9 million. Without a fee increase, FY 2006 revenues are projected at $30.5 million and trust fund balances would be $14.5 million. With a fee increase, FY 2006 revenues are projected at $31.9 million and trust fund balances would remain at $15.9 million.

Employee salaries and benefits account for approximately 82 percent of the total operating budget. A general and locality salary increase for Federal employees, effective in January 2004, materially affected program costs. Projected cost estimates for that increase were based on a salary increase of 2.0 percent, however, the increase was actually 3.89 to 5.35 percent, depending on locality. The last increase of 3.25 to 4.3 percent, depending on locality, became effective in January 2005 and another increase, estimated at 1.5 percent, is expected in January 2006. Also, from October 2004 through September 2006, salaries and fringe benefits of federally-licensed State employees will have increased by about 6.0 percent. This paragraph, which also appeared in the proposed rule, has been updated to reflect more current information.

The impact of these cost increases was determined for resident, nonresident, and fee services. To offset projected cost increases, the hourly resident and nonresident rate will be increased by approximately 5.8 percent and the fee rate will be increased by

approximately 8.3 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits. The hourly rate for fee service covers graders' salaries and benefits, plus the cost of travel and supervision.

As shown in the table below, the minimum monthly administrative volume charge for resident poultry, shell egg, and rabbit grading will not change.

The following table compares current fees and charges with proposed fees and charges for egg, poultry, and rabbit grading as found in 7 CFR parts 56 and 70:

Service	Current	Proposed
Resident Service (egg, poultry, and rabbit grading)		
Inauguration of service	310	310
Hourly charges:		
Regular hours	34.36	36.36
Administrative charges—Poultry grading:		
Per pound of poultry	.00037	.00039
Minimum per month	260	260
Maximum per month	2,755	2,875
Administrative charges—Shell egg grading:		
Per 30-dozen case of shell eggs	.048	.051
Minimum per month	260	260
Maximum per month	2,755	2,875
Administrative charges—Rabbit grading:		
Based on 25% of grader's salary, minimum per month	260	260
Nonresident Service (egg and poultry grading)		
Hourly charges:		
Regular hours	34.36	36.36
Administrative charges:		
Based on 25% of grader's salary, minimum per month	260	260
Fee and Appeal Service (egg, poultry, and rabbit grading)		
Hourly charges:		
Regular hours	60.00	65.00
Weekend and holiday hours	69.32	75.12

Comments

Based on the analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (70 FR 9883) on March 1, 2005. Comments on the proposed rule were solicited from interested parties until March 31. One comment was received from an egg industry association.

The association acknowledged the Agency's need to increase fees. However, the association requested that the increase be postponed for a period of six months. The commenter stated that an immediate increase would be an added hardship on an already economically depressed industry but, in a few months, industry self-help programs should be up and running. As stated in the proposal, the Agency intended that the fee increase be implemented as early as possible in FY 2006. The closest available billing cycle begins on September 25, 2005. Accordingly, this rule will be effective on that date.

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that this rule will not have a significant economic impact on a substantial number of small entities.

There are about 376 users of Poultry Programs' grading services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if fees are adequate and if costs are reasonable. A recent review determined that the existing fee schedule, effective January 1, 2004, will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance in FY 2006. Costs in FY 2006 are projected at $31.9 million. Without a fee increase, FY 2006 revenues are projected at $30.5 million and trust fund balances would be $14.5 million. With a fee increase, FY 2006 revenues are projected at $31.9 million and trust fund balances would remain at $15.9 million.

This action will raise the fees charged to users of grading services. The AMS estimates that overall, this rule will yield an additional $1,400,000 during FY 2006. The hourly rate for resident and nonresident service will increase by approximately 5.8 percent and the fee rate will increase by approximately 8.3 percent. The impact of these rate changes in a poultry plant will range from about 0.0075 to 0.10 cents per pound of poultry handled. In a shell egg plant, the range will be less than 0.037 to 0.466 cents per dozen eggs handled.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws,

regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

Pursuant to 5 U.S.C. 533, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. The revised fees need to be implemented on an expedited basis in order to avoid further financial losses in the grading program. The effective date of the fee increase, September 25, 2005, will coincide with the first billing period in FY 2006.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, title 7, Code of Federal Regulations, parts 56 and 70 are amended as follows:

PART 56—GRADING OF SHELL EGGS

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. Section 56.46 is revised to read as follows:

§ 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $65.00 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $75.12 per hour. Information on legal holidays is available from the Supervisor.

■ 3. In § 56.52, paragraph (a)(4) is revised to read as follows:

§ 56.52 Continuous grading performed on resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.051, except that the minimum charge per billing period shall be $260 and the maximum charge shall be $2,875. The minimum charge also applies where an approved application is in effect and no product is handled.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

■ 4. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 5. Section 70.71 is revised to read as follows:

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $65.00 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $75.12 per hour. Information on legal holidays is available from the Supervisor.

■ 6. In § 70.77, paragraph (a)(4) is revised to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00039, except that the minimum charge per billing period shall be $260 and the maximum charge shall be $2,875. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: July 19, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–14514 Filed 7–21–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. FV05–983–4 IFR]

Pistachios Grown in California; Establishment of Procedures for Exempting Handlers From Minimum Quality Testing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes procedures for exempting handlers from quality requirements, including maximum limits for quality defects and minimum size, prescribed under the California pistachio marketing order (order). The order regulates the handling of pistachios grown in California and is administered locally by the Administrative Committee for Pistachios (Committee). These procedures will be used by the Committee in considering handler requests for exemptions from minimum quality testing requirements and when considering revocations of such exemptions. Additionally, this rule establishes an appeals process for handlers who have been denied an exemption or had an approved exemption revoked.

DATES: Effective July 23, 2005; comments received by September 20, 2005 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237,

Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov;* or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 983 (7 CFR part 983), regulating the handling of pistachios grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule establishes procedures for use by the Committee in exempting handlers from minimum quality (maximum limits for quality defects and minimum size) testing requirements prescribed under the order. These procedures also will be used by the Committee, or its duly authorized agents, when considering the revocation of exemptions for good cause, and when considering appeals of handlers who have had exemptions denied or revoked.

Section 983.46 of the pistachio order authorizes the Committee to recommend that the Secretary modify or suspend the order provisions contained in §§ 983.38 through 983.45. These sections are scheduled to be implemented on August 1, 2005.

Section 983.41 of the pistachio order authorizes handler exemptions from minimum quality testing requirements for handlers handling less than 1 million pounds of assessed weight pistachios per production year (September 1–August 31) and specifies that the Committee may grant handler exemptions. For the purposes, of this document, the term ''production year'' is synonymous with ''marketing year''.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight (assessed weight) pistachios (dried to 5 percent moisture) during any marketing year from all assessment, aflatoxin, and minimum quality requirements.

Section 983.147 of the pistachio order establishes handler reporting requirements (ACP Forms 2–7) and exempts handlers who handle 1,000 pounds or less of dried weight pistachios from all reporting requirements with the exception of ACP Form-4. Handlers who have handled or intend to handle 1,000 pounds or less of dried weight pistachios during the marketing period (September 1–August 31) must submit ACP Form-4 by November 15 each year to the Committee.

The recommended decision, published on August 4, 2003, (68 FR 45990) indicates that implementing regulations should be effectuated to establish the specific procedures for exempting handlers who handle more than 1,000 pounds and less than 1 million pounds of assessed weight pistachios per production year (September 1–August 31) from minimum quality testing requirements.

Under these authorities, the Committee at its April 12, 2005, meeting, unanimously recommended establishing a new section entitled, ''§ 983.141—Procedures for Exempting Handlers from Minimum Quality Testing'' to specify appropriate exemption, revocation, and appeal procedures. The Committee believes that standardized procedures would ensure that handler requests for exemptions and revocations of such exemptions are treated similarly by the Committee, and ensure that all applicants are treated equitably.

The Committee also recommended that handler exemptions under § 983.41(b) not be granted if a handler failed to file required reports, shipped substandard pistachios, or failed to comply with the requirements specified in § 983.41 on exemptions for minimum quality testing. Revocations of approved exemptions could be implemented by the Committee, or its authorized agents, for the same reasons.

Additionally, the Committee recommended that any handler who believes that he/she has been improperly denied an exemption or improperly had an exemption revoked by the Committee should be allowed to appeal the Committee's action to USDA. The Committee recommended that the USDA review any appeals and determine their merit. All appeals must be submitted in writing and the Committee would provide USDA the complete file on each appeal.

The recommended exemption procedures require the Committee, or its authorized agents, to timely notify all handlers of the opportunity to apply to be exempted from minimum quality testing so that all interested handlers can submit applications on forms provided by the Committee by the August 1 deadline; promptly review all requests for exemption; verify that the quantity of assessed weight pistachios handled by any applicants during the prior production year was less than 1 million pounds of assessed weight and that applicants are in compliance with the order's inspection, quality, and reporting requirements; approve or disapprove requests for exemptions by August 20 of each year; maintain complete files concerning the approval or disapproval of each handler's application; and notify handlers by August 30 of approval or disapproval.

A handler's exemption would be revoked by the Committee, or its duly authorized agents, if the handler fails to provide reports required under this part

or has not complied with the provisions on minimal quantity testing in § 983.41. Additionally, the Committee, or its duly authorized agents, would revoke an approved exemption when a handler audit reveals that a handler has handled a million pounds or more of assessed weight pistachios during the applicable production year. The revocation of a handler's exemption would be made in writing to the handler and specify the reason(s) for and the effective date.

Any handler who believes that he/she has been improperly denied an exemption or improperly had an exemption revoked, may appeal to USDA for reconsideration within 20 days after notification of the Committee's findings. All appeals must be in writing.

The Committee, or its duly authorized agents, shall forward a file with all pertinent information related to the handler's appeal to USDA. USDA shall inform the handler and all interested persons of the Secretary's decision.

As previously mentioned, under § 983.70 of the order, this rule applies to handlers handling more than 1,000 pounds and less than 1 million pounds, because handlers who handle 1,000 pounds or less of dried weight pistachios are exempt from assessment, aflatoxin, and minimum quality requirements and from all reporting requirements under § 983.147 of the order's administrative rules and regulations, with the exception of ACP Form-4.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 24 handlers of California pistachios who are subject to regulation under the order and about 741 producers of pistachios in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA)(13 CFR 121.201) as those having annual receipts of less than $6,000,000 and small agricultural producers are defined as those having annual receipts of less than $750,000. Seventeen of the 24 handlers subject to regulation have annual pistachio receipts of less than $6,000,000. In addition, 722 of the 741 producers have annual receipts less than $750,000. Therefore, a majority of handlers and producers may be classified as small entities under the SBA standards.

This rule establishes procedures for exempting handlers from minimum quality (maximum limits for quality defects and minimum size) testing requirements prescribed under the order. These procedures will be used by the Committee when considering handler requests for exemptions from minimum quality testing requirements and when considering revocations of such exemptions. Additionally, this rule establishes an appeals process for handlers who have been denied an exemption or had an approved exemption revoked.

Section 983.41(a) of the pistachio order allows handlers handling less than 1 million pounds of assessed weight pistachios each production year (September 1–August 31) to use optional aflatoxin testing methods. The optional methods permit the sampling and testing of a handler's entire inventory before further processing, and allow handlers to segregate their receipts into various lots for sampling and testing.

Section 983.41(b) of the pistachio order authorizes handler exemptions from minimum quality testing for handlers handling less than 1 million pounds of assessed weight pistachios per production year and specifies that the Committee may grant such handler exemptions.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight (assessed weight) pistachios (dried to 5 percent moisture) during any marketing year from all assessment, aflatoxin, and minimum quality requirements. For the purposes of this document, the term ''marketing year'' is synonymous with the term ''production year'' and covers the period September 1 through August 31.

The recommended decision, published on August 4, 2003, (68 FR 45990) indicated that implementing regulations should be effectuated to establish the specific procedures for exempting handlers who handle more than 1,000 pounds and less than 1 million pounds of assessed weight pistachios per production year (September 1–August 31) from minimum quality testing requirements.

Under these authorities, the Committee at its April 12, 2005, meeting, unanimously recommended establishing standardized procedures for granting and revoking handler exemption requests, and considering handler appeals on exemption decisions. This action will have a positive impact on small and large handlers by assuring that all exemption applications and reviews are handled following standardized procedures.

The Committee discussed alternatives to this change, including not making any changes, but determined that specific procedures were needed to facilitate: (1) Exempting handlers from minimum quality testing; (2) revoking exemptions when handlers violate the marketing order; and (3) processing appeals to the Committee's actions. These procedures are expected to ensure that all such requests are treated equitably. The Committee vote was 8 in favor, 0 opposed, and 0 abstained.

The information collection requirements for the ACP Form-5, which handlers will complete and forward to the Committee to request exemption from minimum quality requirements under the order, was previously submitted to the Office of Management and Budget (OMB) and approved under OMB No. 0581–0230. Thus, this action will not impose any additional reporting or recordkeeping requirements on either small or large pistachio handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meetings are widely publicized throughout the pistachio industry and all interested persons are invited to attend the meetings and participate in the Committee's deliberations. Like all Committee meetings, the April 12, 2005, meeting was a public meeting and all entities, both large and small, were able to express their views on these issues.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the establishment of minimum quality testing exemption procedures under the order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action provides procedures to facilitate the review and approval of minimum quality testing exemption requests, denials and revocations of such exemptions, and subsequent appeals, if submitted; (2) the Committee unanimously recommended the procedures at a public meeting and interested parties had an opportunity to provide input; (3) handlers are required to file the exemption form with the Committee by August 1 of each year; and (4) this rule provides for a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 983

Pistachios, Marketing agreements and orders, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 983 is amended as follows:

PART 983—PISTACHIOS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 983 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In part 983, § 983.141 is added to Subpart-Rules and Regulations to read as follows:

§ 983.141 Procedures for exempting handlers from minimum quality testing.

(a) *Exemption procedures.* The Committee, or its duly authorized agents, shall notify all handlers each year of the opportunity to apply to be exempted from minimum quality testing and handlers shall submit such requests on forms furnished by the Committee. The deadline for submission shall be August 1. The Committee, or its duly authorized agents, shall:

(1) Promptly review all exemption applications received. In reviewing applications for exemption, the Committee, or its duly authorized agents, shall determine that the quantity of assessed weight pistachios handled during the prior production year was less than 1 million assessed weight pounds and that the applicants are in compliance with the order's reporting requirements and the provisions of § 983.41. Handler compliance will be determined through handler audits;

(2) Complete the review and approve or disapprove requests for exemptions by August 20;

(3) Maintain complete files detailing the reason(s) for the approval or disapproval of each application for at least three years beyond the crop year of applicability; and

(4) Notify in writing all applicants by August 30 of the approval or disapproval of their requests together with the reason(s) for disapproval, if applicable.

(b) *Revocation of exemptions.* A handler's exemption shall be revoked by the Committee, or its duly authorized agents, if the handler fails to provide reports required under § 983.147, or has not complied with the provisions on minimal quality testing in § 983.41, of this part. Additionally, the Committee, or its duly authorized agents, shall revoke an approved exemption when a handler audit reveals that a handler has handled a million pounds or more of assessed weight pistachios during the current production year. The revocation of a handler's exemption shall be made in writing to the handler and shall specify the reason(s) for and the effective date.

(c) *Appeals.* (1) Any handler who believes that he/she has been improperly denied an exemption or improperly had an exemption revoked, may appeal to the Secretary, within 20 days after notification of the Committee's, or agents of the Committee's, decisions. All appeals shall be in writing. When requested by the Secretary, the Committee, or its duly authorized agents, shall forward a file with all pertinent information related to any handler appeal. The Secretary shall inform the handler and all interested persons of the Secretary's decision.

(2) If handlers do not file an appeal or if their appeal is denied by the Secretary, they shall present all remaining lots of pistachios in inventory for minimum quality testing before moving the pistachios into the channels of commerce.

Dated: July 18, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–14513 Filed 7–19–05; 1:38 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 04–068–1]

Tuberculosis in Cattle and Bison; State and Zone Designations; New Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the bovine tuberculosis regulations regarding State and zone classifications by removing New Mexico from the list of modified accredited advanced States, adding portions of two counties in New Mexico to the list of modified accredited advanced zones, and adding the remainder of the State to the list of accredited-free zones. We are taking this action based on our determination that New Mexico meets the requirements of the regulations for zone recognition and that one of the zones meets the criteria for designation as accredited-free.

DATES: This interim rule is effective July 22, 2005. We will consider all comments that we receive on or before September 20, 2005.

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

- EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–068–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state your comment refers to Docket No. 04–068–1.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. M.J. Gilsdorf, Director, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is a contagious and infectious granulomatous disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other warm-blooded species, including humans. Tuberculosis in infected animals and humans manifests itself in lesions of the lung, lymph nodes, bone and other body parts, causes weight loss and general debilitation, and can be fatal. At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock. Through this program, the Animal and Plant Health Inspection Service (APHIS) works cooperatively with the national livestock industry and State animal health agencies to eradicate tuberculosis from domestic livestock in the United States and prevent its recurrence.

Federal regulations implementing this program are contained in 9 CFR part 77, ''Tuberculosis'' (referred to below as the regulations), and in the ''Uniform Methods and Rules-Bovine Tuberculosis Eradication'' (UMR), which is incorporated by reference into the regulations. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis. Subpart B of the regulations contains requirements for the interstate movement of cattle and bison not known to be infected with or exposed to tuberculosis. The interstate movement requirements depend upon whether the animals are moved from an accredited-free State or zone, modified accredited advanced State or zone, modified accredited State or zone, accreditation preparatory State or zone, or nonaccredited State or zone.

Conditions for Zone Recognition

Under §§ 77.3 and 77.4 of the regulations, in order to qualify for zone classification by APHIS, the State must meet the following requirements:

1. The State must have adopted and must be enforcing regulations that impose restrictions on the intrastate movement of cattle, bison, and captive cervids that are substantially the same as those in place in part 77 for the interstate movement of those animals.
2. The designation of part of a State as a zone must otherwise be adequate to prevent the interstate spread of tuberculosis.
3. The zones must be delineated by the animal health authorities in the State making the request for zone recognition and must be the APHIS Administrator.
4. The request for zone classification must demonstrate that the State has the legal and financial resources to implement and enforce a tuberculosis eradication program and has in place an infrastructure, laws, and regulations that require and ensure that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife.
5. The request for zone classification must demonstrate that the State maintains, in each intended zone, clinical and epidemiological surveillance of animal species at risk of tuberculosis, at a rate that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing.
6. The State must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request.

Request for Split-State Status in New Mexico

The State of New Mexico has been classified as modified accredited advanced for cattle and bison. However, we have received from the State of New Mexico a request for zone recognition in which State animal health officials have demonstrated that New Mexico meets the requirements listed above for the requested zone designation. Therefore, in this interim rule, we are recognizing two zones in New Mexico as described below.

1. The smaller of the two zones consists of portions of Curry and Roosevelt Counties, NM.
2. The second zone in New Mexico consists of the rest of the State.

With regard to cattle and bison, State animal health officials in New Mexico have demonstrated to APHIS that, except for the smaller zone, New Mexico meets the criteria for accredited-free status set forth in the definition of *accredited-free State or zone* in § 77.5 of the regulations. In accordance with those conditions, New Mexico has demonstrated that the larger zone has zero percent prevalence of affected cattle or bison herds and has had no findings of tuberculosis in any cattle or bison herds for the last 5 years. Additionally, the State complies with the conditions of the UMR.

State animal health officials in New Mexico have demonstrated that the smaller zone meets the criteria for modified accredited advanced status for cattle and bison set forth in the definition of *modified accredited advanced State or zone* in § 77.5 of the regulations. According to those criteria, the Administrator, upon his or her review, may classify a State or zone as modified accredited advanced—depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone—if the State or zone has fewer than 30,000 herds total and, of those, no more than 3 are affected herds for each of the most recent 2 years. Within the smaller zone in New Mexico, there are two tuberculosis-affected cattle herds and New Mexico is conducting an aggressive program to eradicate the disease in the zone. There are no known affected herds in the remainder of the State. Under those conditions, the Administrator has determined that the smaller zone in New Mexico qualifies for modified accredited advanced status with regard to cattle and bison.

Providing zone recognition for New Mexico will allow cattle producers in the State's accredited-free zone to move their cattle without a tuberculosis test, thus saving time and money. This action will therefore relieve restrictions that are no longer warranted, and facilitate further efforts of the National Tuberculosis Eradication Program.

Emergency Action

This rulemaking is necessary on an emergency basis to establish two zones with separate tuberculosis risk classifications in New Mexico with regard to cattle and bison. Failure to

provide ''split-State status'' in New Mexico with regard to tuberculosis on an emergency basis could increase the likelihood of the spread of that disease by reducing the incentive for New Mexico to stringently restrict movement of tuberculosis-susceptible animals from high-risk areas within the State and to implement effective containment and eradication measures. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

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

Executive Order 12866 and Regulatory Flexibility Act

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.

We are amending the bovine tuberculosis regulations regarding State and zone classifications by removing New Mexico from the list of modified accredited advanced States, adding portions of two counties in New Mexico to the list of modified accredited advanced zones, and adding the remainder of the State to the list of accredited-free zones. We are taking this action based on our determination that New Mexico meets the requirements of the regulations for zone recognition and that one of the zones meets the criteria for designation as accredited-free.

In 2001, there were approximately 8,500 cattle and bison operations in New Mexico, totaling 1.58 million head. According to the National Agricultural Statistics Service, the Total cash value of cattle in New Mexico was over $1.3 billion as of that year. Over 92 percent of New Mexico's cattle operations yield less than $750,000 annually and are, therefore, considered small entities under criteria established by the Small Business Administration.

New Mexico is currently listed as a modified accredited advanced State. This status requires that cattle, bison, dairy goats, and cervids be tested for tuberculosis before they are moved interestate, unless the animals are from an accredited-free herd. This rule will reclassify nearly all of the counties in New Mexico as accredited-free zones. Only a portion of land lying within Roosevelt and Curry Counties will be classified as a modified accredited advanced zone. Thus, ruminants moved to other States from New Mexico's accredited-free zone will not require testing for tuberculosis prior to movement. Tuberculin testing, including veterinary fees and handling expenses, costs about $7.50 to $10 per test. Owners of these animals (other than owners of previously accredited-free herds) will therefore benefit by no longer having to bear the cost of the tuberculosis test. New Mexico producers can be expected to collectively save between $590,000 and $985,000 as a result of the upgrade in zone recognition.

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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict 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 rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

■ Accordingly, we are amending 9 CFR part 77 as follows:

PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 77.7, paragraph (b) is revised to read as follows:

§ 77.7 Accredited-free States or zones.

* * * * *

(b) The following are accredited-free zones: All of the State of New Mexico except for the zone that comprises those portions of Curry and Roosevelt Counties, NM, described in § 77.9(b)(2).

* * * * *

■ 3. In § 77.9, paragraphs (a) and (b) are revised to read as follows:

§ 77.9 Modified accredited advanced States or zones.

(a) The following are modified accredited advanced States: California and Texas.

(b) The following are modified accredited advanced zones:

(1) All of the State of Michigan except for the zone that comprises those counties or portions of counties in Michigan described in § 77.11(b).

(2) The zone in New Mexico that comprises those portions of Curry and Roosevelt Counties, NM, described as follows:

(i) *Curry County* (A) In T. 1 N., R. 34 E., of the New Mexico Prime Meridian (NMPM): S½ sec. 1; S½ sec. 2; SW¼ sec. 3; SE¼ sec. 4; W½ sec. 5; W½SE¼ sec. 8; S½NE¼ sec. 9; secs. 10 through 17; secs. 20 through 29; secs. 32 through 36.

(B) In T. 1 N., R. 35 E., of the NMPM: S½ sec. 6; secs. 7 through 9; S½ sec. 10; secs. 15 through 22; W½ sec. 23; W½ sec. 26; secs. 27 through 35.

(ii) *Roosevelt County.* (A) In T. 1 S., R. 34 E., of the NMPM: Secs. 1 through 5; secs. 9 through 14; secs. 23 through 26; secs. 35 through 36.

(B) In T. 1 S., R. 35 E., of the NMPM: Secs. 2 through 10; secs. 15 through 22; SW¼ sec. 23; W½SE¼ sec. 26; secs. 27 through 35.

(C) In T. 2 S., R. 34 E., of the NMPM: Secs. 1 and 2; secs. 11 through 13; N½SE¼ sec. 14; N½SW¼ sec. 23; N½SE¼ sec. 24.

(D) In T. 2 S., R. 35 E., of the NMPM: Secs. 2 through 11; secs. 14 through 21; N½SW¼ sec. 22; N½NW¼ sec. 23; W½ sec. 30.

* * * * *

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–14445 Filed 7–20–05; 10:42 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–129–AD; Amendment 39–14190; AD 2005–15–01]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

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

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that requires repetitive inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane; corrective actions if necessary; and incorporation of certain structural modifications. This action is necessary to prevent corrosion or fatigue cracking of certain structural elements, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective August 26, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 26, 2005.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Centers, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: William Herderich, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6082; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Lockheed Model L–1011–385 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on December 16, 2004 (69 FR 75282). That action proposed to require repetitive inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane; corrective actions if necessary; and incorporation of certain structural modifications.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Separate Service Bulletins into Two Tables

One commenter requests that Table 1—Compliance Times be split into two tables—an inspection table (Table I) and an inspection/modification table (Table II)—similar to that in Lockheed Tristar L–1011 Service Bulletin 093–51–041, Revision 1, dated March 3, 2000 (referenced in the supplemental NPRM as an appropriate source of service information; hereafter called the ''Collector Service Bulletin''). The commenter believes that Table 1 of the supplemental NPRM implies that all listed service bulletins have a terminating modification, which would cause confusion. Whereas Table I lists service bulletins with no terminating action in most cases, and Table II lists service bulletins with terminating actions.

We partially agree. We do not agree that Table 1 of the AD should be split into two tables. As explained in the preamble of the supplemental NPRM, we revised the original NPRM by adding Table 1 for the sole purpose of listing the compliance times for each individual service bulletin listed in Tables I and II of the referenced Lockheed service bulletin. We made this change based on commenters' requests to clarify the compliance times. We agree with the commenter that operators could misinterpret that all service bulletins listed in Table 1 have a terminating modification. Therefore, we have revised Table 1 of the AD by adding a new column ''Terminating Action'' to identify service bulletins that have a terminating modification.

Request To Include Revision Level of Service Bulletin

One commenter notes that the service bulletin date (*i.e.*, 093–53–054, dated August 12, 1975) identified in paragraph (a)(8) of the supplemental NPRM corresponds to Revision 1 of the service bulletin, not the original issue as indicated.

From this comment, we infer that the commenter is requesting clarification. The commenter is correct that the service bulletin reference should have included ''Revision 1.'' We have revised paragraph (a)(8) of the final rule accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the supplemental NPRM regarding that material.

Cost Impact

There are approximately 125 airplanes of the affected design in the worldwide fleet. The FAA estimates that 49 airplanes (7 in-service and 42 in storage) of U.S. registry will be affected by this AD. Few, if any of the 42 airplanes in storage, will be returned to service due to the economic feasbility of operating and maintaining older technology airplanes. Therefore, the cost estimate below is based on the 7 in-service airplanes.

It will take approximately 32 work hours per airplane (for actions specified in Table I of the Collector Service Bulletin) and 97 work hours per airplane (for actions specified in Table II of the Collector Service Bulletin) to accomplish the required inspections, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $14,560, or $2,080 per airplane, per inspection cycle (for Table I), and $44,135, or $6,305 per airplane, per inspection cycle (for Table II).

It will take approximately 614 work hours per airplane to accomplish the required modifications, at an average labor rate is $65 per work hour. Required parts will cost approximately $142,275 per airplane. Based on these figures, the cost impact of the proposed

AD on U.S. operators is estimated to be $1,275,295, or $182,185 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Authority for This Rulemaking

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

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

Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 the following new airworthiness directive:

2005–15–01 Lockheed: Amendment 39–14190. Docket 99–NM–129–AD.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion or fatigue cracking of certain structural elements, which could result in reduced structural integrity of the airplane, accomplish the following:

Inspections

(a) At the time specified in the ''Initial Compliance Time'' column of Table 1 of this AD, perform structural inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane, in accordance with the applicable service bulletins listed under ''Service Bulletin Number, Revision, and Date'' in Tables I and II of Lockheed Tristar L–1011 Service Bulletin 093–51–041, Revision 1, dated March 3, 2000. Thereafter, repeat the inspections at intervals specified in the ''Repetitive Intervals'' column of Table 1 of this AD.

TABLE 1.—COMPLIANCE TIMES

Lockheed TriStar L–1011 service bulletin	Initial compliance time (whichever occurs later between the times in ''inspection threshold'' and ''grace period'')		Repetitive intervals	Terminating action
	Inspection threshold	Grace period		
(1) 093–53–269, Revision 1, dated October 28, 1997.	Before the accumulation of 8,000 total flight cycles or 15,000 total flight hours, whichever occurs first.	Within 6,450 flight cycles or 5 years after the effective date of this AD, whichever occurs first.	At intervals not to exceed 6,450 flight cycles or 5 years, whichever occurs first.	(None).
(2) 093–53–274, dated May 28, 1997.	Within 14 months after the effective date of this AD.	(None)	At intervals not to exceed 14 months.	(None).
(3) 093–53–275, dated December 10, 1996.	Within 6,450 flight cycles or 5 years after the effective date of this AD, whichever occurs first.	(None)	(None)	(None).
(4) 093–53–276, dated June 17, 1996.	At the next Corrosion Prevention and Control Program (CPCP) inspection after the effective date of this AD.	(None)	At intervals not to exceed the next CPCP inspection.	(None).

TABLE 1.—COMPLIANCE TIMES—Continued

Lockheed TriStar L–1011 service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals	Terminating action
	Inspection threshold	Grace period		
(5) 093–57–085, Revision 1, dated December 1, 1997.	Before the accumulation of 26,000 total flight cycles or 48,000 total flight hours, whichever occurs first.	Within 1,800 flight cycles or 3,300 flight hours after the effective date of this AD, whichever occurs first.	At intervals not to exceed 1,800 flight cycles or 3,300 flight hours, whichever occurs first.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–57–085, Basic Issue, dated May 7, 1993; or Revision 1, dated December 1, 1997.
(6) 093–57–208, Revision 1, dated October 28, 1997.	Before the accumulation of 18,000 total flight cycles.	Within 6,450 flight cycles or 5 years after the effective date of this AD, whichever occurs first.	At intervals not to exceed 6,450 flight cycles or 5 years, whichever occurs first.	(None).
(7) 093–52–210, dated July 19, 1991.	Within 5,000 flight hours or 18 months after the effective date of this AD, whichever occurs first.	(None)	(None)	(None).
(8) 093–53–054, Revision 1, dated August 12, 1975.	Within 6,450 flight cycles or 5 years after the effective date of this AD, whichever occurs first.	(None)	(None)	(None).
(9) 093–53–070, Revision 3, dated September 19, 1989.	Before the accumulation of 6,000 total flight hours.	Within 1,500 flight hours after the effective date of this AD.	At intervals not to exceed 3,000 flight hours.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–53–070, Basic Issue, dated September 26, 1974; Revision 1, dated January 23, 1975; Revision 2, dated July 7, 1975; or Revision 3, dated September 19, 1989.
(10) 093–53– 085, Revision 3, dated December 15, 1989.	Part I: Before the accumulation of 20,000 flight cycles or 37,000 total flight hours, whichever occurs first.	Part I: Within 1,600 flight cycles or 3,000 flight hours after the effective date of this AD, whichever occurs first.	Part I: At intervals not to exceed 1,600 flight cycles or 3,000 flight hours, whichever occurs first.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–53–085, Basic Issue, dated September 29, 1975; Revision 1, dated September 3, 1976; or Revision 2, dated February 8, 1988.
	Part II: Before the accumulation of 30,000 flight cycles or 55,000 total flight hours, whichever occurs first.	Part II: Within 5,000 flight cycles or 9,200 flight hours after the effective date of this AD, whichever occurs first.	Part II: At intervals not to exceed 5,000 flight cycles or 9,200 flight hours, whichever occurs first.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–53–085, Basic Issue, dated September 29, 1975; Revision 1, dated September 3, 1976; or Revision 2, dated February 8, 1988.
(11) 093–53– 086, Revision 5, dated April 12, 1990.	Before the accumulation of 9,000 flight cycles or 10,000 flight hours, whichever occurs first.	Within 1,600 flight cycles or 3,000 flight hours after the effective date of this AD, whichever occurs first.	At intervals not to exceed 1,600 flight cycles or 3,000 flight hours, whichever occurs first.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–53–086, Basic Issue, dated September 26, 1975; Revision 1, dated November 12, 1975; Revision 2, dated December 12, 1976; Revision 3, dated July 19, 1977; Revision 4, dated July 8, 1985; or Revision 5, dated April 12, 1990.
(12) 093–53–110, Revision 1, dated May 7, 1993.	Before the accumulation of 22,000 total flight cycles or 40,000 total flight hours, whichever occurs first.	Within 2,200 flight cycles or 4,000 flight hours after the effective date of this AD, whichever occurs first.	At intervals not to exceed 2,200 flight cycles or 4,000 flight hours, whichever occurs first.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–53–110, Basic Issue, dated August 19, 1991; or Revision 1, dated May 7, 1993.

TABLE 1.—COMPLIANCE TIMES—Continued

Lockheed TriStar L–1011 service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals	Terminating action
	Inspection threshold	Grace period		
(13) Change Notification 093–53–260, CN4, dated May 8, 1998.	Before the accumulation of 8,000 total flight cycles or 20,000 total flight hours, whichever occurs first.	Within 800 flight cycles or 1,500 flight hours after the effective date of this AD, whichever occurs first.	At intervals not to exceed 800 flight cycles or 1,500 flight hours, whichever occurs first.	Inspection and modification in accordance with Part 2.A. of Lockheed TriStar L–1011 Service Bulletin 093–53–260, Basic Issue, dated May 15, 1991.
(14) Change Notification 093–53–266, CN1, dated July 10, 1992.	Within 12 months after the effective date of this AD.	(None)	At intervals not to exceed 90 days.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–53–266, Basic Issue, dated March 2, 1992.
(15) Change Notification 093–57–058, R5–CN1, dated May 3, 1993.	Before the accumulation of 20,000 total flight cycles or 37,000 total flight cycles or 37,000 total flight hours, whichever occurs first.	Within 1,600 flight cycles or 3,000 flight hours after the effective date of this AD, whichever occurs first.	At intervals not to exceed 1,600 flight cycles or 3,000 flight hours, whichever occurs first.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–57–058, Basic Issue, dated September 16, 1975; Revision 1, dated December 1, 1976; Revision 2, dated June 30, 1978; Revision 3, dated October 19, 1978; or Revision 4, dated July 6, 1981, Revision 5, dated June 9, 1983.
(16) Change Notification 093–57–195, R3–CN1, dated August 22, 1995.	For airplanes having serial numbers (S/N) 1002 through 1109 inclusive: Before the accumulation of 20,000 total flight cycles. For airplanes having S/Ns 1110 through 1250 inclusive: Before the accumulation of 30,000 total flight cycles.	Within 2,200 flight cycles after the effective date of this AD.	At intervals not to exceed 2,200 flight cycles.	Modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–57–195, Revision 2, dated July 27, 1990; or Revision 3, dated June 30, 1992.
(17) Change Notification 093–57–213, CN1, dated February 20, 1996.	For Model L–1011–385–1, L–1011–385–1–14, L–1011–385–1–15: Before the accumulation of 15,000 total flight cycles. For Model L–1011–385–3: Before the accumulation of 10,000 total flight cycles.	Within 6,450 flight cycles or 5 years after the effective date of this AD, whichever occurs first.	At intervals not to exceed 6,450 flight cycles or 5 years, whichever occurs first.	Repair or modification in accordance with Lockheed TriStar L–1011 Service Bulletin 093–57–213, Basic Issue, dated December 9, 1994.

Corrective Action

(b) If any cracking or corrosion is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the actions specified in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD.

(1) Repair in accordance with the applicable service bulletin referenced in Table I or II of Lockheed Tristar L–1011 Service Bulletin 093–51–041, Revision 1, dated March 3, 2000.

(2) Repair in accordance with the applicable section of the Lockheed L–1011 Structural Repair Manual.

(3) Accomplish the terminating modification in accordance with the applicable service bulletin referenced in Table I or II of Lockheed Tristar L–1011 Service Bulletin 093–51–041, Revision 1, dated March 3, 2000.

(4) Repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA.

Terminating Action

(c) Within 5 years or 5,000 flight cycles after the effective date of this AD, whichever occurs first, install the terminating modification referenced in the applicable service bulletin listed in Table 1 of this AD, per the applicable service bulletin. Such installation constitutes terminating action for the applicable structural inspection required by paragraph (a) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) You must use the applicable service bulletins listed in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Martin Aircraft & Logistics Centers, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Service bulletin	Effective pages	Revision level shown on page	Date
(1) Lockheed TriStar L–1011 Service Bulletin 093–51–041, Revision 1, dated March 3, 2000.	1–13	1	March 3, 2000.
(2) Lockheed TriStar L–1011 Service Bulletin 093–57–085, Revision 1, dated May 7, 1993.	1–17	Basic Issue	May 7, 1993.
(3) Lockheed TriStar L–1011 Service Bulletin 093–57–085, Revision 1, dated December 1, 1997.	1–7, 9, 10	1	December 1, 1997.
	8, 11–7	Basic Issue	May 7, 1993.
(4) Lockheed TriStar L–1011 Service Bulletin 093–53–070, Basic Issue, dated September 26, 1974.	1–15	Basic Issue	September 26, 1974.
(5) Lockheed TriStar L–1011 Service Bulletin 093–53–070, Revision 1, dated January 23, 1975.	1, 4–7, 13–17	1	January 23, 1975.
	2, 3, 8–12	Basic Issue	September 26, 1974.
(6) Lockheed TriStar L–1011 Service Bulletin 093–53–070, Revision 2, dated July 7, 1975.	1, 2, 7, 9–14	2	July 7, 1975.
	3, 8	Basic Issue	September 26, 1974.
	4–6, 15–17	1	January 23, 1975.
(7) Lockheed TriStar L–1011 Service Bulletin 093–53–070, Revision 3, dated September 19, 1989.	1–6, 8–10	3	September 19, 1989.
	7	Basic Issue	September 26, 1974.
(8) Lockheed TriStar L–1011 Service Bulletin 093–53–085, Basic Issue, dated September 29, 1975.	1–16	Basic Issue	September 29, 1975.
(9) Lockheed TriStar L–1011 Service Bulletin 093–53–085, Revision 1, dated September 3, 1976.	1–3, 6, 9–11, 15	1	September 3, 1976.
	4, 5, 7, 8, 12–14, 16	Basic Issue	September 29, 1975.
(10) Lockheed TriStar L–1011 Service Bulletin 093–53–085, Revision 2, dated February 8, 1988.	1–23	2	February 8, 1988.
(11) Lockheed TriStar L–1011 Service Bulletin 093–53–086, Basic Issue, dated September 26, 1975.	1–16	Basic Issue	September 26, 1975.
(12) Lockheed TriStar L–1011 Service Bulletin 093–53–086, Revision 1, dated November 12, 1975.	1, 2, 11, 15	1	November 12, 1975.
	3–10, 12–14, 16	Basic Issue	September 26, 1975.
(13) Lockheed TriStar L–1011 Service Bulletin 093–53–086, Revision 2, dated December 12, 1976.	1, 2, 7, 15, 16	2	December 12, 1976.
	3–6, 8–10, 12–14	Basic Issue	September 26, 1975.
	11	1	November 12, 1975.
(14) Lockheed TriStar L–1011 Service Bulletin 093–53–086, Revision 3, dated July 19, 1977.	1, 2, 4, 7, 10, 11, 15	3	July 19, 1977.
	3, 5, 6, 8, 9, 12–14	Basic Issue	September 26, 1975.
	16	2	December 12, 1976.
(15) Lockheed TriStar L–1011 Service Bulletin 093–53–086, Revision 4, dated July 8, 1985.	1–4, 15, 16	4	July 8, 1985.
	5, 6, 8, 9, 12–14	Basic Issue	Sepember 26, 1975.
	7, 10, 11	3	July 19, 1977.
(16) Lockheed TriStar L–1011 Service Bulletin 093–53–086, Revision 5, dated April 12, 1990.	1–9, 13	5	April 12, 1990.
	10–12	Basic Issue	September 26, 1975.
	14	4	July 8, 1985.
(17) Lockheed TriStar L–1011 Service Bulletin 093–53–110, Basic Issue, dated August 19, 1991.	1–10	Basic Issue	August 19, 1991.
(18) Lockheed TriStar L–1011 Service Bulletin 093–53–110, Revision 1, dated May 7, 1993.	1–7, 9–12	1	May 7, 1993.
	8	Basic Issue	August 19, 1991.
(19) Lockheed TriStar L–1011 Service Bulletin 093–53–260, Basic Issue, dated May 15, 1991.	1–26	Basic Issue	May 15, 1991.
(20) Lockheed TriStar L–1011 Service Bulletin 093–53–266, Basic Issue, dated March 2, 1992.	1–17	Basic Issue	March 2, 1992.
(21) Lockheed TriStar L–1011 Service Bulletin 093–57–058, Basic Issue, dated September 16, 1975.	1–19	Basic Issue	September 16, 1975.
(22) Lockheed TriStar L–1011 Service Bulletin 093–57–058, Revision 1, dated December 1, 1976.	1, 2, 4, 7, 8, 11, 15–19	1	December 1, 1976.
	3, 5, 6, 9, 10, 12–14	Basic Issue	September 16, 1975.
(23) Lockheed TriStar L–1011 Service Bulletin 093–57–058, Revision 2, dated June 30, 1978.	1–4, 7, 8, 11, 15–19	2	June 30, 1978.
	5, 6, 9, 10, 12–14	Basic Issue	September 16, 1975.
(24) Lockheed TriStar L–1011 Service Bulletin 093–57–058, Revision 3, dated October 19, 1978.	1–3, 7, 8, 11, 15–19	3	October 19, 1978.
	4	2	June 30, 1978.
	5, 6, 9, 10, 12–14	Basic Issue	September 16, 1975.
(25) Lockheed TriStar L–1011 Service Bulletin 093–57–058, Revision 4, dated July 6, 1981.	1–3, 19	4	July 6, 1981.
	4, 15	2	June 30, 1978.
	5, 6, 9, 10, 12–14	Basic Issue	September 16, 1975.
	7, 8, 11, 16–18	3	October 19, 1978.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE—Continued

Service bulletin	Effective pages	Revision level shown on page	Date
(26) Lockheed TriStar L–1011 Service Bulletin 093–57–058, Revision 5, dated June 9, 1983.	1, 3, 4, 7	5	June 9, 1983.
	2	4	July 6, 1981.
	5, 6, 9, 10, 12–14	Basic Issue	September 16, 1975.
	8, 11, 16–19	3	October 19, 1978.
	15	2	June 30, 1978.
(27) Lockheed TriStar L–1011 Service Bulletin 093–53–070, Revision 2, dated July 27, 1990.	1–51	2	July 27, 1990.
(28) Lockheed TriStar L–1011 Service Bulletin 093–53–070, Revision 3, dated June 30, 1992.	1–6, 23–28, 33, 34, 41, 42, 45–52.	3	June 30, 1992.
	7–22, 29–32, 35–40, 43, 44	2	July 27, 1990.
(29) Lockheed TriStar L–1011 Service Bulletin 093–53–070, Basic Issue, dated December 9, 1994.	1–19	Basic Issue	December 9, 1994.

Effective Date

(g) This amendment becomes effective on August 26, 2005.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14089 Filed 7–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20867; Directorate Identifier 2004–NM–188–AD; Amendment 39–14194; AD 2005–15–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes)

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A300–600 series airplanes. This AD requires an inspection for evidence of chafing between the hydraulic flexible hose and the ram air turbine (RAT) hub, and related investigative and corrective actions if necessary. This AD is prompted by reports of holes in the RAT hub cover. We are issuing this AD to prevent a hole in the RAT hub cover. A hole in the RAT hub cover could allow water to enter the RAT governing mechanism, freeze during flight, and jam the governing mechanism. In addition, the metal particles that result from chafing between the hydraulic flexible hose and the RAT could mix with the lubricant grease and degrade the governing mechanism. In an emergency, a jammed or degraded RAT could result in its failure to deploy, loss of hydraulic pressure or electrical power to the airplane, and consequent reduced controllability of the airplane.

DATES: This AD becomes effective August 26, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of August 26, 2005.

ADDRESSES: For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2005–20867; the directorate identifier for this docket is 2004–NM–188–AD.

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes). That action, published in the Federal Register on April 6, 2005 (70 FR 17340), proposed to require an inspection for evidence of chafing between the hydraulic flexible hose and the ram air turbine (RAT) hub, and related investigative and corrective actions if necessary.

Comments

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

Request To Revise Compliance Time

The commenter requests that the compliance time be revised from the proposed 2,500 flight hours after the effective date of the AD to 15 months after the effective date of the AD. However, the commenter acknowledges that the 2,500-flight-hour compliance time should be sufficient for the 12 U.S.-registered airplanes to receive the required inspection. The commenter notes that revising the compliance time would allow the proposed inspection to be accomplished during a regularly scheduled C-check. The commenter notes that it has no affected airplanes in its fleet. The commenter also states that, based on its experience, replacing the RAT would take about 3 hours.

We do not concur with the commenter's request to revise the compliance time. In developing an appropriate compliance time for this AD, we considered the manufacturer's recommendation; the recommendation of the Direction Générale de l'Aviation Civile, which is the airworthiness authority for France; the degree of urgency associated with the subject unsafe condition; the average utilization of the affected fleet; the maintenance schedules of the majority of affected operators; and the time necessary to perform the inspection (1 work hour). In light of all of these factors, we find that a 2,500-flight-hour compliance time represents an appropriate interval of

time for affected airplanes to continue to operate without compromising safety. We have determined that this compliance time will also allow the majority of affected operators to comply with the requirements of this AD at a scheduled maintenance visit. We have not changed the AD in this regard.

We acknowledge the commenter's estimate that replacing the RAT would take about 3 hours. However, the economic analysis of an AD is limited to the cost of actions that are actually required. The economic analysis does not consider the costs of conditional actions, such as replacing the RAT if damage found during the required inspection exceeds the limits specified in the Airbus A300–600 Component Maintenance Manual. Such conditional corrective action would be required—regardless of AD direction—to correct an unsafe condition identified in an airplane and to ensure that the airplane is operated in an airworthy condition, as required by the Federal Aviation Regulations. We have not changed the AD in this regard.

Explanation of Change to Applicability

We have revised the applicability of this AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Explanation of Additional Change to Final Rule

We have revised paragraph (f) of this AD to correct a typographical error. (In one place, the proposed AD contained the term ''RAMs'' instead of ''RATs.'')

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	1	$65	None required	$65	12	$780
Rework binding	1	65	None required	65	12	780

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–15–05 Airbus: Amendment 39–14194. Docket No. FAA–2005–20867; Directorate Identifier 2004–NM–188–AD.

Effective Date

(a) This AD becomes effective August 26, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; certificated in any category; having serial numbers 0812, 0813, 0815 through 0818 inclusive, 0821 through 0828 inclusive, and 0836 through 0838 inclusive.

Unsafe Condition

(d) This AD was prompted by reports of holes in the ram air turbine (RAT) hub. We are issuing this AD to prevent a hole in the RAT hub cover. A hole in the RAT hub cover could allow water to enter the RAT governing mechanism, freeze during flight, and jam the governing mechanism. In addition, the metal particles that result from chafing between the hydraulic flexible hose and the RAT could mix with the lubricant grease and degrade the governing mechanism. In an emergency, a jammed or degraded RAT could result in failure of RAT deployment, loss of hydraulic pressure or electrical power to the airplane, and consequent reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within

the compliance times specified, unless the actions have already been done.

Inspection and Related Investigative/ Corrective Actions

(f) Within 2,500 flight hours after the effective date of this AD: Do a one-time detailed inspection for evidence of chafing between the hydraulic flexible hose and the RAT hub, and any applicable related investigative and corrective actions, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A300–29–6054, Revision 01, excluding Appendix 01, dated November 4, 2004. Any applicable corrective actions must be accomplished before further flight. Although the service bulletin specifies to submit certain information to the manufacturer, and to submit damaged RATs to the vendor or a repair station, this AD does not include those requirements.

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

Actions Accomplished Previously

(g) Actions accomplished before the effective date of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–29–6054, excluding Appendix 01, dated June 8, 2004, are acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(i) French airworthiness directive F–2004–133, dated August 4, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Airbus Service Bulletin A300–29–6054, Revision 01, excluding Appendix 01, dated November 4, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14173 Filed 7–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20690; Directorate Identifier 2003–NM–230–AD; Amendment 39–14195; AD 2005–15–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200C and 747–200F Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–200C and 747–200F series airplanes. This AD requires one-time inspections for cracks and material loss in the fuselage skin above the stringer (STR) 23 lap splice, between Body Station (BS) 282 and BS 298, and repair if necessary. This AD is prompted by a report of a crack above the STR 23 lap splice on one airplane. We are issuing this AD to detect and correct cracks or material loss in the fuselage skin, and consequent reduced structural integrity of the skin panel, which could result in rapid depressurization of the airplane.

DATES: This AD becomes effective August 26, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of August 26, 2005.

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

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2005–20690; the directorate identifier for this docket is 2003–NM–230–AD.

FOR FURTHER INFORMATION CONTACT: Nick Kusz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 747–200C and 747–200F series airplanes. That action, published in the **Federal Register** on March 23, 2005 (70 FR 14587), proposed to require one-time inspections for cracks and material loss in the fuselage skin above the stringer (STR) 23 lap splice, between Body Station (BS) 282 and BS 298, and repair if necessary.

Comments

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

Request To Re-Evaluate Need for the Proposed Rule

One commenter, an airplane operator, notes that it has previously inspected the fuselage skin thickness at the affected area on two of its ten production freighter airplanes. The inspections, which the commenter points out were conducted at the manufacturer's recommendation, showed skin thickness of 0.060 inch or greater on both airplanes. The commenter asserts that our justification for adopting the proposed AD should cite the results of its inspections and any similar inspections conducted at the manufacturer's request by other operators; and notes that Boeing Special Attention Service Bulletin 747–53–2493, dated July 3, 2003, cites only one instance of the problem that is prompting the proposed AD. The commenter acknowledges the significance of fuselage skin cracking, and recognizes the fact that the maintenance program for the affected Model 747–200C and 747–200F series airplanes includes external visual inspections of the affected area at regular intervals. However, the commenter questions our justification for adopting the proposed AD.

We infer that the commenter is questioning whether the proposed AD addresses a safety issue and, if not, we further infer that the commenter requests that we withdraw the proposed AD. We disagree. Although the commenter had no findings of cracking or blended skin on two of its airplanes, other respondents to the manufacturer's survey did report airplanes with skin thickness that was below the minimum. In addition, there are many airplanes affected by this proposed AD that have not yet been inspected.

However, we do agree that we should clarify the unsafe condition. Investigation of the crack report that prompted this proposed AD showed that the skin at the crack location was not the correct thickness. Boeing audited its manufacturing processes and discovered that assembly techniques of the skin panels during final assembly at the factory were the likely cause of the thin skin at the affected sections. It is very likely that the same condition may exist on other airplanes that were manufactured using the same techniques. Furthermore, the finding that precipitated this proposed AD was a three-inch crack in the upper row of the lap splice just above the upper row. Cracking in this area is critical due to its proximity to the upper row and possible interaction of cracks between the blended area and the upper row. Therefore, the crack finding, coupled with the likelihood that the thin skin condition exists on other airplanes, provides sufficient justification for adopting the proposed AD to detect and correct cracks or material loss in the fuselage skin.

We have not changed the final rule in this regard.

Conclusion

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

Costs of Compliance

There are about 77 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspections	6	$65	None	$390	20	$7,800

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–15–06 Boeing: Amendment 39–14195. Docket No. FAA–2005–20690; Directorate Identifier 2003–NM–230–AD.

Effective Date

(a) This AD becomes effective August 26, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–200C and 747–200F series airplanes, equipped with a nose cargo door, certificated in any category; as identified in paragraph 1.A.1 of Boeing Special Attention Service Bulletin 747–53–2493, dated July 3, 2003.

Unsafe Condition

(d) This AD was prompted by a report of a crack above the stringer (STR) 23 lap splice on a Model 747–200F series airplane. We are issuing this AD to detect and correct cracks or material loss in the fuselage skin, and consequent reduced structural integrity of the skin panel, which could result in rapid depressurization of the airplane.

Compliance

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

Inspections and Repair

(f) Before the accumulation of 15,000 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later: Do a detailed inspection for cracking, and a low frequency eddy current inspection for material loss, in the fuselage skin. Repair any crack or material loss prior

to further flight. Do all actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–53–2493, dated July 3, 2003.

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

Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(h) You must use Boeing Special Attention Service Bulletin 747–53–2493, dated July 3, 2003, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14174 Filed 7–21–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 1998C–0431] (formerly 98C–0431)

Listing of Color Additives Exempt from Certification; Mica-Based Pearlescent Pigments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of mica-based pearlescent pigments as color additives in ingested drugs. This action is in response to a petition filed by EM Industries, Inc.

DATES: This rule is effective August 23, 2005. Submit written or electronic objections and requests for a hearing by August 22, 2005. See section VIII of the **SUPPLEMENTARY INFORMATION** section of this document for information on the filing of objections.

ADDRESSES: You may submit written or electronic objections and requests for a hearing, identified by Docket No. 1998C–0431, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.
- E-mail: *fdadockets@oc.fda.gov*. Include Docket No. 1998C–0431 in the subject line of your e-mail message.
- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

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

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

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–255), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1301.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of June 22, 1998 (63 FR 33934), FDA announced that a color additive petition (CAP 8C0257) had been filed by EM Industries, Inc., 7 Skyline Dr., Hawthorne, NY 10532 (now EMD Industries, Inc.). The petition proposed to amend the color additive regulations to provide for the safe use of synthetic iron oxide to color ingested drugs at levels higher than the current limit and to provide for the safe use of mica to color ingested drugs. At the time of the filing of the petition, FDA considered the pigments that are the subjects of this petition to be color additive mixtures of synthetic iron oxide, mica, and titanium dioxide. FDA did not include titanium dioxide in the filing notice, because that color additive was already listed for use in ingested drugs. During its subsequent review of the petition, the agency determined that these pigments are composite pigments, not color additive mixtures. Therefore, the agency published an amended filing notice in the **Federal Register** of June 29, 1999 (64 FR 34816), to indicate that the petition proposed to amend the color additive regulations to provide for the safe use of composite pigments prepared from synthetic iron oxide, mica, and titanium dioxide to color ingested drugs.

The petitioner is seeking approval for a maximum use level of the resulting pigments of up to 3 percent by weight in the finished drug product, and a maximum iron oxide content no greater than 55 percent in those pigments containing iron oxide.

II. Manufacturing and Nomenclature

The subject color additives are manufactured by preparing a suspension of mica platelets, adding a solution of soluble salts of titanium, of iron, or of both, and a base to precipitate titanium hydroxide, iron hydroxide, or both onto the mica platelets. These particles are then heated (calcined) at temperatures up to 900 °C. During the calcination, titanium hydroxide and

iron hydroxide are converted into titanium dioxide, and iron oxide, respectively. The agency has reviewed the relevant data and information in the petition relating to the manufacturing and identity of the subject color additives (Ref. 1), and to the proposed uses of and estimated exposures to (Ref. 2) the subject color additives.

In a final rule published in the **Federal Register** of October 24, 2002 (67 FR 65311), the agency listed in § 73.3128 (21 CFR 73.3128) the color additives based on the first two combinations given above (titanium or iron salts and mica platelets) for use in contact lenses. In the same final rule, the agency collectively identified these color additives as mica-based pearlescent pigments. To be consistent with § 73.3128, the agency is using the same name for the color additives that are the subjects of the present rule.

III. Safety Evaluation

To evaluate the safety of the proposed uses of mica-based pearlescent pigments for coloring ingested drugs, the agency reviewed the toxicological data and information submitted in the petition as well as other information contained in agency files (Ref. 3). In conjunction with this review the agency notes that, based on the chemical nature of these inorganic pigments and their individual components, as well as the available solubility data contained in the petition, the solubility of mica-based pearlescent pigments in media relevant to human health (e.g., digestive fluids in the gastrointestinal tract) is expected to be very low. As such, the bioavailability of these pigments and/or their individual components when ingested is also expected to be low. Considering the chemical nature of the pigments, and their expected low solubility and bioavailability, the agency concludes that there is no toxic potential when ingested at levels estimated by the agency, based on their proposed use in coloring ingested drugs. The agency also notes that it has previously reviewed various color additive uses of iron oxide, titanium dioxide, and mica where the additives would be ingested and found such uses to be safe (§§ 73.200, 73.575, 73.1200, 73.1496, 73.1575, 73.2250, 73.2496, and 73.2575).

Therefore, taking into account the available safety information, the insoluble nature of the subject color additives, and the conservative estimates of intake of the additives, the agency concludes that the proposed use of mica-based pearlescent pigments to color ingested drugs is safe (Ref. 3).

IV. Conclusion

Based on the data and information in the petition and other relevant material, FDA concludes that the petitioned use of mica-based pearlescent pigments prepared from synthetic iron oxide, mica, and titanium dioxide to color ingested drugs is safe. The agency further concludes that the additives will achieve their intended technical effect, and are suitable for use in coloring ingested drugs. The agency also concludes that part 73 should be amended as set forth in this document. In addition, based upon the factors listed in § 71.20(b) (21 CFR 71.20(b)), the agency concludes that certification of mica-based pearlescent pigments is not necessary for the protection of the public health.

V. Inspection of Documents

In accordance with § 71.15, the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VI. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for CAP 8C0257 (63 FR 33934). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VII. Paperwork Reduction Act of 1995

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

VIII. Objections

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

IX. References

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

1. Jensen, E., Memorandum entitled ''Use of Pearlescent Pigments as a Color Additive in Tablets and Other Pharmaceutical Preparations,'' from the Division of Product Manufacture and Use (HFS–246) to the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, FDA, January 21, 1999.

2. Lee, H. S., Memorandum entitled ''Update of Intake Estimates,'' from the Division of Petition Review (HFS–265) to the Division of Petition Review (HFS–265), Center for Food Safety and Applied Nutrition, FDA, November 24, 2004.

3. Taras, T. L., Memorandum entitled ''Comprehensive Final Toxicology Evaluation Memorandum: CAP 8C0257'' from the Division of Petition Review (HFS–265) to the Division of Petition Review (HFS–265), Center for Food Safety and Applied Nutrition, FDA, December 20, 2004.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

■ 1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

■ 2. Section 73.1128 is added to subpart B to read as follows:

§ 73.1128 Mica-based pearlescent pigments.

(a) *Identity*. (1) The color additive is formed by depositing titanium and/or iron salts onto mica, followed by heating to produce one of the following combinations: Titanium dioxide on mica; iron oxide on mica; titanium dioxide and iron oxide on mica. Mica used to manufacture the color additive shall conform in identity to the requirements of § 73.1496(a)(1).

(2) Color additive mixtures for drug use made with mica-based pearlescent pigments may contain only those diluents listed in this subpart as safe and suitable for use in color additive mixtures for coloring ingested drugs.

(b) *Specifications*. Mica-based pearlescent pigments shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice:

(1) Lead (as Pb), not more than 4 parts per million (ppm).

(2) Arsenic (as As), not more than 3 ppm.

(3) Mercury (as Hg), not more than 1 ppm.

(c) *Uses and restrictions*. Mica-based pearlescent pigments may be safely used to color ingested drugs in amounts up to 3 percent, by weight, of the final drug product. The maximum amount of iron oxide to be used in producing said pigments is not to exceed 55 percent, by weight, in the finished pigment.

(d) *Labeling*. The label of the color additive and of any mixture prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Exemption from certification*. Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the Federal Food, Drug, and Cosmetic Act.

Dated: July 13, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–14457 Filed 7–21–05; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7942–9]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Idaho applied to the United States Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). On May 16, 2005, EPA published a proposed rule to authorize the changes and opened a public comment period. The comment period closed on June 15, 2005. EPA has decided that these revisions to the Idaho hazardous waste management program satisfy all of the requirements necessary to qualify for final authorization and is authorizing these revisions to Idaho's authorized hazardous waste management program in today's final rule.

DATES: Final authorization for the revisions to the hazardous waste program in Idaho shall be effective at 1 p.m. E.S.T. on July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Mail Stop AWT–122, U.S. EPA Region 10, Office of Air, Waste, and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101, phone (206) 553–0256. E-mail: *hunt.jeff@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 and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the hazardous waste program. Under RCRA Section 3009, States are not allowed to impose any requirements which are less stringent than the Federal program. 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 title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

Idaho's hazardous waste management program received final authorization effective on April 9, 1990 (55 FR 11015, March 29, 1990). EPA also granted authorization for revisions to Idaho's program effective on June 5, 1992 (57 FR 11580, April 6, 1992), on August 10, 1992 (57 FR 24757, June 11, 1992), on June 11, 1995 (60 FR 18549, April 12, 1995), on January 19, 1999 (63 FR 56086, October 21, 1998), on July 1, 2002 (67 FR 44069, July 1, 2002), and on March 10, 2004 (69 FR 11322).

Today's final rule addresses a program revision application that Idaho submitted to EPA in September 2004, in accordance with 40 CFR 271.21, seeking authorization of changes to the State program. On May 16, 2005, EPA published a proposed rule announcing its intent to grant Idaho final authorization for revisions to Idaho's hazardous waste program and provided a period of time for the receipt of public comments. The proposed rule can be found at 70 FR 25798.

B. What Were the Comments to EPA's Proposed Rule?

EPA received two letters during the public comment period. One letter was dated June 3, 2005, from Mr. Chuck Broscious on behalf of the Environmental Defense Institute and a second letter was dated June 14, 2005, from Mr. Chuck Broscious on behalf of the Environmental Defense Institute, Keep Yellowstone Nuclear Free, and David B. McCoy, collectively the commenters.

The comment letters focused on issues originally raised in petitions submitted to EPA on August 8, 2000, and September 13, 2001, and on numerous follow up letters and correspondence related to those petitions. The petitions themselves centered on issues related to specific units located at the Idaho National Laboratory (INL) in Idaho Falls, Idaho. The comment letters also raised a concern about nuclear defense activities at the same INL facility. In response to this aspect of the commenters' letter EPA observes that defense activities related to nuclear production and propulsion programs will generally not meet the definition of solid waste under the RCRA regulations and may be regulated by other federal authorities. With respect to mixed waste, Idaho's hazardous waste program is authorized for mixed waste.

In the September 13, 2001, petition which commenters refer to in their current comments, the commenters as petitioners sought EPA's withdrawal of Idaho's authorization to implement the hazardous waste program under RCRA

because of petitioners' concerns with hazardous waste issues at the INL facility. EPA in response to that withdrawal petition request conducted an informal investigation and determined that sufficient evidence did not exist to initiate formal withdrawal proceedings. The investigation findings were issued on March 20, 2002, with a follow up response on June 20, 2002. The supporting documentation was provided to the commenters and the documentation is currently available to the public under the Freedom of Information Act.

On February 6, 2003, the EPA Office of Inspector General (OIG) requested that Region 10 conduct a second investigation to answer a series of follow up questions related to the September 13, 2001, petition. EPA Region 10 conducted a second investigation and issued its findings on April 10, 2003. The investigation results were provided to Mr. David McCoy, one of the current commenters, as part of an October 13, 2004, Freedom of Information Act response. On February 5, 2004, after conducting independent field work, the OIG issued a final evaluation report which concluded, ''Region 10 generally relied on appropriate regulatory requirements and standards in reaching its conclusion that evidence did not exist to commence proceedings to withdraw the State of Idaho's authority to run its RCRA Hazardous Waste program.''

While the evaluation report concluded that evidence did not exist to commence withdrawal proceedings, the OIG did identify areas of concern for further Regional and State follow up. As detailed in the Evaluation Report, the OIG and EPA Region 10 agreed to specific follow up actions. To document resolution of these action items, EPA Region 10 submitted quarterly progress reports to the Region 10 OIG Audit Liaison on January 13, 2004, April 16, 2004, July 15, 2004, October 12, 2004, February 9, 2005, and April 8, 2005. These reports document the steps taken by EPA and the Idaho Department of Environmental Quality to meet the specific actions recommended by the OIG. The first three of these quarterly reports were sent to the commenters and the OIG as part of a July 26, 2004, letter from then Regional Administrator, L. John Iani. Hardcopies of all the quarterly reports were made directly available to the public as part of the authorization docket for the proposed authorization with repositories in Seattle, Washington and the University of Idaho in Moscow. These quarterly reports are also currently available to the public under the Freedom of Information Act.

While the Region will continue its ongoing obligation to conduct state oversight, EPA considers the follow up to the September 13, 2001, withdrawal petition and the February 5, 2004, OIG Evaluation Report complete. The information documenting EPA's follow up to the February 5, 2004, OIG Evaluation Report was contained in the authorization docket available to the public through the Region 10 Library in Seattle, Washington, as well as through the Freedom of Information Act process. In response to a request by Mr. Chuck Broscious, EPA made a hardcopy version of the docket available to the public at the University of Idaho Library in Moscow, Idaho. Furthermore, in response to a request from the Shoshone Bannock Tribe, and Mr. Chuck Broscious, EPA electronically scanned the State of Idaho's authorization application and made this document available on the Region 10 Web site at: *http://yosemite.epa.gov/R10/OWCM.NSF/ed6c817875102d2d8825650f00714a59/2b89088c6ed73517882570140081e7f9?OpenDocument.*

Based on the follow up actions that were taken in response to the OIG Evaluation Report, EPA disagrees with comments submitted on June 3 and 14, 2005, alleging that EPA and the Idaho Department of Environmental Quality have not sufficiently responded to the issues raised by the February 5, 2004, OIG Evaluation report. Therefore, EPA has determined that these comments do not constitute basis for continued delay or denial of Idaho's application for program revision.

C. What Decisions Have We Made in This Rule?

EPA has made a final determination that Idaho's revisions to the Idaho authorized hazardous waste program meet all of the statutory and regulatory requirements established by RCRA for authorization. Therefore, EPA is authorizing the revisions to the Idaho hazardous waste program and authorizing the State of Idaho to operate its hazardous waste program as described in the revision authorization application. Idaho's authorized program will be responsible for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of RCRA, including 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 are implemented by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions in Idaho, including issuing permits or portions of permits, until the State is authorized to do so.

D. What Will Be the Effect of Today's Action?

The effect of today's action is that a facility in Idaho subject to RCRA must comply with the authorized State program requirements and with any applicable federally-issued requirement, such as, for example, the federal HSWA provisions for which the State is not authorized, and RCRA requirements that are not supplanted by authorized State-issued requirements, in order to comply with RCRA. Idaho has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program and will have enforcement responsibilities for the revisions which are the subject of this final rule. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

—Conduct inspections; require monitoring, tests, analyses or reports;
—Enforce RCRA requirements, including State program requirements that are authorized by EPA and any applicable Federally-issued statutes and regulations; suspend, modify or revoke permits; and
—Take enforcement actions regardless of whether the State has taken its own actions.

This final action approving these revisions will not impose additional requirements on the regulated community because the regulations for which Idaho's program is being authorized are already effective under State law.

E. What Rules Are We Authorizing With Today's Action?

In September 2004, Idaho submitted a complete program revision application, seeking authorization for all delegable federal hazardous waste regulations codified as of July 1, 2003, as incorporated by reference in IDAPA 58.01.05.(002)–(016) and 58.01.05.997, including previously unauthorized portions of the Post Closure Rule promulgated on October 22, 1998 (63 FR 56710).

F. Who Handles Permits After This Authorization Takes Effect?

Idaho will issue permits for all the provisions for which it is authorized and will administer the permits it

issues. All permits or portions of permits issued by EPA prior to final authorization of this revision will continue to be administered by EPA until the effective date of the issuance, re-issuance after modification, or denial of a State RCRA permit or until the permit otherwise expires or is revoked, and until EPA takes action on its permit or portion of permit. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit or portion of permit. EPA will continue to issue permits or portions of permits for HSWA requirements for which Idaho is not yet authorized.

G. What Is Codification and Is EPA Codifying Idaho'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. EPA does this by referencing the authorized State's authorized rules in 40 CFR part 272. EPA is reserving the amendment of 40 CFR part 272, subpart F for codification of Idaho's program at a later date.

H. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Idaho?

EPA's decision to authorize the Idaho hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151. This includes: (1) All lands within the exterior boundaries of Indian reservations within or abutting the State of Idaho; (2) Any land held in trust by the U.S. for an Indian tribe; and (3) Any other land, whether on or off an Indian reservation that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151.

I. Statutory and Executive Order Reviews

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4,1993), the Agency must determine whether the regulatory action is ''significant'', and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. It has been determined that this final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and recordkeeping requirements affecting ten or more non-Federal respondents be approved by OPM. Since this final rule does not establish or modify any information or recordkeeping requirements for the regulated community, it is not subject to the provisions of the Paperwork Reduction Act.

3. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business, as codified in the Small Business Size Regulations at 13 CFR part 121; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not have a significant impact on small entities because the final rule will only have the effect of authorizing pre-existing requirements under State law. After considering the economic impacts of today's rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this rule contains no regulatory

requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this rule.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government, as specified in Executive Order 13132. This rule addresses the authorization of pre-existing State rules. Thus, Executive Order 13132 does not apply to this rule.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve ''technical standards'' as defined by the NTTAA. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this rule addresses authorizing pre-existing State rules and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

11. Congressional Review Act

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

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, 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: July 14, 2005.

Michelle Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 05–14545 Filed 7–21–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

45 CFR Part 146

[CMS–4094–F3]

RIN 0938–AN22

Amendment to the Interim Final Regulation for Mental Health Parity

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

ACTION: Amendment to interim final regulation.

SUMMARY: This document contains an amendment to the interim final regulation that implements the Mental Health Parity Act (MHPA) to conform the sunset date of the regulation to the sunset date of the statute under legislation passed by the 108th Congress.

DATES: *Effective date:* The amendment to the regulation is effective August 22, 2005.

Applicability dates: Under the amendment, the requirements of the MHPA interim final regulation apply to group health plans and health insurance issuers offering health insurance coverage in connection with a group health plan during the period commencing August 22, 2005 through December 31, 2005. Under the extended sunset date, MHPA requirements do not apply to benefits for services furnished after December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Dave Mlawsky, Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, at 1–877–267–2323, ext. 61565.

SUPPLEMENTARY INFORMATION:

I. Background

The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104–204). MHPA amended the Public Health Service Act (PHS Act) and the Employee Retirement Income Security Act of 1974 (ERISA) to provide for parity in the application of annual and lifetime dollar limits on mental health benefits with dollar limits on medical/surgical benefits. Provisions implementing MHPA were later added to the Internal Revenue Code of 1986 (Code) under the Taxpayer Relief Act of 1997 (Pub. L. 105–34).

The provisions of MHPA are set forth in Title XXVII of the PHS Act, Part 7 of Subtitle B of Title I of ERISA, and Chapter 100 of Subtitle K of the Code. The Secretaries of Health and Human Services, Labor, and the Treasury share jurisdiction over the MHPA provisions. These provisions are substantially similar, except as follows:

The MHPA provisions in the PHS Act generally apply to health insurance issuers that offer health insurance coverage in connection with group health plans and to certain State and local governmental plans. States, in the first instance, enforce the PHS Act for issuers. Only if a State does not substantially enforce the MHPA provisions under its insurance laws will the Department of Health and Human Services enforce the provisions, through the imposition of civil money penalties. Moreover, no enforcement action may be taken by the Secretary of Health and Human Services against any group health plan except certain State and local governmental plans.

The MHPA provisions in ERISA generally apply to all group health plans other than governmental plans, church plans, and certain other plans. These provisions also apply to health insurance issuers that offer health insurance coverage in connection with those group health plans. Generally, the Secretary of Labor enforces the MHPA provisions in ERISA, except that no enforcement action may be taken by the Secretary against issuers. However, individuals may generally pursue actions against issuers under ERISA and, in some circumstances, under State law.

The MHPA provisions in the Code generally apply to all group health plans other than governmental plans, but they do not apply to health insurance issuers. A taxpayer that fails to comply with these provisions may be subject to an excise tax under section 4980D of the Code.

II. Overview of MHPA

The MHPA provisions are set forth in section 2705 of the PHS Act, section 712 of ERISA, and section 9812 of the Code. MHPA applies to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits. MHPA's original text included a sunset provision specifying that MHPA's provisions would not apply to benefits for services furnished on or after September 30, 2001. On December 22, 1997, the Departments of Health and Human Services, Labor, and the Treasury issued interim final regulations under MHPA in the **Federal Register** (62 FR 66931). The interim final regulations included this statutory sunset date.

On January 10, 2002, President Bush signed H.R. 3061 (Pub. L. 107–116), the 2002 Appropriations Act for the Departments of Labor, Health and Human Services, and Education (''Appropriations Act''). (During the 107th Congress, legislation was passed by the Senate to amend and expand the substantive provisions of MHPA. This legislation was offered as an amendment to the provisions of H.R. 3061. The Conference Report accompanying the underlying provisions of H.R. 3061 states that instead of the amendment proposed by the Senate, the amendment to MHPA contained in H.R. 3061 extends the original sunset date of MHPA, so that MHPA's provisions will not apply to benefits for services furnished on or after December 31, 2002, H.R. Rep. 107–342, at 170 (2001)). This legislation extended MHPA's original sunset date under the PHS Act, ERISA, and the Code, so that MHPA's provisions in all three statutes would not sunset until December 31, 2002.

On March 9, 2002, President Bush signed H.R. 3090 (Pub. L. 107–147), the Job Creation and Worker Assistance Act of 2002 (''Job Creation Act''). That legislation amended section 9812 of the Code (the mental health parity provisions), but did not amend the corresponding MHPA provisions in the PHS Act or ERISA. The Job Creation Act extended the sunset date under the Code to December 31, 2003.

On December 2, 2002, President Bush signed H.R. 5716 (Pub. L. 107–313), the Mental Health Parity Reauthorization Act of 2002. This legislation further extended MHPA's sunset date under the PHS Act and ERISA so that MHPA's provisions would apply to any services furnished before December 31, 2003.

On December 19, 2003, President Bush signed S. 1929 (Pub. L. 108–197), the Mental Health Parity Reauthorization Act of 2003. That legislation further extends MHPA's sunset date under the PHS Act and ERISA so that MHPA's provisions apply to any services furnished before December 31, 2004.

As a result of those pieces of legislation, the Department published conforming changes to the interim final mental health parity regulations, conforming the regulatory sunset date to the new statutory sunset date. The Department also made conforming changes extending the duration of the increased cost exemption to be consistent with the new sunset date (68 FR 38206, June 27, 2003).

On October 4, 2004, President Bush signed H.R. 1308 (Pub. L. 108–311), the Working Families Tax Relief Act of 2004. That legislation further extends MHPA's sunset date under the PHS Act and ERISA so that MHPA's provisions apply to any services furnished through December 31, 2005. It also extends MHPA's sunset date under the Tax Code so that MHPA's provisions apply to any services furnished from October 4, 2002, through December 31, 2005.

This statutory amendment has not altered MHPA's scope. It continues to apply to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits. (The parity requirements under MHPA,

the interim regulations, and the amendment to the interim regulations do not apply to any group health plan (or health insurance coverage offered in connection with a group health plan) for any plan year of a small employer. The term ''small employer'' is defined as an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.) As a result of this statutory amendment, and to assist employers, plan sponsors, health insurance issuers, and workers, the Department is publishing this amendment to the interim final regulations, conforming the regulatory sunset date to the new statutory sunset date. The Department is making the effective date of this amendment to the interim final regulations effective as of August 22, 2005. Since the extension of this sunset date is essentially self-implementing, this amendment to the MHPA regulations is published on an interim final basis under section 2792 of the PHS Act.

This amendment to the interim final regulations is adopted under the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as added by HIPAA (Pub. L. 104–191), and amended by MHPA (Pub. L. 104–204, as amended by Pub. L. 107–116, Pub. L. 107–313, Pub. L. 108–197, and Pub. L. 108–311).

III. Collection of Information Requirements

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

IV. Regulatory Impact Statement

Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). According to the terms of the Executive Order, it has been determined that this action is not a ''significant regulatory action'' within the meaning of the Executive Order. Rather, it is an amendment to the 1997 interim final regulations that makes no substantive changes to those regulations, and merely extends the regulatory sunset date to conform to the new statutory sunset date added by Public Law 108–696. Because it is not a major rule, we are not required to perform an assessment of the costs and savings.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This rule will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final rule and have determined that it will not have a substantial effect on State or local governments.

We have reviewed this rule and determined that, under the provisions of Public Law 104–121, the Contract with America Act, it is not a major rule.

List of Subjects in 45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 45 CFR part 146 as follows:

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 1. The authority citation for part 146 is revised to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as added by HIPAA (Pub. L. 104–191, 110 Stat. 1936), and amended by MHPA (Pub. L. 104–204, 110 Stat. 2944, as amended by Pub. L. 107–116, 115 Stat. 2177; Pub. L. 107–313, 116 Stat. 2457; Pub. L. 108–197, 117 Stat. 2898; and Pub. L. 108–311, 118 Stat. 1166), NMHPA (Pub. L. 104–204, 110 Stat. 2935), and WHCRA (Pub. L. 105–277, 112 Stat. 2681–436), sec. 102(c) of HIPAA.

§ 146.136 [Amended]

■ 2. In § 146.136, the following amendments are made:

■ a. The last sentence of paragraph (f)(1) is amended by removing the date ''December 31, 2004'' and adding in its place the date ''December 31, 2005.''

■ b. Paragraph (g)(2) is amended by removing the date ''December 31, 2004'' and adding in its place the date ''January 1, 2006.''

■ c. Paragraph (i) is revised to read as follows:

§ 146.136 Parity in the application of certain limits to mental health benefits.

* * * * *

(i) *Sunset.* This section does not apply to benefits for services furnished after December 31, 2005.

Dated: January 19, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Dated: April 11, 2005.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

[FR Doc. 05–14504 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 050209033–5033–01; I.D. 071505C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Trip Limit Reduction for Gulf of Mexico Grouper Fishery

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

ACTION: Temporary rule; inseason action.

SUMMARY: NMFS reduces the trip limit for the commercial shallow-water grouper fishery in the exclusive economic zone of the Gulf of Mexico to 5,500 lb (2,500 kg) per trip. The intended effect of trip limit reduction is to moderate the rate of harvest of the available quotas and, thereby, reduce the adverse social and economic effects of derby fishing, enable more effective quota monitoring, and reduce the probability of overfishing.

DATES: Effective 12:01 a.m., local time, August 4, 2005, through December 31, 2005, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727–824–5305, fax: 727–824–5308, e-mail: *Phil.Steele@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for reef fish is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council. This FMP was approved by NMFS and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Regulations at 50 CFR 622.44(g)(1)(ii) require NMFS to reduce the commercial trip limit for Gulf deep-water and shallow-water grouper, combined, to 5,500 lb (2,500 kg) if on or before October 1 more than 75 percent of either the shallow-water grouper quota or red grouper quota is reached or is projected to be reached. The commercial deep-water grouper fishery was closed on June 23, 2005. Therefore, this action only pertains to the commercial shallow-water grouper fishery. Based on current statistics, NMFS has determined more than 75 percent of the 5.31 million-lb (2.41 million-kg) commercial quota for red grouper will be reached on August 3, 2005. Accordingly, NMFS is reducing the trip limit for shallow-water grouper (black grouper, gag, red grouper, yellowfin grouper, scamp, yellowmouth grouper, rock hind, and red hind) to 5,500 lb (2,500 kg) per trip in the Gulf of Mexico exclusive economic zone effective 12:01 a.m., local time, on August 4, 2005, through December 31, 2005, unless changed by further notification in the **Federal Register**.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.44(g)(1)(ii) and is exempt from review under Executive Order 12866.

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

Dated: July 19, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–14522 Filed 7–19–05; 2:24 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 071505D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific Ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2005 total allowable catch (TAC) of Pacific Ocean perch in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 16, 2005, through 2400 hrs, A.l.t., December 31, 2005.

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

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

The 2005 TAC of Pacific Ocean perch in the Western Regulatory Area of the GOA is 2,567 metric tons (mt) as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2005 TAC of Pacific Ocean perch in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,317 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached.

Consequently, NMFS is prohibiting directed fishing for Pacific Ocean perch in the Western Regulatory Area of the GOA.

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

Classification

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

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

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 15, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–14446 Filed 7–18–05; 2:58 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 071505B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

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

ACTION: Temporary rule; Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific Ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2005 total allowable catch (TAC) of Pacific Ocean perch in the West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 16, 2005, through 2400 hrs, A.l.t., December 31, 2005.

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

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

The 2005 TAC of Pacific Ocean perch in the West Yakutat District of the GOA is 841 metric tons (mt) as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2005 TAC of Pacific Ocean perch in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 800 mt, and is setting aside the remaining 41 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific Ocean perch in the West Yakutat District of the GOA.

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

Classification

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

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

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 15, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–14447 Filed 7–18–05; 2:57 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332–5039–02; I.D. 071805A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific Ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2005 Pacific Ocean perch total allowable catch (TAC) in the Western Aleutian District of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 18, 2005, through 2400 hrs, A.l.t., December 31, 2005.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S.

vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2005 Pacific Ocean perch TAC in the Western Aleutian District of the BSAI is 4,703 metric tons (mt) as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2005 Pacific Ocean perch TAC in the Western Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,503 mt, and is setting aside the remaining 1,200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific Ocean perch in the Western Aleutian District of the BSAI.

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

Classification

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

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

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 18, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–14523 Filed 7–19–05; 2:24 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 071905A]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2005 total allowable catch (TAC) of northern rockfish in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 19, through 2400 hrs, A.l.t., December 31, 2005.

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

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

The 2005 TAC of northern rockfish in the Western Regulatory Area of the GOA is 808 metric tons (mt) as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2005 TAC of northern rockfish in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 750 mt, and is setting aside the remaining 58 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the GOA.

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

Classification

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

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

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 19, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–14521 Filed 7–19–05; 2:24 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 140
Friday, July 22, 2005

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

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106 and 300

[Notice 2005–19]

State, District, and Local Party Committee Payment of Certain Salaries and Wages; Definition of Federal Election Activity

AGENCY: Federal Election Commission.

ACTION: Notice of public hearings.

SUMMARY: The Federal Election Commission is announcing public hearings on the following rulemakings: The proposed rules regarding payments by State, district or local party committees for salaries and wages of employees who spend 25 percent or less of their compensated time in a month on Federal election activity and activity in connection with Federal elections; and proposed rules defining Federal election activity.

DATES: The hearings will be held on Thursday, August 4, 2005 and will begin at 10 a.m.

ADDRESSES: Commission hearings are held in the Commission's ninth floor meeting room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Rulemaking on State, District, and Local Party Committee Payment of Certain Salaries and Wages

On May 4, 2005, the Commission published a Notice of Proposed Rulemaking (''NPRM'') proposing revisions to rules that cover what mixture of Federal and non-Federal funds can be used by State, District and local party committees to pay salaries and wages for persons who spend 25 percent or less of their compensated time in a month on Federal election activity or on activity in connection with a Federal election. The comment period for this NPRM ended on June 3, 2005. The Commission received five comments in response to this NPRM. Six commenters who submitted three of the comments requested to testify at a public hearing if one is held.

After considering these requests and the other comments received to date in response to this NPRM, the Commission believes a public hearing would be helpful in considering the issues raised in the rulemaking. The hearing will be held on August 4, 2005.

Rulemaking on Definition of Federal Election Activity

On May 4, 2005, the Commission published an NPRM proposing to revise the definitions of ''Federal election activity,'' ''get-out-the-vote activity,'' and ''voter identification.'' The comment period for this NPRM ended on June 3, 2005. The Commission received eight comments in response to this NPRM. Seven commenters who submitted four of the comments requested to testify at a public hearing if one is held.

After considering these requests and the other comments received to date in response to this NPRM, the Commission believes a public hearing would be helpful in considering the issues raised in the rulemaking. The hearing will be held on August 4, 2005.

Dated: July 19, 2005.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 05–14508 Filed 7–21–05; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21864; Directorate Identifier 2005–NE–29–AD]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines (Formerly Textron Lycoming) AEIO–360, IO–360, O–360, LIO–360, LO–360, AEIO–540, IO–540, O–540, and TIO–540 Series Reciprocating Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Lycoming Engines (formerly Textron Lycoming) AEIO–360, IO–360, O–360, LIO–360, LO–360, AEIO–540, IO–540, O–540, and TIO–540 series reciprocating engines rated at 300 horsepower (HP) or lower. This proposed AD would require replacing certain crankshafts. This proposed AD results from reports of 12 crankshaft failures in Lycoming 360 and 540 series engines rated at 300 HP or lower. We are proposing this AD to prevent failure of the crankshaft, which could result in total engine power loss, in-flight engine failure, and possible loss of the aircraft.

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

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

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

You can get the service information identified in this proposed AD from Lycoming, 652 Oliver Street, Williamsport, PA 17701; telephone (570) 323–6181; fax (570) 327–7101, or on the Internet at *http://www.Lycoming.Textron.com*.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7337; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–21864; Directorate Identifier–2005–NE–29–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

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

Discussion

On September 16, 2002, we issued AD 2002–19–03, Amendment 39–12883 (67 FR 59139) applicable to Textron Lycoming LTIO–540 and TIO–540 series engines, rated at 300 HP or higher. That AD requires replacing certain crankshafts manufactured using a hammer-forged process with crankshafts manufactured using a press-forged process. AD 2002–19–03 resulted from reports of 18 crankshaft failures in LTIO–540 and TIO–540 engines, rated at 300 HP or higher. Our investigation into the cause of the crankshaft failures found that the failures result from subsurface metallurgical flaws. Lack of crankshaft process control caused the subsurface metallurgical flaws. While this proposed AD would affect different crankshafts than those affected by AD 2002–19–03, the crankshafts have the same possible unsafe condition. This proposed AD results from 12 reports of crankshaft failures on engines rated at 300 HP or lower. This proposed AD would require replacing certain crankshafts installed in engines manufactured new or rebuilt, overhauled, or that had a crankshaft replaced after March 1, 1999. This condition, if not corrected, could result in crankshaft failure, which could result in total engine power loss, in-flight engine failure, and possible loss of the aircraft.

Relevant Service Information

We have reviewed and approved the technical contents of Lycoming Mandatory Service Bulletin (MSB) No. 566, dated July 11, 2005, that describes procedures for replacing crankshafts listed by serial number in that MSB.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require replacing certain crankshafts within 50 hours time-in-service or 6 months after the effective date of the proposed AD, whichever is earlier. The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 1,128 engines installed on aircraft of U.S. registry. We estimate that it would take the following work hours to perform the inspection:

Type of application	Work-hours per engine	Number of engines affected
Helicopter	12	200
Constant-Speed Propeller	3	557
Fixed-Pitch Propeller	1.5	371

We also estimate that it would take about 33 work hours to replace the crankshaft. We estimate the average labor rate is $65 per work hour and that required parts for each engine would cost about $16,218. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $18,594,724. Lycoming Engines informed us that they intend to supply the new parts at no charge, which would substantially reduce the estimated cost of this proposed AD.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal

Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Lycoming Engines: Docket No. FAA–2005–21864; Directorate Identifier 2005–NE–29–AD.

Comments Due Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Lycoming Engines (Formerly Textron Lycoming) AEIO–360, IO–360, O–360, LIO–360, LO–360, AEIO–540, IO–540, O–540, and TIO–540 series reciprocating engines, rated at 300 horsepower or lower, manufactured new or rebuilt, overhauled, or that had a crankshaft installed after March 1, 1999. These engines are installed on, but not limited to, the following aircraft:

Engine model	Manufacturer	Aircraft model
IO–540–V4A5	A.M.F.	17–D Mushshak.
	Aero Commander	500 B, S, U/Merlyn Products Conv.
IO–540–E1A5	Aero Commander	500–E.
	Aerofab	LA 250 Renegade.
	Aeronautica	Agricola Mexicana Quail.
IO–540–K1F5	Aerostar	600.
	Aircraft Manufacturing Factory	Mushshak.
O–540–E4A5	Aviamilano	F–250 Flamingo.
IO–540–C4B5	Avions	Pierre Robin HR–100/250.
LO–360–A1G6D	Beech	76 Duchess.
O–360–A1G6D		76 Duchess.
		C–24R Sierra or 200 Sierra.
	Bellanca	Aircraft Aries T–250.
O–540–E4B5	Britten Norman	BN–2 Islander.
O–540–E4C5		BN–2A & BN–2B Islander.
IO–540–K1B5		BN–2A Islander.
	Celair	Eagle.
O–360–A1F6	Cessna	177 Cardinal.
O–360–A1F6D		177 Cardinal.
O–540–J3C5D		182–RG Skylane.
IO–540–AB1A5		182–S.
O–360–F1A6		C–172RG Cutlass RG.
IO–540–AC1A5		C–206 Stationair.
		R–G Cardinal.
IO–360–A1B6D		R–G Cardinal.
TIO–540–AK1A		T182T Skylane.
O–540–L3C5D		TR–182 Turbo Skylane.
AEIO–540–D4A5	Christen Pitts	S–2S, S–2B.
IO–540–T4B5D	Commander	114.
IO–540–T4B5		114B.
TIO–540–AG1A		114TC.
	Dornier	DO–28.
IO–540–K1J5D	Embraer	EMB–201 Ipanema.
O–540–B4B5		EMB–710 Corioca.
		EMB–720 Minuano.
		EMB–720 Minuano & EMB–721 Sertanejo.
		EMB–721 Sertanejo.
AEIO–540–L1B5	Extra-Flugzeugbau	Extra 300.
	F.F.A	FFA–2000 Eurotrainer.
	H.A.L	HPT–32.
O–540–A1A5	Helio Military	H–250.
AEIO–360–A1E6	Integrated Systems	Omega.
IO–540–M1C5	King Engineering	Angel.
	Korean Air	Chang Gong–91.
	Lake	LA–4–200 Buccaneer.
O–540–J3A5	Maule.	
		MT–7–260 & M–7–260.
		MX–7–235 Star Rocket.
IO–540–W1A5		MX–7–235, MT–7–235 & M7–235.
	Mod Works	Trophy 212 Conversion.
IO–360–A3B6	Mooney	201.
		M–201.
IO–360–A1B6		M–20–J.
IO–360–A3B6D		M20J–201.
TIO–540–AF1B		M20M TLS Bravo.
	Moravan	Z143L Zlin.
		Z242L Zlin.
	Partenavia	P–68 Series Observer.
IO–540–K1J5	Piper	600–A Aerostar.

Engine model	Manufacturer	Aircraft model
IO–540–S1A5		601–A, 601B & 601P Aerostar.
IO–540–AA1A5		602P Sequoia.
O–540–A1B5		PA–23–235 Aztec & PA–24–250 Comanche.
		PA–23–250 Aztec.
IO–540–J4A5		PA–23–250 Aztec.
IO–540–C1B5		PA–23–250 Aztec & PA–24–250 Comanche.
TIO–540–C1A		PA–23–250T Turbo Aztec.
		PA–24–150 Comanche.
O–540–A1C5		PA–24–250 Comanche.
O–540–A1D5		PA–24–250 Comanche.
IO–540–D4A5		PA–24–260 Comanche.
		PA–24–260 Comanche.
O–540–B2C5		PA–25–235 Pawnee.
O–540–B2B5		PA–28–235 Cherokee.
		PA–28–235 Cherokee.
IO–360–C1C6		PA–28R–201 Arrow.
IO–540–M1A5		PA–31–300 Navajo.
		PA–32–260 Cherokee 6.
IO–540–K1G5		PA–32–300 & PA–32–301 Saratoga.
IO–540–K1A5		PA–32–300 Cherokee 6.
IO–540–K1A5D		PA–32–300 Cherokee 6.
IO–540–K1G5D		PA–32–300R Lance.
		PA–32–301R Saratoga.
IO–360–C1E6		PA–34–200 Seneca I.
IO–540–K1G5		PA–36–300 Brave.
O–360–A1H6		PA–44–180.
LO–360–A1H6		PA–44–180 Seminole.
IO–540–K1K5		T–35 Pillan.
	Robin	R–3000/235.
O–540–F1B5	Robinson	R–44.
	Rockwell	114.
	Ruschmeyer	MF–85.
	Saab	MFI–15 Safari or MFI–17 Supporter.
	Scottish Avia	Bulldog.
	Siai Marchetti	S–205.
	Siai Marchetti	S–208 & SF–260.
	Siai Marchetti	SF–260.
	Siai Marchetti	SF–260.
	Slingsby	Firefly T3A.
	Socata	R–235 Rallye Cuerrier.
		Rallye 235CA.
IO–540–C4D5D		TB–20 Trinidad.
		TB–200.
TIO–540–AB1AD		TB–21 & TB–21–TC Trinidad TC.
IO–540–AB1A5	Stoddard Hamilton	Glasair.
IO–540–K1H5	Stoddard Hamilton	Glasair III.
IO–540–L1C5	Swearingen Aircraft	SX–300.
	Transava	T–300 Skyfarmer.
AEIO–360–A1B6	Valmet	L–70 Vinka.
	Wassmer	WA4–21.
	Yoeman	Aviation YA–1.

Unsafe Condition

(d) This AD results from 12 crankshaft failures in Lycoming model 360 and 540 series engines rated at 300 HP or lower. We are issuing this AD to prevent failure of the crankshaft, which could result in total engine power loss, in-flight engine failure, and possible loss of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within 50 hours time-in-service or 6 months after the effective date of this AD, whichever is earlier, unless the actions have already been done.

Engines Manufactured Before March 1, 1999

(f) If Lycoming Engines manufactured new, rebuilt, or overhauled your engine before March 1, 1999, and you haven't had the crankshaft replaced, no further action is required.

AEIO–540, IO–540, O–540, and TIO–540 Series Engines Manufactured New or Rebuilt, Overhauled, or That Had a Crankshaft Installed After March 1, 1999

(g) For AEIO–540, IO–540, O–540, and TIO–540 series engines manufactured new or rebuilt, overhauled, or that had a crankshaft installed after March 1, 1999, do the following:

(1) If Table 1 or Table 2 of Lycoming Mandatory Service Bulletin (MSB) No. 566, dated July 11, 2005, lists your engine serial number (SN), use Table 4 to verify the crankshaft SN.

(2) If Table 4 of Lycoming MSB No. 566, dated July 11, 2005, lists your crankshaft SN, replace the crankshaft with a crankshaft that is not listed in Table 4 of Lycoming MSB No. 566, dated July 11, 2005.

AEIO–360, IO–360, O–360, LIO–360, and LO–360 Series Engines Manufactured New or Rebuilt, Overhauled, or That Had a Crankshaft Installed After March 1, 1999

(h) For AEIO–360, IO–360, O–360, LIO–360, and LO–360 series engines manufactured new or rebuilt, overhauled, or that had a crankshaft installed after March 1, 1999, do the following:

(1) If Table 3 of Lycoming MSB No. 566, dated July 11, 2005, lists your engine SN, use Table 4 to verify the crankshaft SN.

(2) If Table 4 of Lycoming MSB No. 566, dated July 11, 2005, lists your crankshaft SN, replace the crankshaft with a crankshaft that is not listed in Table 4 of Lycoming MSB No. 566, dated July 11, 2005.

Prohibition Against Installing Certain Crankshafts

(i) After the effective date of this AD, do not install any crankshaft that has a SN listed in Table 4 of Lycoming MSB No. 566, dated July 11, 2005, into any engine.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(k) None.

Issued in Burlington, Massachusetts, on July 19, 2005.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–14575 Filed 7–20–05; 11:52 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 2005–9]

Preregistration of Certain Unpublished Copyright Claims

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of Proposed Rulemaking

SUMMARY: Pursuant to the Artists' Rights and Theft Prevention Act of 2005, the Copyright Office is proposing regulations for the preregistration of unpublished works that are being prepared for commercial distribution in classes of works that the Register of Copyrights determines have had a history of pre–release infringement.

DATES: Comments are due no later than August 22, 2005. Reply comments are due no later than September 7, 2005.

ADDRESSES: If hand delivered by a private party, an original and five copies of any comment should be brought to Room LM–401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m. and the envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000. If hand delivered by a commercial courier, an original and five copies of any comment must be delivered to the Congressional Courier Acceptance Site located at Second and D Streets, NE., Washington, DC, between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Copyright Office General Counsel, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington DC. If sent by mail, an original and five copies of any comment should be addressed to: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024–0400. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Charlotte Douglass, Principal Legal Advisor, P.O. Box 70400, Washington, DC 20024–0400, Telephone (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

This Notice of Proposed Rulemaking implements Section 104 of the Family Entertainment and Copyright Act, enacted April 27, 2005. Among other things, this new law permits owners of works in certain classes that have experienced a history of infringement prior to commercial distribution to preregister a work prior to its publication during the period when the work is being prepared for commercial distribution.

On April 27, 2005, President Bush signed the Family Entertainment and Copyright Act (''FECA''). Pub. L. No. 109–9, 119 Stat. 218. Title I of FECA is the Artists' Rights and Theft Prevention Act of 2005, or ''ART Act,'' which among other things addresses copyright infringement of works committed prior to their authorized commercial distribution, or pre–release infringement. It includes, in section 103, new criminal penalties for certain acts of pre–release infringement. Section 104 directs the Copyright Office to conduct a rulemaking proceeding to establish a procedure for preregistration of unpublished works that are being prepared for commercial distribution. The regulations are to be in place not later than 180 days after enactment of the ART Act, i.e., by October 24, 2005. This notice proposes those regulations and seeks public comment prior to the announcement of final regulations.

Sections 103 and 104 of the ART Act were enacted in response to the increasingly serious problem of pre–release infringement. As Senator Hatch, the sponsor of the legislation, stated upon introducing the ART Act, ''Obviously, the increasingly frequent situation of copyrighted works being distributed illegally via the Internet before they are even made available for sale to the public severely undercuts the ability of copyright holders to receive fair and adequate compensation for their works.'' 151 Cong. Rec. S495 (daily ed. Jan. 25, 2005). Senator Cornyn, a cosponsor, explained that the legislation ''focuses on the most egregious form of copyright piracy plaguing the entertainment industry today—the piracy of film, movies, and other copyrighted materials before copyright owners have had the opportunity to market fully their products.'' Id. at S498.

Copyright owners persuaded Congress that the existing rules making copyright registration a prerequisite for suit for infringement of United States works[1] and a prerequisite for awards of attorney's fees and statutory damages are unduly burdensome on plaintiffs seeking relief against pre–release infringement in civil suits for copyright. Because works intended for publication usually are not registered until they are in final form and are being disseminated to the public, most copyright owners' usual registration practices make it difficult to file suit and obtain full relief in cases of pre–release infringement. Accordingly, representatives of record companies and motion picture studios sought amendments to sections 411 and 412 of the Copyright Act that would remove the registration requirement in cases of pre–release infringement. Rather than take such an action that would weaken the incentive to register, Congress chose instead to instruct the Copyright Office to create a process which would permit copyright owners of works that have not yet been published and are being prepared for commercial distribution to preregister those works.

Preregistration is not a substitute for registration, but is a preliminary step prior to a full registration that will take place after the work has been published or infringed.

II. Statutory Provisions

The ART Act amends section 408 of the Copyright Act to add a new subparagraph (f), which directs the Register of Copyrights to allow preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution. A person who has preregistered a work is required under section 408 to follow through with a registration of the work within 3

[1] For the definition of ''United States work,'' see 17 U.S.C. 101. United States works include, among others, works first published in the United States and unpublished works by United States authors.

months after the work has first been published. The ART Act also amends sections 411(a) and 412 to provide that in a copyright infringement lawsuit, preregistration will conditionally satisfy the registration requirements of sections 411(a) and 412, but only if the copyright owner follows through with a registration either within three months after the first publication of the work or one month after the copyright owner has learned of the infringement. Where a preregistered work is not registered within the prescribed time period, a court must dismiss an action for copyright infringement that occurred before or within the first two months after first publication. See 17 U.S.C. 408(f), 411(a) and 412. However, the legislative history explains: ''By its express terms, the prohibition on infringement suits contained in Section 408(f)(4) does not apply to suits concerning infringements commencing later than 2 months after first publication of a copyrighted work that had been preregistered with the Copyright Office. Therefore, notwithstanding a failure to meet the deadlines set forth in Section 408(f)(4)(A) and (B), a copyright owner of a preregistered work can register his or her work under current law and bring infringement actions for infringements occurring more than 2 months after first publication.'' H. R. Rep. 109–33, pt. 1, at 5 (2005).

III. Eligibility for Preregistration

The legislative history offers some guidance on how the Register is to determine what classes of works are eligible for preregistration. ''Section 104 expressly requires the Register of Copyrights to issue regulations to establish a preregistration system for copyrighted works. Since works are generally not formally registered until they are in final form and ready for distribution to the public, civil remedies for the distribution of pre–release works are lacking. This section will give the Register flexibility to determine which classes of works are appropriate for preregistration. The Committee believes that a class of works with only a few instances of infringement prior to authorized commercial distribution does not meet the test of a 'history of infringement' but otherwise leaves the decision to the Register of Copyrights.'' H.R. Rep. No. 109–33, pt. 1, at 4.

Of primary importance, then, is the Register's determination of the boundaries between classes of works that are eligible for preregistration and those that are not. Preregistration is limited to unpublished works being prepared for commercial distribution in a class of works that have already experienced more than a few instances of pre–release infringement.

A work submitted for preregistration must fulfill three conditions: the work must be unpublished; the work must be in the process of being prepared for commercial distribution; and the work must fall within a class of works determined by the Register to have had a history of infringement prior to authorized commercial distribution. These conditions contain terms with special meanings within the purview of copyright law in general, and in one case, within the purview of this preregistration regulation.

A. Unpublished Status

To be eligible for preregistration, a work must be unpublished at the time of its submission to the Copyright Office. Otherwise, the work should be registered in published form and should be deposited with the Copyright Office for the Library of Congress. Publication in the copyright sense means ''the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending.'' 17 U.S.C. 101. Others may not be so familiar with the section of the definition which reads ''the offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance or display constitutes publication.'' *Id.* Consequently a work can be published, for example, if it is in existence and has been offered to a group of disc jockeys for purposes of public air play. A work is also published if it has been delivered to a number of distributors for purposes of theatrical exhibition.

B. Work Prepared for Commercial Distribution

The second condition for eligibility of a work for preregistration is that a work must be in the process of being prepared for commercial distribution. Although section 103(a)(3) of the ART Act, governing criminal copyright infringement, provides a definition of ''work being prepared for commercial distribution,'' that definition applies only to that particular subsection of the ART Act and presumably has no weight in determining what is a ''work being prepared for commercial distribution'' for purposes of preregistration. However, the legislative history offers no other guidance. Certainly, to be entitled to preregistration in preparation for civil enforcement, a copyright owner must have taken some steps preparatory to distribution to the public. The question is, how extensive must those steps have been? Is it sufficient that the copyright owner has a subjective intent to distribute the work once it has been finished? If that were all that was required, then arguably all works of authorship would qualify for preregistration; presumably, it is a rare author who does not believe his or her work is destined to reach its audience. Yet, some reasonable limits must be placed on what is to be considered a ''work being prepared for commercial distribution,'' lest virtually all works be considered to fall within that category. Similarly, as is discussed below, it seems unlikely that classes of works that have a history of prerelease infringement would include works whose authors have the subjective hope or intention to distribute, but for which no arrangements to distribute have been made.

In determining what is meant, in the context of preregistration, by ''a work being prepared for commercial distribution,'' the background to the enactment of section 104 of the ART Act and the purposes of that section should be taken into account. As noted above, section 104 was the result of requests by record companies and motion picture studios for relief, in the context of pre–release infringement, from the provisions of sections 411 and 412 that require copyright registration as a prerequisite to suit and to certain remedies for infringement. Their concern, and the concern of the Congressional sponsors of the ART Act, was primarily with the relatively recent phenomenon of infringement on the Internet, e.g., by means of peer–to–peer file–sharing networks, of sound recordings and motion pictures prior to their official release to the public. One of the most striking examples before Congress related to the appearance on the Internet, two weeks before its theatrical premiere in 2003, of the motion picture The Incredible Hulk. As the ranking Member of the House Subcommittee on Courts, the Internet and Intellectual Property observed when the House Judiciary Committee favorably reported FECA, ''Pirates will always seek treasure, and where they have truly found gold is in obtaining a pre–released copy of a movie, sound recording or video game. In testimony on this issue almost two years ago, industry representatives testified that two weeks before the motion picture The Hulk was to be released in theaters, an incomplete work print version of the film had been illegally uploaded onto the Internet. In fact, reviews for The Hulk were available before its release in theaters. The harm to the market of a copyrighted work exponentially increases if the work is released before

the editing or promotion for the product is completed.'' Prepared Statement of the Honorable Howard L. Berman, H.R. Rep. No. 109–33, pt. 1, at 65. See also *Piracy Deterrence and Education Act of 2003: Hearing Before the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary House of Representatives*, 108th Cong. 61 (2003) (Statement of Maren Christensen, then Vice President, Intellectual Property Counsel, Universal Studios).

In short, the problem identified by Congress when it enacted the preregistration requirement was the phenomenon of infringement on the Internet of works that are truly en route to commercial distribution. Therefore, in order to qualify for preregistration, the creator of a work must have taken some significant action to place the work in the stream of commerce. On the other hand, we recognize that pre–release infringement may take place even before a work has been completed. Somebody who manages to get his or her hands on the dailies[2] for one day's filming of the next ''Harry Potter'' film and who posts that footage on the Internet is engaging in a serious act of infringement of that film, even if the filming of the motion picture is still in progress. One who places Norah Jones' recording of a single cut from a forthcoming album can cause serious harm, even while she is still in the recording studio completing the album.

It seems reasonable to set the threshold for works being prepared for commercial distribution not at the doing of any particular act of distribution, which would be too harsh a requirement to protect works destined for commercial distribution that are in relatively early stages of preparation, but rather at some earlier stage. We can identify two requirements that appear to be reasonably calculated to meet the statutory requirement that the preregistered work is truly being prepared for commercial distribution. First, preparation of the work must have commenced. That means, at a minimum, that some portion of the work has been fixed in a tangible medium of expression. See 17 U.S.C. 101 (definition of ''created'': ''A work is 'created' when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.'').

Second, a contract must have been entered into for distribution of the work. For a sound recording, the contract would be with a record company. For a motion picture, the contract would be with a motion picture studio. In the absence of such a contractual relationship – or of some other objective evidence that the work ultimately will be commercially distributed – the determination of whether a work is truly being prepared for commercial distribution would be subjective. Moreover, it is reasonable to conclude that the signing of a recording contract or a motion picture distribution agreement will be the first step down the road of commercial distribution. We elaborate on this requirement in our discussion of the next topic: the determination of classes of works that have had a history of pre–release infringement.

C. Classes of Works Determined to Have Had A History of Pre–Release Infringement

The ART Act requires the Register to permit preregistration for works in those classes of works that she determines have had a history of infringement prior to authorized distribution. 17 U.S.C. 408(f)(2). This requires the Register to designate classes of works that she determines have had a history of pre–release infringement. As noted above, however, the legislative report confirms that the Register does not have discretion to permit preregistration for classes of works that have had only a few instances of infringement in pre–release form. H. R. Rep. No. 109–33, at 4.

The Copyright Office was involved in discussions with Congress leading up to the passage of this legislation; it is therefore aware of the cases made by record companies and motion picture studios to Congress that pre–release infringement has been a serious problem in their industries. Pre–release infringement of motion pictures and sound recordings has also been reported in the press. See, e.g., ''Suspect in Movie Piracy Is Fugitive; Man Charged with Videotaping Films at Pre–Release Screenings Flees Days before Trial,'' *Los Angeles Times*, Jan. 10, 2004, p. B3; ''She's Burning Up; Madonna Blasts Pirates Who Try to Steal 'Life,''' *Newsday*, Apr. 18, 2003, p. A14. We therefore propose to include motion pictures and sound recordings among the classes of works eligible for preregistration. Because sound recordings almost always include performances of musical works, we also propose to include nondramatic musical works that are performed on sound recordings as a class eligible for preregistration. As the legislative history notes, ''a preregistration of a sound recording does not by itself constitute preregistration of the musical works embodied in the sound recording.'' H. R. Rep. No. 109–33, at 5. We do not propose that a preregistration of a sound recording would automatically constitute preregistration of any of the musical works on that recording. However, as is the case with current copyright registration practice, an applicant who is the copyright owner of both a sound recording and a musical work performed on that sound recording may preregister both the sound recording and the musical work in a single preregistration.

Although this notice of proposed rulemaking does not propose any additional classes of works, the Office seeks comments on whether there are additional classes of works that have a history of pre–release infringement. Proponents of a class of works should be prepared to document more than ''a few instances'' of pre–release infringement. See H. R. Rep. No. 109–33, at 4. And although this notice proposes to include motion pictures, sound recordings and musical works among the eligible classes, the burden remains on proponents of those three classes of works to make the case to the Office that these classes of works have indeed experienced a history of pre–release infringement. Proponents of any class should be prepared to demonstrate that there is a substantial history of pre–release infringement which is likely to continue, causing harm to copyright owners that can be ameliorated by permitting preregistration of such works.

The Office is also informed by its experience making previous determinations regarding classes of works in carrying out its responsibilities under the Digital Millennium Copyright Act (DMCA), Pub. L. No. 105–304, 112 Stat. 2860 (October 28, 1998). The DMCA added section 1201 to Title 17, requiring the Register to recommend ''classes of works,'' if any, that should be subject to exemption from one of the DMCA's anticircumvention provisions. In response to section 1201's mandate, the Register has been involved in triennial rulemaking proceedings to determine any classes of works that should be subject to an exemption from the prohibition against circumventing access control measures.

[1] ''Dailies'' (also known as ''rushes'') are ''The first positive prints made from the negatives photographed on the previous day. During filming, the director and some actors may view these dailies as an indication of how the filming and the actors' performances are progressing.'' IMDb Film Glossary, http://us.imdb.com/Glossary/D.

Section 104 of the ART Act was drafted with section 1201's ''class of works'' provision in mind, and Congressional guidance on the meaning of the phrase ''class of works'' in section 1201 is instructive. In that context, the legislative history indicates an intent ''that the 'particular class of copyrighted work' be a narrow and focused subset of the broad categories of works of authorship than [sic] is identified in section 102 of the Copyright Act (17 U.S.C. 102).'' Report of the House Committee on Commerce on the Digital Millennium Copyright Act of 1998, H.R. Rep. No. 105–551, pt. 2, at 38 (1998).

In the context of and in light of the purpose of preregistration – which is to afford a remedy to copyright owners of works which are likely to be subject to pre–release infringement, we believe that the proposed classes of works – motion pictures, sound recordings and nondramatic musical works – can be appropriately narrowed by focusing on the requirement that a distribution agreement be in place for the work that is being prepared for commercial distribution. To guard against the possibility of fraud, we believe that it would be prudent to include, as part of that requirement, that the distributor be an ''established'' distributor of motion pictures or phonorecords, as the case may be. An ''established'' distributor is an entity that is actually in the business of commercial distribution of the class of works and that has actually engaged in commercial distribution of several such works in the past year. Because nondramatic musical works are now commercially exploited primarily in the form of prerecorded music, the requirement for a nondramatic musical work would be satisfied if there is in existence a distribution agreement to distribute phonorecords of a sound recording that includes a performance of the musical work.

Such a requirement assists in ensuring that works subject to preregistration fall within classes in which there has been a history of infringement. We are not aware of any history or danger of pre–release infringement of works for which the prospect of commercial distribution is so remote that no arrangements have been made for authorized distribution. The fact that in enacting the ART Act, Congress was responding to concerns of motion picture studios and record companies about pre–release infringement of their works further bolsters the conclusion that the focus of preregistration should be on works for which distribution agreements already exist. To the community of Internet infringers who are eager to offer a motion picture or phonorecord for downloading prior to its official release, there is no glory, cachet or profit in offering a work for which there is no demand, and the existence of an agreement to distribute a work is a reliable indicator of such demand, as well as being a reliable indicator that the work is truly being prepared for commercial distribution.

We also propose to narrow the eligible classes of works further by reference to the nature of the distribution agreements. It appears that thus far, works that have been subject to pre–release infringement are works for which there is an anticipated demand. For motion pictures, that still means that the work will be distributed for theatrical exhibition. The Office also does not propose to include motion pictures for which the distribution agreements provide only for ''direct–to–video'' or online distribution, since the Office has no reason to believe that those motion pictures, which presumably are much less in demand than motion pictures that will be distributed theatrically, have had a history of prerelease infringement. For sound recordings, that still means that the work will be distributed in physical phonorecords (e.g., CDs or DVDs). While we recognize that online distribution is becoming increasingly significant, it has not yet supplanted physical distribution as the principal means of disseminating motion pictures and sound recordings. Moreover, including works that are distributed only online would probably be overinclusive: anybody can make his or her work available for online distribution, even if there is no demand for the work. Because preregistration is intended for works that have had a history of prerelease infringement, the Office believes that including works for which the only distribution agreements relate to online distribution would be vastly overinclusive. Of course, over time that may well change and require that the Office reexamine those conclusions. We seek comments as to whether our assumptions are valid.

In considering how to determine what classes of works should be included in the preregistration system, the Office has also weighed the possibility of requiring that such works be by authors or performers who have had some track record of success, or at least who have previously had their works released for commercial distribution. While we have chosen not to include such a requirement in the proposed rules, we seek comment on whether such a requirement is desirable and workable. One reason we have chosen not to include the requirement in the proposed rules is our uncertainty as to how one would determine whether a particular author or performer has a successful track record. We seek comments on whether our proposal is based on valid assumptions.

Comments are sought as to whether the proposed classes of works are underinclusive or overinclusive, keeping in mind that the only works that are to be included are works being prepared for commercial distribution and that the Register is to designate only classes of works that have a history of pre–release infringement. Proponents of broader or additional classes of works should back up their proposals with evidence that responds to those requirements.

The proposed classes are:

1. Motion pictures subject to theatrical distribution contracts with established distributors of motion pictures; .

2. Sound recordings subject to contracts for distribution of physical phonorecords with established distributors of phonorecords;.

3. Nondramatic musical compositions performed in sound recordings subject to contracts for distribution of physical phonorecords with established distributors of phonorecords.

IV. Procedures for Preregistration

A. Overview of Preregistration Process

Preregistration is meant for those who wish to preregister a claim in a work which falls within a ''class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.'' 17 U.S.C. 408(f)(2). As a general principle, preregistration will be as streamlined a process as possible. Persons wishing to preregister a copyright will be required to apply online, and the electronic application will require sufficient information to reasonably identify the work for which preregistration is sought, but no deposit materials will be required and the application will not be examined except to ascertain that all the necessary information has been provided.

Preregistration is not a substitute for registration. It is simply a means of preserving the ability to satisfy the requirements of sections 411(a) and 412 of the Copyright Act by advising the Copyright Office prior to the publication of a work that the work is being prepared for commercial distribution, and following through with a registration shortly after publication or infringement of the work. The fact that a work has been preregistered does not mean that the Copyright Office

necessarily will register the work when an application for registration is submitted.

A work that would not ultimately be eligible for copyright registration should not be submitted for preregistration. However, unlike registration, which is prima facie evidence of the validity of the copyright and of the facts stated in the certificate, preregistration carries no such presumptions. For that reason, the Office will not conduct the type of examination that is done with respect to copyright registration, and a preregistration will not be subject to cancellation.

To preserve the legal benefits of preregistration, a preregistered work must be registered within one month after the copyright owner becomes aware of infringement but in no case later than three months after first publication. In this sense, preregistration is a prelude to full registration.

B. General Observations about Preregistration Procedure

1. Form PRE

The Copyright Office is creating a new form which is specifically designed to elicit only basic information. The Form PRE must be submitted electronically and will be available only in that form, on the Copyright Office's website.

2. No Deposit Copy or Phonorecord Required

Because preregistration is not a form of registration, but is simply an indication of an intent to register a work once it has been completed and/or published, there will be no deposit requirement. However, the application form should contain a detailed description of the work, keeping in mind that the description becomes an important part of the preregistration public record and that it will not be possible to cancel or expunge this record. The space limitation for the description on Application Form PRE is 2000 characters. The Office will not pass judgement on the adequacy of the description, but a court might well conclude, based on a comparison of the finished work with the description in the preregistration application, that the preregistration does not actually pertain to the work that is alleged to have been infringed.

3. Preregistration Fee

The preregistration fee will be set to recover costs to establish the new system in the Copyright Office and provide the preregistration service. In principle, the fee should cover the actual cost to the Office of processing each preregistration, and the fees collected for preregistration should collectively cover the start–up costs for creating the new electronic preregistration program, spread over a period of time. In determining the appropriate fee that would meet those guidelines, a key element is an estimate of how many preregistrations will be received each year. While it is difficult to predict how many preregistrations will be received, the Office believes a reasonable estimate would be 300. If that estimate is accurate, then in order to recoup the costs of setting up the system over a period of five years, it would be necessary to charge a fee of $250. However, the Office recognizes that $250 would be a very substantial fee, and as a result it is proposed that the preregistration fee initially be set at $100, with the understanding that the fee will be reevaluated after several months of experience once the Office has a better idea of how many preregistrations will occur.

The Office considered requiring prepayment of the registration fee as part of preregistration, in order to provide an additional inducement to follow through with a registration, but at this time the logistical problems of requiring prepayment appear to outweigh its benefits. The Office welcomes comment on establishing a system in the future whereby the applicant for preregistration simultaneously prepays the registration fee in order to facilitate and further encourage prompt registration.

4. Verification

The applicant must verify under penalty of law that he or she is an author, a claimant, or other party authorized to submit the claim for the copyright owner and that the statements made in the preregistration application are correct to the best of the applicant's knowledge.

5. Numbering

All preregistrations will be numbered with the prefix ''PRE'' and will be numbered consecutively. Preregistration claims will not be issued according to registration class, i.e., VA, PA, or TX.

6. Online Record.

All completed preregistrations will be accessible through the Copyright Office's online database by title, author and claimant. Therefore, a search for preregistration records should enable discovery of the registration record for the same work. It is recognized that in some cases, for reasons such as changes in ownership and other changes that take place during the creation of a work, the title, author and/or claimant named on the preregistration form may be different from the actual title, author and claimant later identified in the registration record.

7. Notification of Preregistration.

Upon completion of the preregistration, the Office will issue an email notification of preregistration to the claimant. Each e–mail will remind the claimant that a timely basic registration should be made as the follow–up to preregistration and that the application for basic registration should contain a reference to the preregistration number to enable the Office's preregistration and basic registration records for the particular work to be tied together through cross–entry of the two numbers.

For further verification that a work has been preregistered, it will be possible to view the record for any preregistered work on the Copyright Office's website and to print that information. At this time, the Office does not anticipate sending a printed certificate or notification of preregistration, but we solicit comments on whether (and why) such a practice would be desirable.

8. No Cancellation or Correction of Preregistrations

Once entered in Copyright Office records, a preregistration will not be cancelled. Thus, the Office will not expunge its records, for example, of an applicant's incorrect description of a work or other error. An applicant who acts promptly before issuance of notification, however, may withdraw an application for preregistration. However, it is anticipated that preregistrations will be processed shortly after they are submitted. Nor can a preregistration be corrected, supplemented, or amended after completion. Thus, for example, the Office will not accept a Form CA (supplementary registration) to correct or supplement the information in a preregistration record. An applicant who wishes to correct the record must submit another application for preregistration containing the corrected or omitted information.

9. Preregistration as a Single Work

Just as a single registration may be made for a number of self–contained works that are first published in a single unit of publication, see 37 C.F.R. § 202.3(b)(3)(i)(A), preregistration may be made for all such works having the same copyright claimant if they will be first published in a single unit of publication. For example, if the same party owns the copyright in both a sound recording and the musical compositions embodied in the sound recording, both claims may be preregistered on one Form PRE.

10. Summary

To summarize, an applicant who owns an exclusive right in an unpublished work being prepared for

commercial distribution that falls within one of the Register's determined classes of works may preregister that work in the name of the anticipated claimant with the Copyright Office on or after October 24, 2005, by completing Application Form PRE online and paying the prescribed fee online by Deposit Account or Credit Card.

C. Preregistration Application Form – Electronic Only

At this time, the Office anticipates that the application for preregistration will require that the applicant provide the following information:

1. Type of work being preregistered:
Motion picture subject to theatrical distribution contract with an established distributor of motion pictures;
Sound recording subject to contract for distribution of physical phonorecords with an established distributor of phonorecords; or
Nondramatic musical composition performed in sound recording subject to contract for distribution of physical phonorecords with an established distributor of phonorecords.
2. Title
3. Additional titles [optional]
4. Author (i.e., the person who is anticipated to be given on the basic application as author under the copyright law of the completed work when the basic, follow–up registration is made).
5. Claimant (i.e., the person who is anticipated to be given on the basic application as the owner of copyright in the completed work when the basic, follow–up registration is made).
6. Claimant Address.
7. Description of the work being claimed for preregistration. (Instructions will indicate that the description should be detailed and specific in order to identify the particular work for which preregistration is sought. The maximum length of the description will be 2000 characters – approximately 330 words.) Examples:
A. A motion picture should generally be described in terms such as the subject matter it treats or a plot summary or outline; the director, if known; major actors appearing in the motion picture, if known; the principal location of filming; and any other details which would assist in identifying the particular motion picture.
B. A sound recording should generally be described in terms such as the subject matter of the underlying work recorded; the performer or performing group, if known; the genre of the work recorded, e.g., classical, hard rock, blues; the principal recording location, if known; titles of the musical compositions being performed, if known, and any other characteristics of the recording which may help in identifying the particular recording.
8. Date on which creation of the work commenced.
9. Date of anticipated completion of the work.
10. Date of anticipated commencement of commercial distribution of the work.
11. Certification under penalty of law.
12. Name of person submitting the preregistration.

List of Subjects in 37 CFR Part 202

Claims to copyright, Copyright, Registration requirements.

Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend part 202 of 37 CFR, chapter II in the manner set forth below:

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 is revised to read as follows:

Authority: 17 U.S.C. 408(f), 702

2. The heading of Part 202 is revised to read as follows:

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

3. A new § 202.16 is added to read as follows:

§ 202.16 Preregistration of Copyrights

(a) *General.* This section prescribes rules pertaining to the preregistration of copyright claims in works eligible for preregistration under Section 408(f) of 17 U.S.C.

(b) *Definitions.* For the purposes of this section–

(1) A work is in a *class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release* if it is one of the following:

(i) A motion picture subject to a theatrical distribution contract with an established distributor of motion pictures;

(ii) A sound recording subject to a contract for distribution of physical phonorecords with an established distributor of phonorecords; or

(iii) A nondramatic musical composition performed in a sound recording subject to a contract for distribution of physical phonorecords with an established distributor of phonorecords;

(2) An *established distributor* of motion pictures is a person or entity that is actually in the business of commercial distribution of motion pictures and that has actually engaged in commercial distribution of two or more motion pictures within the past year.

(3) An *established distributor of phonorecords* is a person or entity that is actually in the business of commercial distribution of phonorecords and that has actually engaged in commercial distribution of two or more phonorecords within the past year.

(4) A work is *being prepared for commercial distribution* if:

(i) Preparation of the work has commenced and at least some portion of the work has been fixed in a tangible medium of expression; and

(ii) a contract has been entered into for the commercial distribution of the work to the public.

(5) A *work eligible for preregistration* is a work that is:

(i) Unpublished;

(ii) Being prepared for commercial distribution; and

(iii) In a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release.

(c) *Preregistration.* (1) *General.* A work eligible for preregistration may be preregistered by submitting an application and fee to the Copyright Office pursuant to the requirements set forth in this section.

(2)*Works excluded.* Works that are not copyrightable subject matter under title 17 of the U.S. Code may not be preregistered in the Copyright Office.

(3) *Application form.* An application for preregistration is Electronic Form PRE. The application must be submitted electronically on the Copyright Office website at: [Address to be given in the final rule].

(4) *Preregistration as a single work.* For the purpose of preregistration on a single application and upon payment of a single preregistration fee, all copyrightable elements that are otherwise recognizable as self–contained works, that are to be included and first published in a single unit of publication, and in which the copyright claimant is the same, shall be considered a single work eligible for preregistration.

(5) *Fee.* (i) *Amount.* The filing fee for preregistration is $100.

(ii) *Method of payment.* (A) Copyright Office deposit account. The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services and for those who file applications electronically. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits in that account. Deposit Account holders can charge preregistration fees against the balance in their accounts instead of using credit cards for each request of service. For information on Deposit Accounts, please download a copy of Circular 5, ''How to Open and Maintain a Deposit

Account in the Copyright Office,'' or write the Register of Copyrights, Copyright Office, Library of Congress, Washington, D.C. 20559.

(B) Credit cards, debit cards and electronic funds transfer. The online preregistration filing system will provide options for payment by means of credit or debit cards and by means of electronic funds transfers. Applicants will be redirected to the Department of Treasury's Pay.gov website to make payments with credit or debit cards, or directly from their bank accounts by means of ACH debit transactions.

(C) No refunds. The fee is not refundable.

(6) *Description*. No deposit of the work being preregistered should be submitted with an application for preregistration. The preregistration applicant should submit a detailed description, of not more than 2,000 characters (approximately 330 words), of the work as part of the application. The description should be based on information available at the time of the application sufficient to reasonably identify the work. The Copyright Office will not review descriptions for adequacy except in extreme cases, but in an action for infringement of a preregistered work, the court may evaluate the adequacy of the description to determine whether the preregistration actually describes the work that is alleged to be infringed, taking into account the information available to the applicant at the time of preregistration. For motion pictures such a description should include the following information to the extent known at the time of filing: subject matter, a summary or outline, the director, the primary actors, the principal location of filming, and any other information that would assist in identifying the particular work being preregistered. For sound recordings and for nondramatic musical works, the identifying description should include the following information to the extent known at the time of filing: the subject matter of the work or works recorded, the performer or performing group, the genre of the work recorded (e.g., classical, pop, musical comedy, soft rock, heavy metal, gospel, rap, hip–hop, blues, jazz), the titles of the musical compositions being recorded, the principal recording location, and the composer(s) of the recorded musical compositions embodied on the sound recording and any other information that would assist in identifying the particular work being preregistered.

(7) *Examination*. The Copyright Office will conduct only a limited examination of applications for preregistration, in order to ascertain whether the application describes a work that is in a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release. However, a work will not be preregistered unless an applicant has provided all of the information requested on the application and has certified that all of the information provided on the application is correct to the best of the applicant's knowledge.

(8) *Notification of preregistration*. Upon completion of the preregistration, the Copyright Office will provide the claimant notification by email of the preregistration. The preregistration record will also be available to the public on the Copyright Office website, www.copyright.gov.

(9) *Effect of preregistration*. Preregistration of a work offers certain advantages to a copyright owner pursuant to 17 U.S.C. 411 and 412. However, preregistration of a work is not prima facie evidence of the validity of the copyright or of the facts stated in the application for preregistration or in the preregistration record. The fact that a work has been preregistered does not create any presumption that the Copyright Office will register the work upon submission of an application for registration.

Dated: July 18, 2005

Marybeth Peters,

Register of Copyrights.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 155

[OPP–2004–0404; FRL–7727–9]

Pesticides; Procedural Regulations for Registration Review; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is convening two public information sessions to explain the provisions of its recently published proposed rule establishing procedural regulations for registration review in 40 CFR part 155, subpart C. These meetings are open to the public.

DATES: The first public information session will be held on August 23, 2005, from 10 a.m. to 3:30 p.m in the Washington, DC area. The second public information session will be held on September 1, 2005, from 10 a.m. to 3:30 p.m in the Chicago, IL area.

ADDRESSES: The August 23, 2005 public information session will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202.

The September 1, 2005 public information session will be held at the Metcalf Federal Building, Room #331, 77 West Jackson Boulevard, Chicago, IL 60604. Visitor information for the September 1, 2005 location may be found at *http://www.epa.gov/region5/visitor/index.htm.*

FOR FURTHER INFORMATION CONTACT: Nathanael Martin, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: *martin.nathanael@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you hold pesticide registrations. Pesticide users or other persons interested in the regulation of the sale, distribution or use of pesticides may also be interested in action. Potentially affected entities may include, but are not limited to:

- Producers of pesticide products (NAICS code 32532)
- Producers of antifoulant paints (NAICS code 32551)
- Producers of antimicrobial pesticides (NAICS code 32561)
- Producers of nitrogen stabilizer products (NAICS code 32531)
- Producers of wood preservatives (NAICS code 32519)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions of proposed § 155.40 of the regulatory text in the **Federal Register** of July 13, 2005 (70 FR 40251) (FRL–7718–4). If you have any questions regarding the applicability of this action to a particular entity, consult the person

listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0404. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

EPA is convening several public information sessions to explain the provisions of the proposed rule establishing procedural regulations for registration review. The proposed procedural regulations were published in the **Federal Register** of July 13, 2005. You may access this document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/* or from the Agency's E-docket at *http://www.epa.gov/edocket/* OPP–2004–0404. Registration review is the periodic review of a pesticide's registration to assure that each pesticide registration continues to satisfy the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) standard for registration. The registration review program will replace the tolerance reassessment program and the reregistration program as the Agency's means for systematically reviewing existing pesticides.

The purpose of these meetings is to engage members of the public in a discussion of the proposed regulations and the proposed registration review program so that interested persons can make constructive and timely comments on the proposed rule. Staff from EPA's Office of Pesticide Programs will provide a general explanation of the registration review procedures and discuss, among other things, the Agency's goals and expectations for this program, proposed scheduling procedures, the proposed process for conducting a review, differences and similarities between reregistration and registration review, and stakeholder and public participation in the new registration review process. EPA will respond to questions that are raised during the meeting. However, in order for remarks to constitute official comments on the proposed rule, comments must be submitted in writing to the docket, as explained in Unit I. of this notice.

A 90–day comment period on the proposed procedural regulations will end on October 11, 2005. Instructions for submitting comments to docket OPP–2004–0404 are provided in the **Federal Register** notice of July 13, 2005 (70 FR 40251).

Please notify the person listed under **FOR FURTHER INFORMATION CONTACT** if you intend to attend one of these public information sessions. Your RSVP will help us plan appropriately. However, reservations are not required.

List of Subjects in Part 155

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

Dated: July 19, 2005.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 05–14602 Filed 7–20–05; 2:45 pm]

BILLING CODE 6560–50–S

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards Board; Accounting for the Costs of Employee Stock Ownership Plans (ESOPs) Sponsored by Government Contractors

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Cost Accounting Standards Board (CASB), Office of Federal Procurement Policy, invites public comments on proposed amendments to the Cost Accounting Standards (CAS) 412, ''Cost accounting standard for composition and measurement of pension cost,'' and CAS 415, ''Accounting for the cost of deferred compensation.'' These proposed amendments address issues concerning the recognition of the costs of Employee Stock Ownership Plans (ESOPs) under Government cost-based contracts and subcontracts. These proposed amendments provide criteria for measuring the costs of ESOPs and their assignment to cost accounting periods. The allocation of a contractor's assigned ESOP costs to contracts and subcontracts is addressed in other Standards. The proposed amendments also specify that accounting for the costs of ESOPs will be covered by the provisions of CAS 415, ''Accounting for the cost of deferred compensation'' and not by any other Standard.

DATES: Comments must be in writing and must be received by September 20, 2005.

ADDRESSES: Due to delays in OMB's receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. Electronic comments may be submitted to *casb2@omb.eop.gov.* Please put the full body of your comments in the text of the electronic message and also as an attachment readable in either MS Word or Corel WordPerfect. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted by fax to (202) 395–5105. Please cite CASB Docket No. 00–03A in your comment.

FOR FURTHER INFORMATION CONTACT: David Capitano, Cost Accounting Standards Board (telephone: 703–847–7486).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The CASB's rules, regulations and Standards are codified at 48 CFR Chapter 99. The Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires the Board, prior to the establishment of any new or revised Cost Accounting Standard, to complete a prescribed rulemaking process. The process generally consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of the adoption of a proposed Standard (*e.g.*, promulgation of a Staff Discussion Paper.)
2. Promulgate an Advance Notice of Proposed Rulemaking (ANPRM).
3. Promulgate a Notice of Proposed Rulemaking (NPRM).
4. Promulgate a Final Rule.

This NPRM is issued by the Board in accordance with the requirements of 41 U.S.C. 422(g)(1)(D), and is step three of the four-step process.

B. Background—Prior Promulgations

The FAR has dealt with issues associated with ESOPs since the late 1970s. At first, the issues that arose were regarded as allowability matters, and the views of the CASB were sought primarily on an advisory basis. However, after issuance of the decision in Ralph Parsons Co. (ASBCA Nos. 37391, 37946, and 37947, dated December 20, 1990), various Government commenters suggested to the CASB that ESOP cost measurement and period assignment matters warranted placement on the CASB's agenda. These suggestions were amplified in light of the decision in Ball Corporation (ASBCA No. 49118, dated April 3, 2000).

The CASB first considered issuing an interpretation of its existing standards, but then decided that additional research was needed. As a result, on September 15, 2000, the CAS Board issued a Staff Discussion Paper on this topic (65 FR 56008, dated September 15, 2000). The CASB received sixteen sets of public comments in response to the Staff Discussion Paper. The CASB reviewed and discussed these public comments. Upon completion of this review, an ANPRM was drafted and published in the **Federal Register** on August 20, 2003 (68 FR 50111).

C. Public Comments

The Board received ten sets of public comments in response to the ANPRM. The Board would like to thank all the organizations and individuals who provided comments and information in response to the ANPRM. A summary of the comments and the CAS Board responses are as follows:

1. Exemption of Small Businesses

Comment: One commenter requests clarification of the statement in the Supplementary Information section of the **Federal Register** Notice that states ''Furthermore, this proposal does not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards.'' This commenter notes that FAR 31.205–6(j)(8) includes a section entitled ''Employee Stock Ownership Plans.'' The commenter asks that the CAS Board clarify the exemption status of Small Businesses as mentioned in the proposed rule because it appears to conflict with the FAR on selected costs (ESOPs) being subject to CAS.

CAS Board Response: There is no conflict between the **Federal Register** Notice and the FAR. The statement in the **Federal Register** Notice refers to the fact that small businesses are exempt from the rules, regulations, and standards promulgated by the CASB, not the rules and regulations promulgated under the FAR. Since small businesses are exempt from the requirements of the CAS, the requirements of FAR Part 31 are used to determine how costs are measured, assigned, and allocated for applicable contracts with small businesses (*i.e.*, contracts that are subject to FAR Part 31). The application of FAR Part 31 to contracts that are not covered by the CAS, including the decision to measure, assign, and/or allocate costs using one or more of the CAS standards, is under the purview of the FAR Council. This NPRM does not exempt any such contracts from the requirements of FAR Part 31.

2. Application to ''C'' versus ''S'' Corporations

Comment: One commenter strongly supports the statement at CAS 9904.415–50(f)(1) that a contractor's ESOP contribution may include interest and dividends. This commenter states that it reads this provision to apply to ''C'' corporations and ''S'' corporations. The commenter recommends that the preamble to any further rule state that application.

CAS Board Response: The Board recognizes that the tax treatment of ESOP contributions may differ between ''C'' corporations and ''S'' corporations. However, the tax treatment of ESOP contributions does not impact the application of the proposed rule, *i.e.*, the proposed rule does not differentiate, nor was it intended to differentiate, between ''C'' and ''S'' corporations in the measurement of ESOP costs in accordance with CAS 9904.415–50(f)(1).

3. Assignment of Costs Based on Award of Shares

Comment: Four commenters expressed concern regarding the proposed language at CAS 9904.415–50(f)(2), which states ''A contractor's contribution to an ESOP shall be assignable to the cost accounting period only to the extent that the number of shares, cash, or any combination thereof resulting from the contribution are awarded to individual employees in the accounting period.''

Three of the commenters assert that many companies do not make final decisions about the amount of their contribution to ESOP's until after the end of the fiscal year. Thus, the precise number of shares awarded to individual employees cannot be determined until after the total contribution for an accounting period is known. One of these commenters further asserts that, for non-publicly traded companies, the amount of the shares to be awarded is also not known until the annual stock evaluation is performed. The three commenters suggest that the language be clarified by adopting language similar to that in CAS 9904.412–50(d)(4), which recognizes funding of pension costs ''within a cost accounting period if it is accomplished by the corporate tax filing date for such period including any permissible extensions thereto.'' One of these commenters suggests the following specific language:

> A contractor's contribution to an ESOP shall be assignable to the cost accounting period only to the extent that the number of shares, cash, or any combination thereof resulting from the contribution are awarded to individual employees for the accounting period using funds contributed to the plan for that period by the tax filing date for that period, including any permissible extensions thereof.

Another commenter recommends that the term ''allocated'' be substituted for the term ''award'' at CAS 9904.415–50(f)(2). This commenter states that under qualified plan rules for defined contribution plans, all contributions made to an ESOP must be allocated to the accounts of plan participants. The commenter asserts that even if a contractor makes an award of stock that does not use up all of a contribution, the remainder is still allocated to employee accounts as cash. The commenter further states that, since the employer's

contribution is irrevocable, the entire amount of the contribution should be assigned to the cost accounting period in which the contribution is made.

CAS Board Response: While current tax laws may require that all contributions made to an ESOP must be allocated to the accounts of plan participants in the period of the contribution, the ANPRM definition of an ESOP is broader than the tax law definition. In addition, tax laws often change; thus, it is important that the Board consider the various possibilities in promulgating this revision.

The Board believes the proposed rule should assure that amounts are not assigned to an accounting period unless the stock has been both awarded to employees and allocated to individual employee accounts by the tax filing date (or any extension thereof) for that accounting period. However, the Board also believes the rule should recognize that an ESOP contribution for work performed in a particular accounting period may not be made until shortly after the end of the accounting period, similar to the circumstances that sometimes arise for defined contribution pension plans. The language at CAS 9904.415–50(f)(2) has therefore been revised accordingly.

4. Transition Method

Comment: One commenter states that the transition method is unnecessary and inequitable. This commenter asserts that ''the proposed transition method is inconsistent with past CASB decisions,'' and would be the first time that contractors would be required to follow a former cost accounting practice (even though it may be non-compliant with existing Standards) until a cost no longer exists. This commenter states that perhaps an advance agreement should not be disturbed, but application of the transition method to any other ''arrangements'' is vague, open-ended, unnecessary, and inequitable. A second commenter asserts that the transition method makes ''no good sense and would result in tremendous inconsistencies in the treatment of ESOPs within the government contracting community.''

A third commenter believes the proposed transition method would place contractors without advance agreements in a difficult position. This commenter states that they agree completely that where the Government and contractor have reached an advance agreement, those agreements should continue to control. However, the commenter is concerned that many small companies will continue to have their ESOP costs questioned every year if existing ESOPs are not covered by the new language. A fourth commenter also believes the proposed transition method unnecessarily complicates ESOP accounting and does not achieve the uniformity and consistency in cost accounting that is the CASB's objective.

The fourth and fifth commenters assert that the transition method would create three classes of ESOPs, (1) those created after the effective date of the provision (to which the new rules would apply); (2) pre-existing ESOPs with advance agreements, in which case the parties would have to comply with the advance agreements; and (3) pre-existing ESOPs without advance agreements, which would remain subject to the Cost Accounting Standard(s) that were applicable to such plans prior to the applicability date of the new rule.

The fourth commenter believes there is significant uncertainty on whether ESOPs are governed by CAS 412 or 415, which should not be perpetuated. This commenter believes ''more flexibility is required where ESOP costs are governed by advance agreements, and that the parties should be free to adopt the new ESOP accounting provisions.'' The commenter therefore proposes the following transition provision in lieu of the proposed language (this language was endorsed by a second commenter):

''(a) For contractors and subcontracts that were subject to Standard 9904.415 in effect prior to the effective date of the final rule, the requirements of this Standard, as amended, shall apply to the costs of pre-existing ESOPs and the costs of ESOPs that are established after the effective date of this Standard.

(b) For pre-existing ESOPs, the requirements of this Standard shall apply as of the beginning of the contractor's next full fiscal year following the Standard's effective date. The parties may mutually agree to apply the requirements of this Standard earlier if they so desire.

(c) Where ESOP costs are subject to the terms of an advance agreement, the parties shall comply with the provisions of such advance agreement, which may be modified by mutual agreement to incorporate the requirements of this Standard.''

A final commenter strongly endorses the proposed transition provision. This commenter states that where a contractor and the Government have established advance agreements regarding the recognition of ESOP costs, contractors and the Government should comply with the provision of such advance agreement(s) for existing ESOPs. This commenter asserts that ''to do otherwise would disrupt a long-term accounting construct (both for the measurement and assignment of cost) in mid-stream, thereby causing harm to one of the contracting parties due to the uneven nature of contractor contributions between the early and later years of leveraged ESOPs.''

CAS Board Response: The Board believes it is imperative that the subject revision not infringe on existing advance agreements between the Government and the contractor. However, the Board also believes the proposed rule should limit the transition to only those instances in which there is an existing advance agreement between the contractor and the Government. The Board believes this would be consistent with the historical application of revised or new standards. The Board therefore has deleted CAS 9904.415–64, and added a new paragraph (d) to CAS 9904.415–63 that reads as follows:

(d) For contractors and subcontractors that have established advance agreements prior to the effective date of this amended Standard regarding the recognition of the costs of existing ESOPs, the awarding agency and contractor shall comply with the provisions of such advance agreement(s) for these existing ESOPs. These advance agreements may be modified, by mutual agreement, to incorporate the requirements of this revised standard.

5. Definition of an ESOP

Comment: One commenter is concerned that the proposed definition of an ESOP is overly broad and ''could sweep within its reach other types of defined contribution plans that should not be subject to the ESOP accounting rules.'' This commenter states that ''the proposed definition is broader than the definitions used by the Internal Revenue Service, ERISA, or GAAP.'' The commenter asserts that the definition could include ''thrift plans'' or other 401(k) defined contribution plans such as the plan at issue in a recent case decided by the U.S. Court of Federal Claims, *Newport News Shipbuilding and Drydock Co.* v. *Unites States* (2003 U.S. Claims LEXIS 255, dated September 10, 2003). This commenter recommends that the CASB align the definition with established definitions of the IRS, ERISA, or GAAP. Alternatively, the commenter recommends that the CASB explain why a broader definition is necessary or desirable.

A second commenter believes the definition of an ESOP, and in particular the term ''designed to invest primarily in the stock of the contractor's corporation'' is too vague, could cause confusion, and could ''result in a contractor's deferred compensation plan changing between CAS 412 and CAS 415 in any given costing period, depending on the percentage of

investment in contractor stock.'' This commenter recommends that additional analysis concerning what additional requirements, such as those of the Internal Revenue Service Code, should be considered. In particular, the commenter recommends that the definition of an ESOP be revised to include specific requirements similar to the Internal Revenue Service Code 4975(e)(7) definition and the additional guidance provided in the Internal Revenue Service Manual. The commenter states that, although they are not proposing the Internal Revenue Service definition be used, the CASB should ''look closer at the definition as proposed to ensure it includes the appropriate requirements.'' This commenter also recommends that the definition include the requirement that the plan ''invests most or all of the assets in the stock of the contractor's corporation.''

CAS Board Response: The definition in the ANPRM is very similar, but not identical, to the definition contained in AICPA Statement of Position (SOP) 93–6. The definition in SOP 93–6, which is the current GAAP for ESOP accounting, reads as follows:

> ESOP means an employee benefit plan that is described by the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (IRC) of 1986 as a stock bonus plan, or combination stock bonus and money purchase pension plan, designed to invest primarily in employer stock.

There is a key difference between the GAAP definition and the definition in the ANPRM. The GAAP definition refers to plans described under ERISA and the IRC. However, the ERISA and IRC include only definitions of plans for purposes of tax deductibility. The Board is concerned that two plans with identical contribution requirements would have different cost accounting treatment solely because of differences in tax deductibility. To exclude one or the other of these two plans from the revised coverage would likely perpetuate the uncertain treatment of the excluded plan under the existing rules. Therefore, the Board does not believe that the definition of an ESOP, for purposes of applying CAS 415, should be limited to the GAAP definition. However, the Board recognizes that the definition in the ANPRM should be revised to clearly include all plans that meet the GAAP definition, as well as any other plans that are designed to invest primarily in the stock of the contractor. Therefore, the Board has revised the definition at CAS 9904.415–30(a)(3) to read as follows:

Employee Stock Ownership Plan (ESOP) means (i) an employee benefit plan that is described by the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (IRC) of 1986 as a stock bonus plan, or combination stock bonus and money purchase pension plan, designed to invest primarily in employer stock, and (ii) any other deferred compensation plan designed to invest primarily in the stock of the contractor's corporation including, but not limited to, plans covered by ERISA.

6. Assignment Based on ''Award''

Comment: One commenter questions the necessity to tie the assignment of cost to the period in which the ESOP trust (ESOT) makes an ''award'' to an individual employee. This commenter asserts that the term ''award'' may have little relevance to the operation of ESOPs. The commenter states that ''IRC rules require that the entire contribution to an ESOP, to the extent not used to service debt, be allocated to employee accounts in accordance with a definite formula.'' The commenter further states that as a result of these requirements, there would be no excess to assign to future years.

CAS Board Response: The Board believes it is important to tie the assignment of the cost for a period to the award of the shares to employees and the allocation of the shares to individual employee accounts. This provides consistency in the assignment of costs to the period and the subsequent allocation of those costs to final cost objectives.

7. ESOP Contributions

Comment: One commenter states that the ANPRM will permit contractors that sponsor leveraged ESOPs to treat the entirety of the ESOP contribution as a form of employee compensation under CAS 9904.415, thereby masking the true nature of the underlying transaction. This commenter states that the ANPRM will permit contractors to treat the entire contribution paid to the ESOT, including principal payments and interest expenses incurred to finance a leveraged ESOP, as deferred compensation. The commenter believes that interest expense incurred to finance leveraged ESOPs should be reflected as such under Government cost accounting rules. The commenter believes that if the CASB adopts a rule requiring the separate accounting for interest expense for leveraged ESOPs, current Government cost allowability rules (FAR 31.205–20) would probably require these costs to be disallowed. The commenter also believes that whether Congress or the Executive Branch agencies choose to allow or disallow interest costs associated with leveraged ESOP financing should be discussed and debated as a public policy matter separate and apart from the CASB's role in defining and measuring contract costs. This commenter asserts that the approach in the ANPRM seems to pretend that there is no interest being paid to contractors. The commenter recommends that, at a minimum, the CASB's proposal be amended to require segregation of the components of periodic ESOP expense, so that repayments of loan principal can be distinguished from interest expense. The commenter believes that the CASB's only concern should be one of financial transparency and full disclosure, and not whether interest expense on leveraged ESOPs should be an allowable cost under cost-based Government contracts.

CAS Board Response: The ANPRM and the NPRM are intended to recognize the resources used by the contractor to fund the current year's award to employees, whether those shares are purchased by the ESOP in the year of award or made available for allocation by repayment of ESOP debt. In proposing this rule, the Board believes that it is providing for the measurement of ESOP costs in a manner that reflects the CAS objective of consistency in cost accounting practices. With this objective in mind, the Board believes the proposed rule best measures ESOP contributions for contract costing purposes.

The proposal does not affect the allowability of interest or other cost components of an ESOP and is not intended to ''mask'' the true nature of ESOP financing. Whether interest or other cost components associated with financing a leveraged ESOP are allowable costs is determined under FAR Part 31. The proposed rule does not, in any manner, preclude the FAR Council from drafting rules that explicitly allow or disallow interest or any other cost component associated with an ESOP. Should the FAR Council decide to explicitly disallow interest or any other cost component associated with an ESOP, CAS 405 already requires that such costs be segregated in the contractor's accounting records. In addition, CAS 405 also requires that such costs be identified and excluded from any billing, claim, or proposal applicable to a Government contract. Therefore, the Board does not believe it is necessary to add a separate requirement in CAS 415.

8. Editorial Changes

Comment: One commenter suggested several editorial changes for clarity, including minor revisions to CAS 9904.412–20(b), 9904.415–30(a)(4), 9904.415–50(f)(1), and 9904.415–60.

CAS Board Response: The Board agrees with the recommended editorial changes and has incorporated them in the NPRM.

D. Paperwork Reduction Act

The Paperwork Reduction Act, Public Law 96–511, does not apply to this proposal, because these amendments impose no paperwork burden on offerors, affected contractors and subcontractors, or members of the public which requires the approval of OMB under 44 U.S.C. 3501, *et seq.*

E. Executive Order 12866 and the Regulatory Flexibility Act

The transition provision incorporated into this proposal ensures that arrangements for determining costs for existing ESOPs are not changed. Thus, the economic impact of these amendments, if any, on contractors is expected to be minor. As a result, this rule is not ''significant'' under E.O. 12866. Furthermore, this proposal does not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this rule does not require a regulatory flexibility analysis in accordance with the Regulatory Flexibility Act of 1980.

F. Additional Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to this NPRM. All comments must be in writing and submitted in accordance with the instructions indicated in the **ADDRESSES** section.

List of Subjects in 48 CFR Part 9904

Accounting, Government procurement.

David H. Safavian,

Chair, Cost Accounting Standards Board.

Accordingly, for the reasons set forth in the preamble, it is proposed to amend Part 9904 as follows:

PART 9904—COST ACCOUNTING STANDARDS

1. The authority citation for part 9904 continues to read as follows:

Authority: Pub. L. 100–679, 102 Stat 4056, 41 U.S.C. 422.

2. Section 9904.412–20 is revised to read as follows:

9904.412–20 Purpose.

(a) The purpose of this Standard 9904.412 is to provide guidance for determining and measuring the components of pension cost. The Standard establishes the basis on which pension costs shall be assigned to cost accounting periods. The provisions of this Cost Accounting Standard should enhance uniformity and consistency in accounting for pension costs and thereby increase the probability that those costs are properly allocated to cost objectives.

(b) This Standard does not cover the cost of Employee Stock Ownership Plans (ESOPs) that meet the definition of a pension plan. Such plans are considered a form of deferred compensation and are covered under 9904.415.

3. Section 9904.415–20 is revised to read as follows:

9904.415–20 Purpose.

(a) The purpose of this Standard 9904.415 is to provide criteria for the measurement of the cost of deferred compensation and the assignment of such cost to cost accounting periods. The application of these criteria should increase the probability that the cost of deferred compensation is allocated to cost objectives in a uniform and consistent manner.

(b) This Standard is applicable to the cost of all deferred compensation except the following which are covered in other Cost Accounting Standards:

(1) The cost for compensated personal absence, and

(2) The cost for pension plans that do not meet the definition of an Employee Stock Ownership Plan (ESOP).

4. Section 9904.415–30 is amended by revising paragraph (a) introductory text, adding paragraphs (a) (2) and (3), and revising paragraph (b) to read as follows:

9904.415–30 Definitions.

(a) The following are definitions of terms which are prominent in this Standard 9904.415. Other terms defined elsewhere in this Chapter 99 shall have the meanings ascribed to them in those definitions unless paragraph (b) of this section requires otherwise.

(1) * * *

(2) Employee Stock Ownership Plan (ESOP) means:

(i) An employee benefit plan that is described by the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (IRC) of 1986 as a stock bonus plan, or combination stock bonus and money purchase pension plan, designed to invest primarily in employer stock, and

(ii) Any other deferred compensation plan designed to invest primarily in the stock of the contractor's corporation including, but not limited to, plans covered by ERISA.

(3) Fair value means the amount that a seller would reasonably expect to receive in a current arm's length transaction between a willing buyer and a willing seller, other than a forced or liquidation sale.

(b) The following modifications of terms defined elsewhere in this Chapter 99 are applicable to this Standard:

(1) Market value means the current or prevailing price of a stock or other property as indicated by market quotations.

(2) [Reserved].

5. Section 9904.415–40 is revised to read as follows:

9904.415–40 Fundamental requirement.

(a) The cost of deferred compensation shall be assigned to the cost accounting period in which the contractor incurs an obligation to compensate the employee. In the event no obligation is incurred prior to payment, the cost of deferred compensation shall be the amount paid and shall be assigned to the cost accounting period in which the payment is made.

(b) Measurement of deferred compensation costs.

(1) For deferred compensation other than ESOPs, the deferred compensation cost shall be the present value of the future benefits to be paid by the contractor.

(2) For an ESOP, the deferred compensation cost shall be the amount contributed to the ESOP by the contractor.

(c) The cost of each award of deferred compensation shall be considered separately for purposes of measurement and assignment of such costs to cost accounting periods. However, if the cost of deferred compensation for the employees covered by a deferred compensation plan can be measured and assigned with reasonable accuracy on a group basis, separate computations for each employee are not required.

6. Section 9904.415–50 is amended by revising paragraph (d) introductory text and (e) introductory text and adding paragraph (f) to read as follows:

9904.415–50 Techniques for application.

* * * * *

(d) The following provisions are applicable for plans, other than ESOPs, that meet the conditions of 9904.415–50(a) and the compensation is to be paid in money.

* * * * *

(e) The following provisions are applicable for plans, other than ESOPs, that meet the conditions of 9904.415–

50(a) and the compensation is received by the employee in other than money. The measurements set forth in this paragraph constitute the present value of future benefits for awards made in other than money and, therefore, shall be deemed to be a reasonable measure of the amount of the future payment:

* * * * *

(f)(1) For an ESOP, the contractor's cost shall be measured by the contractor's contribution, including interest and dividends if applicable, to the ESOP. The measurement of contributions made in the form of stock of the corporation or property, shall be based on the market value of the stock or property at the time the contributions are made. If the market value is not available, then fair value of the stock or property shall be used.

(2) A contractor's contribution to an ESOP shall be assignable to a cost accounting period only to the extent that the stock, cash, or any combination thereof resulting from the contribution is awarded to employees and allocated to individual employee accounts by the tax filing date for that period, including any permissible extensions thereof. All stock or cash that is allocated to the individual employee accounts between the end of the cost accounting period and the tax filing date for that period must be assigned to the cost accounting period in which the employee is awarded the stock or cash. Any portion of the stock or cash resulting from a contractor's contribution that is not awarded to employees or allocated to individual employee accounts by the tax filing date for that period, including any permissible extensions thereof, shall be assigned to a future cost accounting period or periods when the remaining portion of stock or cash has been awarded to employees and allocated to individual employee accounts. This stock shall retain the value established when it was originally purchased by or otherwise made available to the ESOP.

7. Section 9904.415–60 is amended by adding paragraphs (f), (g), (h) and (i) to read as follows:

9904.415–60 Illustrations.

* * * * *

(f) Contractor F has a non-leveraged ESOP. Under the contractor's plan, employees are awarded 5,000 shares of stock for the year ended December 31, 2007. On February 5, 2008, when the shares have a market value of $10.00 each, the 5,000 shares are contributed to the ESOP and allocated to the individual employee accounts. The total measured and assigned deferred compensation cost for FY 2007 is $50,000 (5,000 × $10 = $50,000). The market value of the contractor's stock when awarded to the employees, whether higher or lower than the $10.00 per share market value when the contractor's contribution was made to the ESOP, is irrelevant to the measurement of the contractor's ESOP costs.

(g) Contractor G has a leveraged ESOP. Under the contractor's plan, employees are awarded 10,000 shares of stock for the year ended December 31, 2007. On February 15, 2008, the contractor contributes $780,000 in cash to the ESOP trust (ESOT) to satisfy the principal and interest payment on the ESOT loan for FY 2007, resulting in the bank releasing 9,000 shares of stock, and 1,000 shares of stock valued at $60,000 to the ESOT, representing the balance of the 10,000 shares. On February 22, 2008, the ESOP allocates 10,000 shares to the individual employee accounts. The total measured and assigned deferred compensation cost for FY 2007 is $840,000—the contractor's total contribution required to satisfy the deferred compensation obligation totaling 10,000 shares.

(h)(1) Contractor H has a leveraged ESOP. Under the contractor's plan, employees are awarded 8,000 shares of stock for the year ended December 31, 2007. On January 31, 2008, the contractor contributes $500,000 in cash to the ESOT to satisfy the principal and interest payment on the ESOT loan for 2007, resulting in the bank releasing 10,000 shares of stock. On February 10, 2008, 8,000 shares are allocated to individual employee accounts, satisfying the deferred compensation obligation for 2007. The total measured deferred compensation cost for 2007 is $500,000—the contractor's contribution for the cost accounting period. However, the total assignable deferred compensation cost for 2007 is $400,000—the portion of the contribution that satisfies the 2007 deferred compensation obligation of 8,000 shares [(8,000 shares / 10,000 shares) × $500,000 = $400,000]. The remaining $100,000 of the contribution made in 2007 is assignable to future periods in which the remaining 2,000 shares of stock are awarded to employees and allocated to individual employee accounts.

(2) At December 31, 2008, the employees are awarded 12,000 shares of stock. On January 31, 2009, Contractor H contributes $500,000 in cash to the ESOT to satisfy the principal and interest payment on the ESOT loan for 2008, resulting in the bank releasing 10,000 shares of stock. On February 10, 2009, 12,000 shares are allocated to individual employee accounts satisfying the deferred compensation obligation for 2008. The total deferred compensation assignable to 2008 is $600,000, the cost of the 12,000 shares awarded to employees and allocated to individual employee accounts for 2008. The cost of the award is comprised of the contractor's contribution for the current cost accounting period (10,000 shares at $500,000) and the 2007 contribution carryover (2,000 shares at $100,000).

(i) Contractor I has a leveraged ESOP. Under the contractor's plan, employees are awarded 10,000 shares for FY 2007, which ended December 31, 2007. On February 10, 2008, Contractor I contributes $700,000 in cash to satisfy the principal and interest payment for the ESOP loan for FY 2007. This contribution results in the bank releasing 10,000 shares of stock. On March 1, 2008, the ESOP allocates the 10,000 shares to individual employee accounts satisfying the 2007 obligation. The 10,000 shares of stock must be assigned to FY 2007 (these shares cannot be assigned to 2008).

8. Section 9904.415–63 is revised to read as follows:

9904.415–63 Effective date.

(a) This Standard 9904.415 is effective as of [effective date of final rule].

(b) This Standard shall be followed by each contractor on or after the start of its next cost accounting period beginning after the receipt of a contract or subcontract to which this Standard is applicable.

(c) Contractors with prior CAS-covered contracts with full coverage shall continue to follow Standard 9904.415 in effect prior to [effective date of final rule] until this Standard, effective [effective date of final rule], becomes applicable following receipt of a contract or subcontract to which this revised Standard applies.

(d) For contractors and subcontractors that have established advance agreements prior to [the effective date of the final rule] regarding the recognition of the costs of existing ESOPs, the awarding agency and contractor shall comply with the provisions of such advance agreement(s) for these existing ESOPs. These advance agreements may be modified, by mutual agreement, to incorporate the requirements effective on [the effective date of the final rule].

[FR Doc. 05–13951 Filed 7–21–05; 8:45 am]

BILLING CODE 3110–01–P

Notices

Federal Register
Vol. 70, No. 140
Friday, July 22, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. DA–05–05]

Request for an Extension of and Revision to a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for the Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Recordkeeping (Subpart B).

DATES: Comments received by September 20, 2005 will be considered.

ADDITIONAL INFORMATION OR COMMENTS: Contact Reginald L. Pasteur, USDA/AMS/Dairy Programs, Dairy Standardization Branch, Room 2746–South Building, 1400 Independence Avenue, SW., Washington, DC 20250–0230; Telephone: 202–720–2643, Fax: 202–720–2643

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Record Keeping (Subpart B).

OMB Number: 0581–0110.

Expiration Date of Approval: July 30, 2005.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) directs the Department to develop programs which will provide for and facilitate the marketing of agricultural products. One of these programs is the USDA voluntary inspection and grading program for dairy products (7 CFR part 58) where these dairy products are graded according to U.S. grade standards by a USDA grader. The dairy products under the dairy program may be identified with the USDA grade mark. Dairy processors, buyers, retailers, institutional users, and consumers have requested that such a program be developed to assure the uniform quality of dairy products purchased. In order for any service program to perform satisfactorily, there are regulations for the provider and user. For these reasons, the dairy inspection and grading program regulations were developed and issued under the authority of the Act. These regulations are essential to administer the program to meet the needs of the user and to carry out the purposes of the Act.

The information collection requirements in this request are essential to carry out the intent of the AMA to ensure that dairy products are produced under sanitary conditions and that buyers are purchasing a quality product. In order for the Regulations governing the Inspection and Grading of Manufactured or Processed Dairy Products to serve the government, industry, and the consumer, laboratory test results must be recorded.

Respondents are not required to submit information to the agency. The records are to be evaluated by a USDA inspector at the time of an inspection. These records include quality tests of each producer, plant records of a required tests and analysis, and starter and cheese make records. These records required by USDA are also records that are routinely used by the inspected facility for their own supervisory and quality control purposes.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.85 hours per response.

Respondents: Dairy products manufacturing facilities.

Estimated Number of Respondents: 487.

Estimated Number of Responses: 1388.

Estimated Number of Responses per Respondent: 2.85.

Estimated Total Annual Burden on Respondents: 3956.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Reginald Pasteur, 1400 Independence Avenue, SW., Room 2746—South, Washington, DC 20250–0230. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: July 18, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–14515 Filed 7–21–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to discuss 2005 projects and hold a short public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393). The meeting is open to the public.

DATES: The meeting will be held on July 26, 2005, 6:30 p.m.

ADDRESSES: The meeting will be held at the Ravalli County Administration Building, 215 S. 4th Street, Hamilton, Montana. Send written comments to

Daniel G. Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Daniel G. Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: July 18, 2005.

David T. Bull,

Forest Supervisor.

[FR Doc. 05–14489 Filed 7–21–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Sunshine Act; Meetings

AGENCY: Rural Telephone Bank, USDA

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 2 p.m., Wednesday, August 3, 2005.

PLACE: Conference Room 104–A, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 12th & Jefferson Drive, SW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE DISCUSSED:

1. Annual retirement of class A stock.
2. Annual class C stock dividend rate.
3. Proposed liquidation of the bank.
4. Administrative and other issues.

ACTION: Board of Directors Meeting.

TIME AND DATE: 9 a.m., Thursday, August 4, 2005.

PLACE: Conference Room 104–A, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 12th & Jefferson Drive, SW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE DISCUSSED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to order.
2. Action on Minutes of the May 5, 2005, board meeting.
3. Secretary's Report.
4. Treasurer's Report.
5. Consideration of resolution to retire class A stock in FY 2005.
6. Consideration of resolution to set annual class C stock dividend rate.
7. Consideration of resolutions related to the liquidation of the bank, including authorizations to wind up the Bank's business, transfer assets, and redeem all outstanding stock. These resolutions include proposed amendments to the Bylaws of the Bank. The amendments would change Article II, Sections 2.3 and 2.4 of the Bylaws to read as follows:

Section 2.3 SHARE CERTIFICATES. (a) All shares of stock of the Bank shall be evidenced by entry on the books of the Bank. All paper stock certificates issued by the Bank are cancelled as of October 1, 2005, and replaced by entry on the books of the Bank. (b) The Bank shall issue stock only upon payment in full of the par value thereof. (c) The Bank shall issue stock evidencing the distribution of patronage refunds as hereinafter provided.

Section 2.4 TRANSFER OF SHARES. Shares in the capital stock of the Bank shall be transferred only on the books of the Bank by authorization from the holder thereof or by the holder's legal representative upon proof of the legal representative's authority filed with the Secretary of the Bank. The entity in whose name shares stand on the books of the Bank shall be deemed to be the owner thereof for all purposes.

8. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Jonathan Claffey, Acting Assistant Governor, Rural Telephone Bank, (202) 720–9554.

Dated: July 20, 2005.

Curtis Anderson,

Acting Governor, Rural Telephone Bank.

[FR Doc. 05–14640 Filed 7–20–05; 3:30 pm]

BILLING CODE 3410–15–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List a product and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

DATES: Effective August 21, 2005.

ADDRESSES: Committee for Purchase From People Who are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On May 27, 2005, the Committee for Purchase From People Who are Blind or Severely Disabled published notice (70 FR 30692) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and service listed below are suitable for procurement by the Federal government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and service to the government.
2. The action will result in authorizing small entities to furnish the product and service to the government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and service are added to the Procurement List:

Product

Amazing Micro Mop Refill.
NSN: M.R. 1059-Amazing Micro Mop Refill.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, Washington.
Contracting Activity: Defense Commissary Agency (DeCA), Fort Lee, Virginia.

Service

Service Type/Location: Custodial Services, Social Security Administration, 2401 Lind Street, Quincy, Illinois.
NPA: Transitions of Western Illinois, Inc., Quincy, Illinois.
Contracting Activity: GSA, Public Buildings Service, Region 5, Chicago, Illinois.

Deletion

On May 27, 2005, the Committee for Purchase From People Who are Blind or Severely Disabled published notice (70 FR 30692) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the service to the government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service deleted from the Procurement List.

End of Certification

Accordingly, the following service is deleted from the Procurement List:

Service

Service Type/Location: Maintenance and Repair of Portable Light Towers, Basewide, Fort Hood, Texas.
NPA: Professional Contract Services, Inc., Austin, Texas.
Contracting Activity: Army III Corps and Ft Hood Contracting CMD, Ft. Hood, Texas.

G. John Heyer,

General Counsel.

[FR Doc. E5–3917 Filed 7–21–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who are Blind or Severely Disabled.

ACTION: Proposed addition to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a product to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: August 21, 2005.

ADDRESSES: Committee for Purchase From People Who are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

If the Committee approves the proposed addition, the entities of the Federal Government identified in the notice for each product or service will be required to procure the product listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product to the Government.

2. If approved, the action will result in authorizing small entities to furnish the product to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following product is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Product

Emergency Administrative Kit.
NSN: 7520–00–NIB–1738—50 Person.
NPA: Tarrant County Association for the Blind, Fort Worth, Texas.
NPA: Associated Industries for the Blind, Milwaukee, Wisconsin.
Contracting Activity: Federal Emergency Management Agency, Fort Worth, Texas.

G. John Heyer,

General Counsel.

[FR Doc. E5–3918 Filed 7–21–05; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–827)

Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 12, 2005, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results and rescission in part of the 2002–2003 administrative review of the antidumping duty order on certain cased pencils (pencils) from the People's Republic of China (PRC). The period of review (POR) is December 1, 2002, through November 30, 2003. We have now completed the 2002–2003 administrative review of the order. Based on comments received, we have made changes in the dumping margin calculations. Therefore, the final results differ from the preliminary results. For details regarding these changes, see the section of this notice entitled ''Changes Since the Preliminary Results.'' The final results are listed below in the ''Final Results of Review'' section.

EFFECTIVE DATE: July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Erin Begnal, 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) 482–4474 and (202) 482–1442, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 2005, the Department published the preliminary results of this review. *See Certain Cased Pencils from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part*, 70 FR 2115 (*Preliminary Results*). The POR is December 1, 2002, through November 30, 2003. On February 11, 2005, we received case briefs from China First Pencil Co., Ltd. (CFP)/Three Star Stationery Industry Corp. (Three Star)(CFP/Three Star)[1], Orient

[1] Although we initiated on CFP and Three Star separately, we subsequently found them to be a single entity. *See* Memorandum to The File: Administrative Review of the Antidumping Duty

Continued

International Holding Shanghai Foreign Trade Co., Ltd. (SFTC), and Shandong Rongxin Import & Export Co. Ltd. (Rongxin), the respondents, and Sanford LLP, Musgrave Pencil Company, Rose Moon, Inc., and General Pencil Company, domestic interested parties. We received rebuttal briefs from CFP/Three Star, SFTC, and Rongxin on February 24, 2005, and from the domestic interested parties on February 25, 2005[2]. On May 19, 2005, we rejected Rongxin's rebuttal brief because it contained new argument. Rongxin resubmitted its rebuttal brief on May 23, 2005, in accordance with the deadline set by the Department. On May 26, 2005, we issued a supplemental questionnaire and requested comments from CFP/Three Star on documents we placed on the record from a prior review. CFP/Three Star submitted its response and comments on June 7, 2005. The domestic interested parties submitted comments on CFP/Three Star's submission on June 15, 2005. As described in more detail below in comment 1, on June 15, 2005, the Department placed an additional document on the record of this segment of the proceeding and requested that CFP/Three Star and the domestic interested parties submit comments by June 20, 2005. CFP/Three Star and the domestic interested parties submitted comments on this document on June 20, 2005.

Scope of the Order

Imports covered by this order are shipments of certain cased pencils of any shape or dimension (except as noted below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man–made materials, whether or not decorated and whether or not tipped (*e.g.*, with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are classified under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non–cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above–referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: 1) length: 13.5 or more inches; 2) sheath diameter: not less than one–and-one quarter inches at any point (before sharpening); and 3) core length: not more than 15 percent of the length of the pencil.

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Partial Rescission

The Department is rescinding this review with respect to Tianjin Custom Wood Processing Co., Ltd. (TCW) because TCW reported it did not export subject merchandise to the United States during the POR. *See* the *Preliminary Results*; *see* also; TCW's February 19, 2004, response to the Department's questionnaire. TCW's claim that it did not export subject merchandise during the POR is supported by U.S. Customs and Border Protection (CBP) data and entry documents. Moreover, there is no evidence on the record of this segment of the proceeding indicating that TCW exported subject merchandise during the POR. Therefore, we are rescinding this review with respect to TCW.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated July 11, 2005, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on Import Administration's Web site at www.ia.ita.doc.gov.frn The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made changes in the margin calculations for CFP/Three Star, SFTC and Rongxin. The specific calculation changes made can be found in our calculation memoranda dated July 11, 2005. These changes are listed below.

CFP/Three Star and SFTC

We collapsed CFP with its subsidiaries Shanghai First Writing Instrument Co., Ltd., (First), Shanghai Great Wall Pencil Co., Ltd. (Great Wall), and China First Pencil Fang Zheng Co., Ltd. (Fang Zheng). We converted transportation expenses from Indian rupees to U.S. dollars in the calculation of normal value. We also corrected the calculation of cost of manufacturing in the computer program to exclude packing. In addition, we corrected the computer program to correctly calculate slat consumption for ordinary size pencils.

Final Results of Review

We determine that the following weighted–average, *ad valorem*, percentage margins exist for the period December 1, 2002, through November 30, 2003:

Exporter/Manufacturer	Margin (percent)
CFP/Three Star/First/Great Wall/Fang Zheng	0.61
SFTC	13.25
Rongxin	22.63
PRC Wide–Rate	114.90

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, that have separate rates, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 114.90 percent; and 4) the cash deposit rate for non–PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Order on Certain Cased Pencils from the People's Republic of China - Affiliation and Collapsing (December 30, 2004).

[2] The Department closed its Washington, D.C. facilities prior to 5:00 PM on February 24, 2005, due to inclement weather before the domestic interested parties were able to file their rebuttal brief. The domestic interested parties submitted their rebuttal brief on February 25, 2005.

Assessment

The Department will determine, and CBP will assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review. For the companies subject to this review, we calculated exporter–specific assessment rates because there is no information on the record which identifies the importers of record. Specifically, for CFP/Three Star/First/Great Wall/Fang Zheng, SFTC and Rongxin, we calculated duty assessment rates for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of those sales. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 C.F.R. 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 C.F.R. 351.305. 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 terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: July, 11, 2005.

Susan H. Kubach,

Acting Assistant Secretary for Import Administration.

Appendix Issues in Decision Memorandum

Comments

Comment 1: CFP and Three Star Affiliation/Collapsing
Comment 2: Surrogate Valuation of Writing Cores
Comment 3: Surrogate Financial Ratios
Comment 4: Pencil Slat Valuation
*Comment 5:*Clerical Errors: Inland Transportation Charges, Packing Labor, Slat Usage Factors
Comment 6: Regression–Based Labor Rate Calculation
Comment 7: CFP's Subsidiaries
Comment 8: Surrogate Value for Kaolin Clay

[FR Doc. 05–14524 Filed 7–21–05; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–827)

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Erin Begnal, 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) 482–4474 and (202) 482–1442, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1994 the Department of Commerce (the Department) published and antidumping duty order on certain cased pencils from the Peoples' Republic of China. *See Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China*, 59 FR 66909 (December 28, 1994) (the order). On January 31, 2005, the Department published a notice of initiation of administrative review of the order covering the period December 1, 2003, through November 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 4818 (January 31, 2005). The preliminary results are currently due no later than September 2, 2005.

Extension of Time Limit for Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245–day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

We determine that it is not practicable to complete the preliminary results of this review within the original time limit due to complex issues relating to the calculation of certain surrogate values. Therefore, the Department is extending the time limit for completion of the preliminary results by 105 days until no later than December 16, 2005. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: July 13, 2005.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 05–14525 Filed 7–21–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–475–818)

Notice of Preliminary Results, Partial Rescission of Antidumping Duty Administrative Review and Revocation of the Antidumping Duty Order in Part: Eighth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests by interested parties, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain pasta (''pasta'') from Italy for the period of review (''POR'') July 1, 2003, through June 30, 2004.

We preliminarily determine that during the POR, Barilla G.e.R. Fratelli,

S.p.A. (''Barilla'') (formerly Barilla Alimentare, S.p.A.), Corticella Molini e Pastifici S.p.A. and its affiliate Pasta Combattenti S.p.A. (collectively, ''Corticella''),[1] Industrie Alimentare Colavita, S.p.A. and its affiliate Fusco S.r.L. (collectively, ''Indalco''),[2] Pastificio Riscossa F.lli Mastromauro, S.r.L. (''Riscossa''), and Pastificio F.lli Pagani S.p.A. (''Pagani'') sold subject merchandise at less than normal value (''NV''). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties equal to the difference between the export price (''EP'') or constructed export price (''CEP'') and NV.

We preliminarily determine that during the POR, Pastificio Antonio Pallante S.r.L. and its affiliate Vitelli Food LLC (''Pallante'') did not make sales of the subject merchandise at less than NV (*i.e.*, sales were made at a *de minimis* dumping margin). If these preliminary results are adopted in the final results of this administrative review, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.

Furthermore, requests for review of the antidumping duty order for the following companies were withdrawn: Pastificio Carmine Russo S.p.A. and its affiliate, Pastificio DiNola S.p.A. (collectively, ''Russo''). Because the withdrawal requests were timely and there were no other requests for review of the companies, we are rescinding the review for these companies. *See* 19 CFR 351.213(d)(1).

Finally, we preliminarily intend to revoke the antidumping duty order with respect to subject merchandise produced and exported by Pallante because Pallante sold the merchandise at not less than NV for a period of at least three consecutive years. *See* 19 CFR 351.222 (b)(2) and the ''Revocation'' section of this notice. In prior reviews, Pallante and Industrie Alimentari Molisane S.r.L. (''IAM'') were found to be affiliated, and were treated as a single entity (''collapsed'') because of common ownership, common sales activities, and family relationships. Pertinent facts concerning the affiliation of these two companies have changed. The record evidence of this review no longer supports a finding that Pallante and IAM are affiliated and, thus, there is no basis to collapse these two entities.[3] Therefore, this revocation will apply solely to Pallante.

Interested parties are invited to comment on these preliminary results, partial rescission, and revocation. Parties who submit comments in this segment of the proceeding should also submit with them: (1) a statement of the issues and (2) a brief summary of the comments. Further, parties submitting written comments are requested to provide the Department with an electronic version of the public version of any such comments on diskette.

EFFECTIVE DATE: July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Dennis McClure, Stephanie Moore or Preeti Tolani, 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) 482–5973, (202) 482–3692 or (202) 482–0395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Italy; *see Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38547. On July 1, 2004, we published in the **Federal Register** the notice of *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review*, 69 FR 39903.

We received requests for review from petitioners[4] and from seven individual Italian exporters/producers of pasta, in accordance with 19 CFR 351.213(b)(2). In addition, on July 30, 2004, Pallante and Pagani requested that the Department revoke the antidumping duty order with respect to their companies. *See* ''Revocation'' section of this notice.

On August 30, 2004, we published the notice of initiation of this antidumping duty administrative review covering the period July 1, 2003, through June 30, 2004, listing these seven companies as respondents: Barilla, Indalco, Riscossa, Russo, Corticella, Pagani, and Pallante.[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004) (''Initiation Notice'').

On December 7, 2004, the Department extended the due date for the preliminary results of review from April 4, 2005, to July 18, 2005. *See Certain Pasta from Italy: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 74493 (December 14, 2004).

During the months from January to June 2005, the Department issued supplemental questionnaires to each respondent, as applicable.

We conducted verification of the cost and sales information as follows: 1) Pagani sales verification from April 25 through April 29, 2005, and cost verification from May 16 through May 20, 2005; and 2) Pallante cost verification from May 23 through May 27, 2005, and sales verification from June 6 through June 10, 2005. We also verified the CEP information submitted by Pallante from June 20 through June 22, 2005.

Partial Rescission

On October 19, 2004, Russo withdrew its request for administrative review of the antidumping duty order. Because the request was timely filed, i.e., with 30 days of publication of the *Initiation Notice*, and because there were no other requests for review of the above–mentioned company, we rescinded the review with respect to Russo in accordance with 19 CFR 351.213(d)(1). *See Certain Pasta from Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 74494 (December 14, 2004).

Scope of the Order

Imports covered by this order are shipments of certain non–egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or

[1] During the seventh administrative review, an analysis of the record evidence indicated that Corticella and its toll producer, Coopertive Lomellina Cerealicoltori S.r.l. (CLC) were affiliated and the Department collapsed those companies for purposes of that review. The facts are the same for this POR; therefore, we have also treated them as a single entity for this review. *See Notice of Final Results of the Seventh Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy and Determination to Revoke in Part*, 70 FR 6832 (February 9, 2005).

[2] During the sixth administrative review, an analysis of the record evidence indicated that Industrie Alimentare Colavita, S.p.A. and its affiliate Fusco S.r.L. were affiliated and the Department collapsed those companies for purposes of that review. The facts are the same for this POR; therefore, we have also treated them as a single entity for this review. *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part: For the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 68 FR 47020, 47022 (August 7, 2003).

[3] *See* Pallante and IAM Affiliation Memo from the Team to Melissa G. Skinner, July 15, 2005.

[4] New World Pasta Company; Dakota Growers Pasta Company; and American Italian Pasta Company.

[5] Although the Department initiated this review on ten companies, included within that number were companies found to be affiliated in prior reviews, namely Corticella/Combattenti and Indalco/Fusco.

fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non–egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, or by Associazione Italiana per l'Agricoltura Biologica.

The merchandise subject to this order is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* (''*HTSUS*''). Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Verification

As provided in section 782(i) of Tariff Act of 1930, as amended (''the Act''), we conducted verification of the sales and cost information provided by Pagani and Pallante, and the CEP information provided by Pallante. We used standard verification procedures, including on–site inspection of the manufacturers' facilities and examination of relevant sales and financial records. Our verification results are detailed in the company–specific verification reports placed in the case file in the Central Records Unit (''CRU'') located in room B–099 of the main Department building. We made minor revisions to certain sales and cost data based on verification findings. *See* the company–specific verification reports and calculation memoranda, in the CRU.

Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to match contemporaneous sales of products sold in the United States and comparison markets that were identical with respect to the following characteristics: (1) pasta shape; (2) type of wheat;

(3) additives; and (4) enrichment. When there were no sales of identical merchandise in the home market to compare with U.S. sales, we compared U.S. sales with the most similar product based on the characteristics listed above, in descending order of priority. When there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (''CV''), in accordance with section 773(a)(4) of the Act.

For purposes of the preliminary results, where appropriate, we have calculated the adjustment for differences in merchandise based on the difference in the variable cost of manufacturing (''VCOM'') between each U.S. model and the most similar home market model selected for comparison.

Comparisons to Normal Value

To determine whether sales of certain pasta from Italy were made in the United States at less than NV, we compared the EP or CEP to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted–average prices for NV and compared these to individual U.S. transactions. *See* the company–specific verification reports and calculation memoranda, available in the CRU.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP when the merchandise was sold by the producer or exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales for which a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based EP and CEP on the packed cost–insurance-freight (''CIF''), ex–factory, free–on-board (''FOB''), or delivered prices to the first unaffiliated customer in, or for exportation to, the United States. When appropriate, we made adjustments to these prices to reflect billing adjustments, discounts, and rebates.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, insurance to port of exportation, domestic brokerage, handling and loading charges, export duties, international freight, marine insurance, U.S. inland freight expenses, warehousing, and U.S. duties. In addition, when appropriate, we increased EP or CEP as applicable, by an amount equal to the countervailing duty rate attributed to export subsidies in the most recently completed administrative review, in accordance with section 772(c)(1)(C) of the Act.

In a ''voluntary'' submission to the Department, Pagani claimed an adjustment for ''interest revenue'' for certain U.S. sales during the POR. Petitioners objected to this adjustment on the grounds that the revenue had been received after the POR, and claimed that it was not a bona fide adjustment. We collected detailed information about this claimed adjustment and also examined it at verification. Based on our analysis of Pagani's submissions, we determine that Pagani has not adequately demonstrated that the underlying payments were related either to interest revenue or to the sales during the POR to which they were allocated. Therefore, we have disallowed this adjustment for purposes of the preliminary results.[6]

For CEP, in accordance with section 772(d)(1) of the Act, when appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (advertising, cost of credit, warranties, banking, slotting fees, and commissions paid to unaffiliated sales agents). In addition, we deducted indirect selling expenses that related to economic activity in the United States. These expenses include certain indirect selling expenses incurred by affiliated U.S. distributors. We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f)(2)(D) of the Act.

Barilla, Corticella, Indalco, Pagani, and Riscossa reported resales to the United States of subject merchandise purchased in Italy from unaffiliated producers. In those situations in which an unaffiliated producer of the subject pasta knew at the time of the sale that the merchandise was destined for the United States, the relevant basis for the EP would be the price between that producer and the respondent. *See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review*

[6] *See* Pagani's Analysis Memorandum for a detailed discussion.

and Notice of Determination Not to Revoke Order, 63 FR 50867, 50876 (September 23, 1998). In the instant review, we determine that it is reasonable to assume that the unaffiliated producers knew or had reason to know at the time of sale that the ultimate destination of the merchandise was the United States because virtually all enriched pasta is sold to the United States. *See, e.g., Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part: For the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 68 FR 47020, 47028 (August 7, 2003); *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Italy*, 63 FR 42368, 42370 (August 7, 1998). Accordingly, consistent with our methodology in prior reviews (*see id.*), when a respondent purchased pasta from other producers and we were able to identify resales of this merchandise to the United States, we excluded these sales of the purchased pasta from the margin calculation for that respondent.

Where the purchased pasta was commingled with the respondent's production and the respondent could not identify the portion of subject merchandise purchased from unaffiliated producers, we included the sale in our margin calculation. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its U.S. sales database and the respondent was unable to identify the volume of purchased pasta in sales of commingled merchandise, we determined to include such sales in our margin calculations.

Normal Value

A. Selection of Comparison Markets

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because each respondent had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for all producers.

B. Arm's–Length Test

Barilla, Corticella, Pagani, and Pallante reported sales of the foreign like product to affiliated end–users and an affiliated resellers.[7] The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at arm's length. *See* 19 CFR 351.403(c). To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's–length prices and included such sales in the calculation of NV. *See* 19 CFR 351.403(c). Conversely, where sales to the affiliated party did not pass the arm's–length test, all sales to that affiliated party were excluded from the NV calculation. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (Nov. 15, 2002).

C. Cost of Production Analysis

1. Calculation of Cost of Production (COP)

We conducted a COP analysis of Barilla, Corticella, Indalco, Pagani, Pallante, and Riscossa, pursuant to section 773(b) of the Act, to determine whether the respondents' comparison market sales were made below the COP. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (''SG&A'') and packing, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by each respondent in its cost questionnaire responses, except in specific instances where based on our review of the submissions and, in some instances, our verification findings, we find that an adjustment is required, as discussed below:

[7] We note that sales from Barilla, Corticella, Pagani, and Pallante to all affiliated customers constitute less than 5% of their total sales in the foreign market and we did not require the companies to report the sales from the affiliated resellers to the unaffiliated customers.

Pagani

1. We increased Pagani's total cost of manufacture (''COM'') to correct an error in Pagani's yield calculation.
2. We increased Pagani's general and administrative (''G&A'') expenses to include certain unreported expenses.
3. We increased Pagani's reported G&A expenses by adding its parent's general expenses to Pagani's.

See Memorandum from Nancy M. Decker to Neal M. Halper regarding Pagani's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (July 15, 2005).

Pallante

1. We increased Pallante's total COM to correct an error in Pallante's yield calculation and to include certain unreported expenses.
2. We increased Pallante's reported G&A expenses to include certain unreported expenses.
3. We increased Pallante's reported total packing costs to include certain unreported expenses.

See Memorandum from James Balog to Neal M. Halper regarding Pallante's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (July 15, 2005).

2. Test of Comparison Market Prices

As required under section 773(b)(2) of the Act, we compared the weighted–average COP to the per–unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the sales–below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses (also excluded from the COP), and packing expenses.

3. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because we determined that the below–cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in ''substantial quantities.'' *See* section 773(b)(2)(C) of the Act. The sales were made within an

extended period of time in accordance with section 773(b)(2)(B) of the Act, because they were made over the course of the POR. In such cases, because we compared prices to POR–average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Based on this methodology, for Barilla, Corticella, Indalco, Pagani, Pallante, and Riscossa, for purposes of this administrative review, we disregarded certain below–cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* the company–specific calculation memoranda on file in the CRU, for our calculation methodology and results.

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex–works, FOB or delivered prices to comparison market customers. We made deductions from the starting price, when appropriate, for handling, loading, inland freight, warehousing, inland insurance, billing adjustments, discounts, and rebates. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing, respectively. In addition, we made circumstance–of-sale (''COS'') adjustments for direct expenses, including imputed credit expenses, advertising, warranty expenses, commissions, and bank charges, in accordance with section 773(a)(6)(C)(iii) of the Act.

We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or U.S. where commissions were granted on sales in one market but not in the other, the ''commission offset.'' Specifically, where commissions are incurred in one market, but not in the other, we will limit the amount of such adjustment to the amount of either the selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the VCOM for the foreign like product and subject merchandise, using POR–average costs.

Sales of pasta purchased by the respondents from unaffiliated producers and resold in the comparison market were treated in the same manner described above in the ''Export Price and Constructed Export Price'' section of this notice.

E. Calculation of Normal Value Based on Constructed Value

When we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product, we compared the EP to CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the COM of the product sold in the United States, plus amounts for SG&A expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred in connection with the production and sale of the foreign like product in the comparison market.

For price–to-CV comparisons, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses.

F. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP and CEP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT. When NV is based on CV, the NV LOT is that of the sales from which we derive SG&A expenses and profit.

Pursuant to 19 CFR 351.412, to determine whether comparison market sales are at a different LOT, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's–length) customers. If the comparison market sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we will make an LOT adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the differences in LOT between NV and CEP affected price comparability, we will grant a CEP offset, pursuant to section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732–33 (November 19, 1997). Specifically in this review, we did not make an LOT adjustment for any respondent. However, we are preliminarily granting a CEP offset for Barilla and Pallante.

For a detailed description of our LOT methodology and a summary of company–specific LOT findings for these preliminary results, *see* the company–specific calculation memoranda, all on file in the CRU.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Revocation

On July 30, 2004, Pallante and Pagani submitted requests for revocation of the antidumping duty order with respect to their sales of the subject merchandise pursuant to 19 CFR 351.222(b). The Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires that one or more exporters and producers covered by the order and desiring revocation submit the following: (1) a certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, has sold subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Both Pallante and Pagani provided the certifications and agreements required by 19 CFR 351.222(e)(1).

Upon receipt of such a request, the Department, pursuant to 19 CFR 351.222(b)(2), will consider the following in determining whether to revoke the order in part: (1) whether the

producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV.

Both Pallante and Pagani had *de minimis* or zero dumping margins in the two preceding years. *See Notice of Final Results of the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy and Determination Not to Revoke in Part*, 69 FR 6255, 6257 (February 10, 2004) and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part: Certain Pasta from Italy*, 68 FR 6882, 6883 (February 11, 2003), respectively. However, in the current review we preliminarily find that Pagani sold subject merchandise at less than NV. *See* July 15, 2005, Memorandum to the File, RE: Preliminary Calculation Memorandum for Pagani. Because we preliminarily find that Pagani made sales of subject merchandise at less than NV, we preliminarily intend not to revoke the antidumping duty order with respect to Pagani. Regarding Pallante, the Department preliminarily finds a *de minimis* rate for the current review. *See* July 15, 2005, Memorandum to the File, RE: Preliminary Calculation Memorandum for Pallante. Therefore, we preliminarily find that Pallante sold subject merchandise at not less than NV for three consecutive years as required under 19 CFR 351.222(b).

In determining whether three years of no dumping establishes a sufficient basis to make a revocation determination, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue, *i.e.*, that the company made sales in commercial quantities during each of those years. *See Certain Corrosion–Resistant Carbon Steel Flat Products and Certain Cut–to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part*, 64 FR 2173, 2175 (January 13, 1999); see also *Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part*, 64 FR 12977, 12979 (March 16, 1999); and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742 (January 6, 2000). The Department preliminarily finds that Pallante sold subject merchandise to the United States in commercial quantities during each of the consecutive three years within the meaning of 19 CFR 351.222(e)(1)(ii). *See* the July 7, 2005, Pallante Sales Verification Report at Exhibits S–27 and VF–19; *see also* Pallante's March 22, 2005, Questionnaire Response at Exhibit 1. Therefore, we reasonably conclude that the *de minimis* margins calculated for Pallante in the last three years are reflective of the company's normal commercial experience. Because Pagani sold at less than NV during the 2003 to 2004 POR, the Department did not determine whether Pagani sold in commercial quantities during each of the last three years.

With respect to 19 CFR 351.222(b)(2)(i)(C), in considering whether continued application of the order is necessary to offset dumping, ''the Department may consider trends in prices and costs, investment, currency movements, production capacity, as well as all other market and economic factors relevant to a particular case.'' *Proposed Regulation Concerning the Revocation of Antidumping Duty Orders*, 64 FR 29818, 29820 (June 3, 1999). Based upon sales over three consecutive years resulting in *de minimis* margins, the Department presumes that the company requesting revocation is not likely to resume selling subject merchandise at less than NV in the near future unless the Department has been presented with evidence to demonstrate that dumping would likely resume if the order were revoked. In this proceeding, we have not received any evidence that demonstrates that Pallante would likely resume dumping in the future if the order were revoked. Therefore, we preliminarily determine that the order is no longer necessary to offset dumping for Pallante.

Because all requirements under the regulation have been satisfied, if these preliminary findings are affirmed in our final results, we intend to revoke the antidumping duty order with respect to subject merchandise produced and exported by Pallante. Also, in accordance with 19 CFR 351.222(f)(3), if these findings are affirmed in our final results, we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after the first day after the period under review, and will instruct CBP to refund any cash deposit.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted–average margins exist for the period July 1, 2003, through June 30, 2004:

Manufacturer/exporter	Margin (percent)
Barilla	16.39
Corticella	3.41
Indalco	4.10
Pagani	2.76
Pallante	*0.38 de minimis*
Riscossa	2.03

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding, in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in such briefs, may be filed no later than 35 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Further, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer–specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated

importer–specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. Where appropriate, to calculate the entered value, we subtracted international movement expenses (*e.g.*, international freight) from the gross sales value.

Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less–than-fair–value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 11.26 percent, the ''All Others'' rate established in the LTFV investigation. *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 38547 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and increase the subsequent assessment of the antidumping duties by the amount of antidumping duties reimbursed.

These preliminary results of this administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 15, 2005.

Susan H. Kuhbach,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–14526 Filed 7–21–05; 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: July 22, 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 duty administrative 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] On June 23, 2005, the Department published in the **Federal Register** a notice extending the time limit for the preliminary results of the administrative review from July 3, 2005, to August 2, 2005. *See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China*, 70 FR 36375 (June 23, 2005). The preliminary results of review are currently due no later than August 2, 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 of 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 research and analyze a significant amount of information pertaining to the respondent company's large number of factors of production, review and issue supplemental questionnaires, and evaluate certain issues raised by Petitioners.

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 an additional 45 days until September 16, 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.

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[1] Celanese, Ltd. and E.I. du Pont de Nemours & Co. (collectively ''Petitioners).

[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 beginning date for the POR 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.

Dated: July 15, 2005.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 05–14527 Filed 7–21–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

SUMMARY: The inventions listed below are owned in whole by the U.S. Government, as represented by the Department of Commerce. The inventions are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Attn: Mary Clague, Building 820, Room 213, Gaithersburg, MD 20899. Information is also available via telephone: 301–975–4188, fax 301–869–2751, or e-mail: *mary.clague@nist.gov.* Any request for information should include the NIST Docket number and title for the invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The inventions available for licensing are:

[NIST Docket Number: 01–011US]

Title: Surface Charge Modification Within Preformed Polymer Microchannels with Multiple Applications Including Modulating Electroosmotic Flow And Creating Microarrays.

Abstract: A laser was used to modify the charge on the surface(s) of a preformed polymeric microchannel (*e.g.* imprinted, embossed, injection molded, ablated, etc.). It is shown that the fluid flow induced by an electric field applied along the length of the channel increases in velocity in the regions that have been exposed to the laser, therefore indicating a change in the surface charge. Furthermore, the laser can be used to create well-defined spots within the channel that have a higher surface charge than the surrounding material. These spots have been shown to selectively bind proteins in a linear or 2-dimensional microarray pattern.

[NIST Docket Number: 01–029CIP1]

Title: Mixing Reactions by Temperature Gradient Focusing.

Abstract: The invention provides a variant of temperature gradient focusing that involves analyte-ligand interactions occurring as a result of focusing one (either analyte or the ligand) and allowing interactions with the other to occur within the ''focus space.'' The interaction can be between biological molecules or other chemical species. Moving the focused ''product'' through the temperature gradient after mixing allows additional information to be inferred if the assay displays a physical property change such as melting or precipitation.

[NIST Docket Number: 01–029CIP2]

Title: Chiral Temperature Gradient Focusing.

Abstract: The invention provides a variant of temperature gradient focusing that uses chirally selective additives to modify the electrophoretic mobility of analytes thereby providing a method for focusing and separation of analytes based on their chirality.

[NIST Docket Number: 01–034US]

Title: Microfluidic Flow Manipulation Device.

Abstract: The invention relates to a new method of mixing or splitting streams in a microchannel. A pre-formed imprinted T-channel is modified by a pulsed UV-excimer laser to create a series of slanted wells at the junction. The presence of the wells leads to a high degree of lateral transport within the channel. The later transport provides rapid mixing of two confluent streams undergoing electroosmotic flow.

[NIST Docket Number: 03–008US]

Title: Micellar Gradient Focusing.

Abstract: The invention provides a method for focusing (concentrations and/or separation) based upon affinity of an analyte for a pseudostationary phase such as a micellar phase. The method works by creating a gradient in the capacity factor of the solute of interest to the micellar phase in the channel. The solute has an inherent electrophoretic mobility when free in solution. When interacting with the micelles, the solute assumes the electrophoretic mobility of the micelle. On one side of the gradient, the solutes strongly interact with the micelles and have a net mobility dominated by that of the micelles. On the other side of the gradient, the capacity factor is low and the solute assumes its native electrophoretic mobility. If the micelles are charged, a combination of electrokinetic and pressure-driven flow can be applied so that the micelles and the mobile phase move in opposite directions. Conversely, the focusing can be performed with a neutral surfactant if the analyte is changed and made to migrate in the opposite direction of the mobile phase. Under these conditions, the analyte can be made to focus at a point along the micellar gradient. Different analytes with different affinities for the micellar phase (or different electrophoretic mobilities) will focus at different points. The method provides a focusing equivalent of micellar electrokinetic chromatography.

[NIST Docket Number: 03–016/04–002US]

Title: A Direct Procedure For Classifying Image Smoothness Based on Singular Integral Operators And Fast Fourier Transform Algorithm.s

Abstract: This invention provides a class of new image deblurring procedures. These procedures are based on a reformulation of the image deblurring problem in which Lipschitz (Besov) spaces are used to calibrate the lack of smoothness in the unknown desire sharp image.

[NIST Docket Number: 04–016US]

Title: Microfluidic Platform of Arrayed Switchable Spin-Valve Elements for High-Throughput Sorting and Manipulation of Magnetic Particles and Biomelecules.

Abstract: The invention presents a microfluidic platform that incorporates an array of spin-valve elements to selectively trap, manipulate and release magnetic particles with high throughput and specificity. The array of spin-valve elements can exist in a ferromagnetic ''on'' state, thereby acting like mini bar magnets with local magnetic fields. The magnetic field gradients provide the trapping field to confine the magnetic particles. The spin-valve element can be turned to the antiferromagnetic ''off'' state where they no longer produce a local magnetic field. In the absence of the local magnetic field, the magnetic particles are released from the trap. The platform consists of a membrane that can separate the traps from the magnetic particle fluid, or it is possible to have the magnetic particle fluid on the same side of the traps. The ''on/off'' magnetic characteristic of these elements make it possible to apply an external global magnetic field to rotate the magnetic particles while they are confined by the spin-valve elements.

Dated: July 15, 2005.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 05–14512 Filed 7–21–05; 8:45 am]

BILLING CODE 3510–13–P

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Notice of Intent To Consider Bases Not Included on the List of Bases Recommended by the Secretary of Defense for Closure or Realignment

AGENCY: Defense Base Closure and Realignment Commission.

SUMMARY: The Defense Base Closure and Realignment Act of 1990 (Pub. L. 101–510), as amended (Base Closure Act), authorizes the Defense Base Closure and Realignment Commission (Commission) to consider the closure or realignment of bases not recommended for such action by the Secretary of Defense (Secretary), or to increase the extent of realignment of bases recommended for realignment by the Secretary. Section 2903 of the Base Closure Act requires the Commission to notify the public of a decision to add a base to the list recommended by the Secretary for consideration by publication in the **Federal Register** not less than 45 days prior to transmitting the Commission's report to the President. This notice is provided to meet that requirement. The proposed changes to the list recommended by the Secretary are described in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Effective July 21, 2005.

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 Base Closure Act, 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.

SUPPLEMENTARY INFORMATION: In an open meeting held in Washington, DC on May 19, 2005, the Commission decided the following:

—Naval Air Station Brunswick, Maine will be considered for closure or to increase the extent of realignment.

—Navy Broadway Complex, San Diego, California will be added to the list of installations to be considered by the Commission for closure or realignment.

—Naval Air Station Oceana, Virginia will be considered for closure or to increase the extent of realignment.

—Pope Air Force Base, North Carolina will be considered for closure or to increase the extent of realignment.

—Galena Airport Forward Operating Location, Alaska will be considered for closure or to increase the extent of realignment.

—Defense Finance and Accounting Service, Buckley Annex, Colorado; Defense Finance and Accounting Service, Columbus, Ohio; and Defense Finance and Accounting Service, Indianapolis, Indiana will be added to the list of installations to be considered by the Commission for closure or realignment.

—Naval Postgraduate School, Monterey, California; Defense Language Institute, Monterey, California; and Air Force Institute of Technology, Wright Patterson Air Force Base, Ohio will be added to the list of installations to be considered by the Commission for closure or realignment.

—Bureau of Navy Medicine, Potomac Annex, District of Columbia; Air Force Medical Command, Bolling Air Force Base, District of Columbia; and Tricare Management Activity; Offices of The Surgeons General, Military Departments; and Office of The Secretary of Defense, Health Affairs, all in leased space, Virginia, will be added to the list of installations to be considered by the Commission for closure or realignment.

Dated: July 20, 2005.

Jeannette Owings-Ballard,

Administrative Support Officer.

[FR Doc. 05–14596 Filed 7–20–05; 2:53 pm]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Advisory Committee Meeting

AGENCY: Department of Defense, DoD.

ACTION: Notice of Advisory Committee meeting; Defense Business Board.

SUMMARY: The Defense Business Board (DBB) will meet in open session on Thursday, July 28, 2005, at the Pentagon, Washington, DC from 8:15 a.m. until 10:15 a.m. The mission of the DBB is to advise the Secretary of Defense on effective strategies for implementation of best business practices of interest to the Department of Defense. At this meeting, the Board will deliberate on their findings and recommendations related to: Key Prior DBB Recommendations and Proposed Metrics to Coincide with Business Transformation Priorities; Healthcare for Military Retirees; Performance-Based Management; and Military Postal Service.

DATES: Thursday, July 28, 2005, 8:15 a.m. to 10:15 a.m.

ADDRESSES: The Pentagon, 1100 Defense Pentagon, Room 2E314, Washington, DC 20301–1100

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to attend the meeting must contact the Defense Business Board no later than Wednesday, July 27 for further information about admission as seating is limited. Additionally, those who wish to make oral comments or deliver written comments should also request to be scheduled, and submit a written text of the comments by Wednesday, July 27 to allow time for distribution to the Board members prior to the meeting. Individual oral comments will be limited to five minutes, with the total oral comment period not exceeding thirty-minutes.

The DBB may be contacted at: Defense Business Board, 1100 Defense Pentagon, Room 2E314, Washington, DC 20301–1100, via e-mail at *stephan.smith@osd.mil,* or via phone at (703) 614–7085.

Dated: July 15, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–14534 Filed 7–21–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Revised Supplemental Environmental Impact Statement II (DRSEIS II), Flood Control, Mississippi River & Tributaries, St. Johns Bayou and New Madrid Floodway, MO, First Phase

AGENCY: U.S. Army Corps of Engineers, Memphis District.

ACTION: Notice of Intent and National Environmental Policy Act Scoping Document.

SUMMARY: The DRSEIS II will supplement the final Revised Supplemental Environmental Impact Statement (RSEIS) ''Flood Control, Mississippi River & Tributaries, St. Johns Bayou and New Madrid Floodway, MO, First Phase,'' prepared by the U.S. Army Corps of Engineers, Memphis District, filed with the Environmental Protection Agency (EPA) on 19 July 2002. The DRSEIS is being prepared to clarify the record and address concerns that have developed since the signing of the Record of Decision (ROD) on 23 August 2003. These clarifications relate primarily to the calculation of compensatory mitigation requirements for mid-season fish rearing habitat, but may include any other relevant subjects or information such as hypoxia, cost-benefit analysis, Swampbuster provisions, the applicable discount rate, cost-share issues for levee closure, and potentially other issues.

This Notice of Intent also serves as a National Environmental Policy Act Scoping Document.

FOR FURTHER INFORMATION OR COMMENT CONTACT: Mr. Danny Ward, telephone (901) 544–0709, CEMVM–PM–E, 167 N. Main, Room B202, Memphis, TN 38103, e-mail—*daniel.d.ward@mvm02.usace.army.mil*, or Mr. Kevin Pigott, telephone (901) 544–4309, address as above, e-mail—*kevin.r.pigott@mvm02.usace.army.mil*.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Flood Control Act of 1954 authorized the closure of a 1,500-foot gap and construction of a gated outlet in the Mississippi River levee at the lower end of the New Madrid Floodway. The Water Resources Development Act of 1986 authorized channel modifications and pumping stations for the St. Johns Bayou Basin and the New Madrid Floodway.

The First Phase of the St. Johns Bayou and New Madrid Floodway Project (Alternative 2, Authorized Project) consists of channel enlargement and improvement in the St. Johns Bayou Basin along the lower 4.5 miles of St. Johns Bayou, beginning at New Madrid, Missouri, then continuing 8.1 miles along the Birds Point New Madrid Setback Levee Ditch and ending with 10.8 miles along the St. James Ditch. The first item of work, consisting of selective clearing and snagging, has already been completed along a 4.3-mile reach of the Setback Levee Ditch beginning at the confluence with St. James Ditch.

The Authorized Project also includes a 1,000 cubic feet per second (cfs) pumping station that would be located a few hundred feet east of the existing gravity outlet at the lower end of St. Johns Bayou. The 1,500-ft gap in the Mississippi River levee at the lower end of the New Madrid Floodway would be closed. A 1,500 cfs pumping station and gravity outlet structure would be built in the levee closure at the lower end of the New Madrid Floodway. The channel enlargement work and both pumping stations are features of the St. Johns Bayou and New Madrid Floodway Project, and the levee closure is a feature of the Mississippi River Levees Project.

A final EIS, entitled Mississippi Rivers and Tributaries, Mississippi River Levees (MRL) and Channel Improvement, was prepared by the U.S. Army Corps of Engineers, Vicksburg District, in February 1976. This document was filed with the Council of Environmental Quality in April 1976. A final EIS, entitled St. Johns Bayou/New Madrid Floodway Project Final Supplemental Environmental Impact Statement, was filed in 1982. A Draft Supplemental Environmental Impact Statement (DSEIS) was prepared to supplement both of these previous documents. The DSEIS was submitted for public review and comment in April 1999. The Final Supplemental Environmental Impact Statement (FSEIS) was filed in September 2000.

The RSEIS documented the formulation and evaluation of additional alternatives to address concerns expressed by various resource agencies and environmental advocacy groups that environmental losses were not acceptable. The RSEIS included alternative levee closure locations for the New Madrid Floodway; an array of pump and gate operation alternatives that increase connectivity of the floodway with the Mississippi River to minimize impacts on fish habitat; significant avoid and minimize measures to benefit fish and wildlife resources; and mitigation measures that compensate for losses to wildlife habitat (bottomland hardwoods and agricultural areas), shorebird habitat, waterfowl habitat during February ''March, and mid-season (1 April to 15 May) fish rearing habitat. The final RSEIS was filed with EPA in July 2002.

The RSEIS expressed the Corps' analysis of unavoidable losses to mid-season fish rearing habitat as Habitat Units (HU). The RSEIS used those HU lost to calculate the required acres of compensatory mitigation. The method set out in the RSEIS was reforestation of agricultural areas. Therefore, the RSEIS stated that reforestation of 8,375 acres of agricultural areas (1,317 acres in the St. Johns Bayou Basin and 7,058 in the New Madrid Floodway) would mitigate for the unavoidable impacts to 4,213 mid-season fish rearing HU (1,884 HU in the St. Johns Basin and 2,329 HU in the New Madrid Floodway).

An inconsistency over required mitigation existed in the previous Record of Decision, State of Missouri 401–Water Quality Certification, and the Administrative Record. Therefore, the purpose of this DRSEIS II is to clarify the mitigation required in terms of HU and Average Daily Flooded Acres (ADFA). Additional mitigation features would also be investigated to ensure that the ADFA compensatory mitigation requirement, or its equivalent, is met and all habitat impacts for each respective resource (*e.g.*, wildlife, shorebird, waterfowl, and mid-season fish rearing) are adequately compensated.

Other matters for the DRSEIS II may include, but are not limited to, a review of: hypoxia, the cost-benefit analysis, Swampbuster provisions, the 2.5% discount rate, cost-share issues for levee closure, and other relevant subjects or information.

2. Reasonable Alternatives

The recommended flood damage reduction features as outlined in the RSEIS would not be addressed in this DRSEIS. Therefore, no additional flood damage reduction alternatives would be analyzed in the St. Johns Bayou Basin or the New Madrid Floodway. In addition to clarifying the inconsistency concerning the required amount of mitigation, the DRSEIS II would also address additional mitigation features to compensate for the unavoidable impacts to fish and wildlife resources.

Reforestation of frequently flooded agricultural land remains one means of providing the required 8375 ADFA of compensatory mitigation. If reforestation of agricultural lands were the only compensatory mitigation method employed, then the actual acres

required would be no less than 8375 acres (assuming each acre is an ADFA), and could conceivably be more in order to assure that the ADFA equivalent habitat requirement is also met.

In addition to reforestation of agricultural areas, other compensatory mitigation measures would also be formulated. These measures include but are not limited to calculating expected benefits to mid-season fish rearing habitat from the creation of shorebird areas (moist soil units) and the Big Oak Tree State Park water supply feature, creation and/or enhancement of permanent waterbody features, and creation and/or enhancement of backwater flooding events. Measures that provide the highest duration of flooding during the mid-season fish rearing period (1 April to 15 May) offer the highest potential benefits.

Other matters such as hypoxia, the cost-benefit analysis, Swampbuster provisions, the 2.5% discount rate, cost-share issues for levee closure, and other relevant subjects or information, may also be explored in the DRSEIS II.

3. The Corps Scoping Process

Coordination with appropriate resource and regulatory agencies would be maintained throughout the formulation of this DRSEIS II. Comments and concerns that have been expressed since the signing of the ROD will be used to identify significant issues. This Notice of Intent also serves as a scoping document. The purpose of this notice is to advise all interested parties of the intent to supplement the RSEIS and to solicit comments and information concerning compensatory mitigation, hypoxia, the cost-benefit analysis, Swampbuster provisions, the 2.5% discount rate, cost-share issues for levee closure, and other relevant subjects or information. Comments would be used to determine opportunities to develop additional compensatory mitigation strategies and other strategies that relate to, but are not limited to, hypoxia, the cost-benefit analysis, Swampbuster provisions, the 2.5% discount rate, cost-share issues for levee closure, and any other relevant subject or information, and to evaluate the probable impact (including cumulative impacts) of compensatory mitigation, as well as the probable impacts of such issues that may include, but are not limited to, hypoxia, the cost-benefit analysis, Swampbuster provisions, the 2.5% discount rate, cost-share issues for levee closure, and any other relevant subjects or information. This notice is being circulated to Federal, State, and local environmental resource and regulatory agencies; Indian Tribes; non-governmental organizations, and the general public.

Comments to this Notice of Intent are requested by 5 August 2005 at the above address. It is anticipated that the DRSEIS II will be available for public review in August 2005.

Vincent D. Navarre,

Major, Corps of Engineers, Deputy District Engineer, Memphis District.

[FR Doc. 05–14165 Filed 7–21–05; 8:45 am]

BILLING CODE 3710–KS–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of Public Meeting for U.S. Election Assistance Commission Board of Advisors.

DATE & TIME: Wednesday, August 3, 2005, 6:30 p.m.–8:30 p.m., Thursday, August 4, 2005, 8:30 a.m.–5 p.m. and Friday, August 5, 2005, 8:30 a.m.–5 p.m.

PLACE: Portland Marriott City Center, 520 Southwest Broadway, Portland, OR 97205.

PURPOSE: The U.S. Election Assistance Commission (EAC) Board of Advisors, as required by the Help America Vote Act of 2002, will meet to consider and receive presentations on the Voluntary Voting System Guidelines proposed by EAC, to receive a presentation on the statewide voter registration list guidance adopted by EAC, to formulate recommendations to EAC, and to handle other administrative matters.

Any member of the public may file a written statement with the Board before, during, or after the meeting. To the extent that time permits, the Board may allow public presentation or oral statements at the meeting.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 05–14641 Filed 7–20–05; 3:30 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–390–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Request Under Blanket Authorization

July 18, 2005.

Take notice that on July 5, 2005, Great Lakes Gas Transmission Limited Partnership (Great Lakes) 5250 Corporate Drive, Troy, Michigan 48098, filed in Docket No. CP05–390–000, a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's Regulations under the Natural Gas Act (NGA) and Great Lakes' blanket certificate issued in Docket No. CP90–2053,[1] for authorization to inspect, repair and/or replace certain sections of its 36-inch outside-diameter natural gas mainline (100 Line) in Itasca, Aitkin and St. Louis Counties, Minnesota, which is on file with the Commission and open to public inspection.

Specifically, Great Lakes will repair or replace up to 59 anomalies at 32 locations along its pipeline, identified by a Magnetic Flux Leakage In-line Inspection Tool as being possibly deteriorated by corrosion. Great Lakes states that the proposed project activities must be completed utilizing additional work space outside of Great Lakes' existing right of way due to the presence of unstable saturated soils in the project areas and the proximity of its 200 line (loop line) to the areas of the 100 line that requires inspection, remediation, and possible replacement.[2] Great Lakes estimates the total cost at up to $16 million.

Any questions concerning this application may be directed to John J. Wallbillich, Vice President, Legal and Environmental Affairs, Great Lakes Gas Transmission Company, 5250 Corporate Drive, Troy, Michigan 48098 at (248) 205–7426.

This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call

[1] 52 FERC ¶ 62,291 (1990).

[2] The proposed work would normally be preformed under Section 2.55 of the Commission Regulations, however in this project additional temporary work space is required outside of the 100 Line footprint.

toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3925 Filed 7–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12530–001]

Green Power Development, LLC; Anchorage, AK; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), Commencement of Licensing Proceeding, Issuance of Scoping Document, Solicitation of Study Requests and Comments on the Pad and Scoping Document

July 18, 2005.

a. *Type of Filing:* Notice of intent to file a license application for a new license under the Integrated Licensing Process and Commencing Licensing Proceeding.

b. *Project No.:* 12530–001.

c. *Date Filed:* May 23, 2005.

d. *Submitted by:* Green Power Development, LLC.

e. *Project Name:* Allison Lake Hydroelectric Project.

f. *Location:* On the headwaters of Allison Creek at Allison Lake in south-central Alaska within the City Limits of Valdez. No Federal lands are occupied by the project works or otherwise located within the project boundary.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Green Power Contact:* Joel Groves, Hydro Project Manager, Green Power Development, LLC, 1503 West 33rd Avenue, Anchorage, AK 99503; (907) 258–2420; *joel@polarconsult.net*.

i. *FERC Contact:* John Blair, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; (202) 502–6092; *john.blair@ferc.gov*.

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph p below.

k. With this notice, we are initiating informal consultation with: (1) The U.S. Fish and Wildlife Service and NOAA Fisheries, as appropriate, under section 7 of the Endangered Species Act and the joint agency regulations there under at 50 CFR 402; and (2) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Green Power Development, LLC as the Commission's non-Federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act; and as the Commission's non-Federal representative for carrying out informal consultation pursuant to section 106 of the National Historic Preservation Act.

m. Green Power Development filed a Pre-Application Document (PAD), including a proposed process plan and schedule, with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site, *http://www.ferc.gov*, using the ''eLibrary'' link. Enter the docket number, P–12530 in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at Green Power Deveopment, 1503 West 33rd Avenue, Suite 301, Anchorage, AK 99503.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other Commission projects. For assistance, contact FERC Online Support.

o. Concurrent with this notice, we are issuing Scoping Document 1 (SD1), which outlines the alternatives and issues to be addressed in our environmental document, to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings described in item r below, or is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site, *http://www.ferc.gov*, using the ''eLibrary'' link, as described in item n above. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 will include any revisions to the list of issues outlined in SD1 that are identified during the scoping process, and may include a revised process plan and schedule.

p. With this notice, we are soliciting comments on the PAD and SD1, as well as any study requests. All comments on the PAD and SD1, and study requests should be sent to Green Power Development at the address above in paragraph h, and in addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications with Commission staff related to the merits of the proposed application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include, on the first page, the project name (Allison Lake Hydroelectric Project) and number (P–12530–000), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' '' Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications with Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by September 16, 2005.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site, *http://www.ferc.gov*, under the ''e-Filing'' link. The Commission strongly

encourages electronic filings. For assistance, please contact FERC Online Support.

q. At this time, the Commission intends to prepare an Environmental Assessment for the project, in accordance with the National Environmental Policy Act.

r. *Scoping Meetings:* Commission staff will hold two scoping meetings at the time and place noted below. We invite all interested individuals, organizations, and agencies to attend one or both meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Scoping Meeting #1

Date and Time: August 16, 2005 from 7 to 9 p.m.

Location: Valdez Convention and Civic Center, 110 Clifton Drive, Valdez, Alaska.

Phone: (907) 835–4440.

Scoping Meeting #2

*Date and Time:*August 17, 2005 at 1 to 5 p.m.

Location: Hawthorn Suites Hotel, 1110 West 8th Ave., Anchorage, Alaska.

Phone: (907) 222–5005.

The scoping meetings are posted on the Commission's calendar, located on the internet at *http://www.ferc.gov/EventCalendar/EventsList.aspx*, along with other related information.

Site Visit

Green Power Development will conduct a site visit of the project on August 16, 2005, beginning at 1 p.m. Participants should be prepared to provide their own ground transportation. Drive from the town of Valdez on Dayville Road, traveling toward the Valdez Marine Terminal. Meet at the parking area on the left side of Dayville Road immediately before crossing the bridge over Allison Creek. From the parking lot participants will travel on foot to the proposed powerhouse site. Weather permitting, we will tour the water intake and dam sites at Allison Lake by aerial fly over. Anyone with questions about the site visit should contact Joel Groves of Green Power Development at (907) 258–2420. Those individuals planning to participate should notify Mr. Groves of their intent, before August 3, 2005.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activities that incorporates the time frames provided for in part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of Federal, State, and tribal permitting and certification processes; and (5) discuss the appropriateness of any Federal or State agency or Indian tribe acting as a cooperating agency for development of our environmental document.

Meeting Procedures

The scoping meetings will be recorded by a court reporter and all statements, oral and written, will become part of the Commission's official public record for this project.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3923 Filed 7–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID4348–000]

Mr. Philip R. Lochner, Jr.; Notice of Filing

July 18, 2005.

Take notice that on June 20, 2005, Mr. Philip R. Lochner, Jr., filed an application for authorization under section 205(b) of the Federal Power Act to hold interlocking positions as Director of Consumers Energy Company and as Director of CLARCOR Inc.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e- mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on August 17, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3922 Filed 7–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–2195–011]

Portland General Electric Company, Portland, OR; Notice of Filing

July 18, 2005.

Take notice that the following person has been assigned to facilitate discussions among parties involved in the licensing of Portland General Electric Company's Clackamas hydroelectric project. Project impacts to salmonid species, water quality and related issues will be topics discussed.

Office of Energy Projects

Jim Hastreiter, (503) 552–2760.

The staff person listed above is separated from the advisory staff in this proceeding and will not participate as advisory staff in this proceeding.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3924 Filed 7–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–392–000]

Texas Eastern Transmission, LP; Notice of Application

July 18, 2005.

On July 6, 2005, Texas Eastern Transmission, LP, (Texas Eastern) filed an application pursuant to section 7(c) of the Natural Gas Act and part 157 of the regulations of the Federal Energy Regulatory Commission (Commission) requesting a certificate of public convenience and necessity authorizing Texas Eastern to enhance the reliability and flexibility of its Accident Storage Field located in Garrett County, Maryland, by improving deliverability at lower inventory levels, expanding the working gas capacity by 3.0 Bcf, and increasing the injection capability, thereby increasing the overall performance capabilities of the field. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676, or for TTY, (202) 502–8659.

Any questions regarding this application should be directed to Steven E. Tillman, General Manager, Regulatory Affairs, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642; phone (713) 627–5113.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. Eastern Time on August 8, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3921 Filed 7–21–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Approval of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 18, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Recreation Plan.

b. *Project No.:* 2833–092.

c. *Date Filed:* May 31, 2005.

d. *Applicant:* Lewis County PUD No. 1.

e. *Name of Project:* Cowlitz Falls Project.

f. *Location:* The project is located on the Cowlitz and Cispus Rivers, in Lewis County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and 799 and 801.

h. *Applicant Contact:* Debbie Angwood, Lewis County PUD, 31 NW Pacific Avenue, Chehalis, WA 98532–0330 (360) 740–2457.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Heather Campbell at (202) 502–6182, or e-mail address: *heather.campbell@ferc.gov.*

j. *Deadline for filing comments and or motions:* August 15, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–2833–092) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the e-Filing link. The Commission strongly encourages e-filings.

k. *Description of Requests:* Lewis County PUD is proposing to amend its recreation plan to relocate the canoe/kayaker takeout area. The site approved in the license is inaccessible. The proposed new site would provide access for rafters along the Cispus River.

l. *Location of the Application:* This filing is available for review at the Commission in the Public Reference Room 888 First Street, NE., Room 2A, Washington, DC 20426 or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''e-

library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described applications. Copies of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3920 Filed 7–21–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7943–2]

National Drinking Water Advisory Council Request for Nominations for the Working Group on Public Education Requirements of the Lead and Copper Rule

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is announcing the formation of a Working Group of the National Drinking Water Advisory Council on the Public Education Requirements of the Lead and Copper Rule (WGPE) and soliciting all interested persons to nominate qualified individuals to serve a one-year term. Any interested person or organization may nominate qualified individuals for membership on the working group.

Background: The Lead and Copper Rule requires systems that exceed the action level to complete a number of steps, which include delivering public education to alert the public of the problem and provide information on steps customers can take to reduce their risk. In order to ensure ''at risk populations'' are receiving the necessary information to protect themselves from exposure to lead, EPA is reviewing the public education requirements of the Lead and Copper Rule. EPA believes that public information is an important component of drinking water protection because it allows consumers to make informed public health decisions.

The National Drinking Water Advisory Council (NDWAC), established under the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*), provides practical and independent advice, consultation, and recommendations to the Agency on the activities, functions, and policies related to the implementation of the Safe Drinking Water Act. On June 1, 2005, the NDWAC voted on and approved the formation of a Working Group (WGPE) to provide recommendations on the Public Education Requirements of the Lead and Copper Rule. After WGPE completes their charge, they will make recommendations to the full NDWAC. The full NDWAC will, in turn, make appropriate recommendations to EPA. For a general description of the WGPE charge, the criteria for selecting WGPE members, and the specific directions for submitting WGPE member nominations, please see the **SUPPLEMENTARY INFORMATION** section.

DATES: Submit nominations via U.S. mail on or before August 22, 2005.

ADDRESSES: Address all nominations to Elizabeth McDermott, Designated Federal Officer, National Drinking Water Advisory Council Working Group on Public Education, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water, Drinking Water Protection Division (Mail Code 4606M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: E-mail your questions to Elizabeth McDermott, Designated Federal Officer, at *mcdermott.elizabeth@epa.gov,* or call (202) 564–1603.

SUPPLEMENTARY INFORMATION: *Working Group Charge:* The charge for the Working Group on the Public Education Requirements of the Lead and Copper Rule (WGPE) is to (1) review the current public education requirements to find and define the need for improvements and make recommendations to the full NDWAC accordingly; (2) develop language for communicating the risk and a suggested response to the public; and (3) define the delivery means to the public. The NDWAC established a target date of May 2006 to complete these tasks.

Selection Criteria: The criteria for selecting WGPE members are as follows: the members are recognized experts in their fields; the members are as impartial and objective as possible; the members collectively represent an array of backgrounds and perspectives within the water sector and related disciplines (*e.g.,* public health); and the members are available to fully participate in the WGPE. The schedule remains flexible, however, it is estimated that the first WGPE meeting will be convened in the Fall of 2005, and subsequent meetings will be conducted over a relatively short time frame of approximately one (1) year. Over the course of this period, WGPE members will be asked to attend a maximum of four (4) in-person meetings, participate in conference calls and video conferencing as necessary, participate in the discussion of key issues at all meetings, and review and finalize the products and outputs of the WGPE. The EPA is looking to create a diverse working group. Potential nominations could include individuals from the drinking water industries, stakeholder organizations, state and local officials, public health officials, environmental organizations, and risk communication experts. The Agency is looking for a range of industry representation in terms of the size of the population served, as well as investor

and publicly owned and operated facilities. This is not an exhaustive list; it is only intended to provide a framework to consider potential nominees.

Nomination of a Member: Any interested person or organization may nominate qualified individuals for membership to the WGPE. Name, occupation, position, address, and telephone number should identify all nominees. To be considered, all nominations must include a current resume providing the nominee's background, experience, and qualifications, in addition to a statement (not to exceed two (2) paragraphs) about their particular expertise and interest in the public education requirements of the Lead and Copper Rule. Please note that the Agency will not formally acknowledge or respond to nominations.

Dated: July 18, 2005.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 05–14536 Filed 7–21–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6665–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 07/11/2005 through 07/15/2005

Pursuant to 40 CFR 1506.9.

EIS No. 20050290, Final EIS, NOA, AK, Pribilof Islands Setting for the Annual Subsistence Harvest of Northern Fur Seals, To Determine and Publish the Take Ranges, Pribilof Islands, AK, Wait Period Ends: 08/22/2005, Contact: James W. Balsiger 301–713–3318.

EIS No. 20050291, Final EIS, AFS, CO, Gold Camp Road Plan, Develop a Feasible Plan to Manage the Operation of Tunnel #3 and the 8.5 mile Road Segment, Pike National Forest, Pikes Peak Ranger District, Colorado Springs, El Paso County, CO, Wait Period Ends: 08/22/2005, Contact: Frank Landis 719–477–4203.

EIS No. 20050292, Draft EIS, USA, HI, Makua Military Reservation (MMR) Project, Proposed Military Training Activities, 25th Infantry Division (Light) and U.S. Army, HI, Comment Period Ends: 09/21/2005, Contact: Gary Shirakata 808–438–0772.

EIS No. 20050293, Draft EIS, WPA, AZ, Wellton-Mohawk Generating Facility Project, Construction and Operation a Natural Gas-Fired, Combined-Cycle, Electric Generating Stations, Approval for Right-of-Way, Yuma County, AZ, Comment Period Ends: 09/06/2005, Contact: Mark J. Wieringa 720–962–7448.

EIS No. 20050294, Revised Draft EIS, COE, CA, Mare Island Reuse of Dredged Material Disposal Ponds as a Confirmed Updated Dredged Material Disposal Facility, Issuing Section 404 Permit Clean Water Act and Section 10 Permit Rivers and Harbor Act, San Francisco Bay Area, City of Vallejo, Solando County, CA, Error: Revised Draft EIS 09/06/2005, Contact: Robert J. Lawrence 415–977–8020.

EIS No. 20050295, Draft EIS, AFS, CA, Bald Mountain Project, Proposes to Harvest Trees Using Group and Individual Trees Selection Methods, Feather River Ranger District, Plumas National Forest, Plumas and Butte Counties, CA, Comment Period Ends: 09/06/2005, Contact: Katherine Worn 530–534–6500.

EIS No. 20050296, Final EIS, TVA, TN, 500–kV Transmission Lin in Middle Tennessee Construction and Operation, Cumberland Fossil Plant to either the Montgomery 500–kV Substation, Montgomery County, or the Davidson 500–kV Substation, Davidson County, Stewart, Houston, Montgomery, Dickerson, Cheatham and Davidson Counties, TN, Wait Period Ends: 08/22/2005, Contact: Charles P. Nicholson 865–632–3582.

EIS No. 20050297, Draft EIS, SFW, WY, Bison and Elk Management Plan, Implementation, National Elk Refuge/Grand Teton National Park/John D. Rockefeller, Jr. Memorial Parkway, Teton County, WY, Comment Period Ends: 09/30/2005, Contact: Laurie Shannon 303–236–4317.

EIS No. 20050298, Draft EIS, AFS, UT, West Bear Vegetation Management Project, Timber Harvesting, Prescribed Burning, Roads Construction, Township 1 North, Range 9 East, Salt Lake Principle Meridian, Evanston Ranger District, Wasatch-Cache National Forest, Summit County, UT, Comment Period Ends: 09/06/2005, Contact: Larry Johnson 307–789–3194.

EIS No. 20050299, Draft EIS, SFW, CA, San Diego Bay National Wildlife Refuge Comprehensive Conservation Plan, Implementation, Sweetwater Marsh and South San Diego Bay Units, San Diego County, CA, Comment Period Ends: 09/19/2005, Contact: Victoria Touchstone 760–431–9440 Ex. 349.

EIS No. 20050300, Draft Supplemental EIS, NOA, 00, Reef Fish (Amendment 25) and Coastal Migatory Pelagic (CMP) (Amendment 17) Fishery Management Plans (FMP) for Extending the Charter Vessel/Headboat Permit Moratorium, Gulf of Mexico, Comment Period Ends: 09/06/2005, Contact: Andy Strelcheck 727–824–5305.

Dated: July 19, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–14546 Filed 7–21–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6665–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20040548, ERP No. D–BLM–J65432–CO, Roan Plateau Resource Management Plan Amendment, Including Former Naval Oil Shale Reserves 1 and 2, Garfield and Rio Blanco Counties, CO.

Summary: EPA expressed environmental concerns with potential adverse impacts from increased access to the top of the plateau, to Colorado Cutthroat from sedimentation from new roads, fragmentation of critical winter habitat for mule deer, and reduction of areas with wilderness characteristics, and recommended that the Final EIS include mitigation measures identified in the analysis to reduce these impacts. Rating EC2.

EIS No. 20050104, ERP No. D–NPS–K61161–CA, Golden Gate National Recreation Area (GGNRA) Fire Management Plan, Implementation, Muir Woods National Monument, Fort Point National Historic Site, San

Mateo, San Francisco and Marin Counties, CA.

Summary: EPA expressed environmental concerns regarding smoke management, use of herbicides, and the protection of air quality, water quality, and wetlands. Rating EC2.

EIS No. 20050111, ERP No. D–AFS–K65280–CA, Power Fire Restoration Project, To Reduce Long-Term Furel Loading for the Purpose of Reducing Future Severity and Resistance to Control, Amador Ranger District, Eldorado National Forest, Amador County, CA.

Summary: EPA expressed environmental concerns with the very high risk of cumulative watershed effects and potential effects on water quality, aquatic resources, and air quality, and requested additional information be provided on Clean Air Act conformity requirements, mitigation measures to reduce priority pollutants and consultation with tribal governments. Rating EC2.

EIS No. 20050133, ERP No. D–AFS–F65056–OH, Wayne National Forest, Proposed Revised Land and Resource Management Plan, Implementation, Several Counties, OH.

Summary: EPA supports the proposed alternative, which should improve watershed condition and wildlife habitat as well as meet other multiple use objectives. However, EPA requested additional information on the management of early successional and grassland habitat which could have impacts to declining populations of interior forest birds. The Final EIS should consider additional monitoring to determine invertebrate viability and trends of other important populations. Rating EC2.

EIS No. 20050151, ERP No. D–AFS–K61162–CA, Ansel Adams and John Muir Wildernesses, Trail and Commercial Pack Sock Management, Implementation, Inyo, Mono, Madera, and Fresno Counties, CA.

Summary: EPA expressed environmental concerns with the minimal water quality and ecological improvement predicted with implementing the action alternatives. The Final EIS should include additional management actions, a detailed monitoring and enforcement strategy, especially for special use permits, to improve degraded trails and water quality in meadows, wetlands, and streams. Rating EC2.

EIS No. 20050160, ERP No. D–AFS–L65483–ID, Three Basins Timber Sale Project, Proposal to Treat 760 Acres of Mature Forest, Implementation, Caribou-Targhee National Forest, Montpellier Ranger District, Bearlake and Caribou Counties, ID.

Summary: EPA expressed environmental concerns with identified air impacts from prescribed burning, potential impacts on water quality near 303(d) listed streams, and exceeding Forest Service guidelines. EPA requested that the FEIS estimate PM10 and PM2.5 emissions, clarify the location of 303(d) listed streams relative to project actions, and explain the basis for deviating from the Forest Plan guideline for Visual Quality Objectives. Rating EC1.

EIS No. 20050176, ERP No. D–FAA–L51017–AK, Juneau International Airport, Proposed Development Activities to Enhance Operations Safety, Facilitate Aircraft Alignment, U.S. Army COE Section 404 Permit, City and Borough of Juneau, AK.

Summary: EPA expressed environmental objections because at the loss of high quality estuarine wetlands and related impacts to 303(d) listed streams and wetland functions, and requested a compensatory mitigation option be developed for unavoidable impacts. Rating EO2.

EIS No. 20050177, ERP No. D–AFS–K65282–AZ, Coconino National Forest Project, Re-authorize Grazing on the Pickett Lake and Padre Canyon Allotments, Implementation, Mormon Lake Range District, Coconino County, AZ.

Summary: EPA expressed environmental concerns with impacts to wetlands and requested a commitment in the Record of Decision to require fencing of additional wetlands for the 10 year permit. The Final EIS should disclose locations of grazing impaired soils related to grazing areas and the potential for additional impacts. Rating EC2.

EIS No. 20050199, ERP No. D–DOD–D11037–DC, Armed Forces Retirement Home (AFRH–W), Proposed Master Plan for Campus Located 3700 North Capitol Street, NW., AFRH Trust Fund, Washington, DC.

Summary: EPA expressed concerns related to project impacts to ponds, wetlands, and terrestrial/aquatic biota. Rating EC2.

Final EISs

EIS No. 20050201, ERP No. F–AFS–G65093–NM, San Diego Range Allotment Project, Proposes to Revise Grazing Program, Santa Fe National Forest, Jemez Ranger District, Township 17–19 North, Range 1–3 East, Sandoval County, NM.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20050217, ERP No. F–AFS–G65094–NM, Ojo Caliente Proposed Transmission Line, Propose to Authorize, Construct, Operate and Maintain a New 115kV Transmission Line and Substation, Carson National Forest and BLM Taos Field Office, Taos and Rio Arriba Counties, NM.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20050245, ERP No. F–COE–K36140–CA, Prado Basin Water Supply Feasibility Study, To Increase Conservation of Surplus Water at Prado Dam and Flood Control Basin, Orange County Water District, Orange, Riverside, and San Bernardino Counties, CA.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20050257, ERP No. F–AFS–J65440–MT, Northeast Yaak Project, Proposed Harvest to Reduce Fuels in Old Growth, Implementation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT.

Summary: EPA supports the proposed action to improve old growth and grizzly bear habitats, reduce road impacts to streams and fisheries, noting the importance of adequate funding to implement restoration work. However, EPA has environmental concerns about the proposed opening of Vinal Lake Road 746 because of increased motorized access and potential adverse impacts to wildlife habitat by reducing connectivity.

EIS No. 20050273, ERP No. F–AFS–L65280–ID, Porcupine East, 9 Allotment Grazing Analysis Project, Authorizing Livestock Grazing, Caribou-Targhee National Forest, Dubois Ranger District, Centennial Mountains, Clark County, ID.

Summary: EPA continues to have concerns potential impacts to impaired streams in the project; and supports features of the Preferred alternative that minimize impacts to water quality. However, EPA recommends that once TMDLs are finalized that permits be modified when needed to meet load allocation targets.

EIS No. 20050244, ERP No. FS–NPS–K65325–CA, Merced Wild and Scenic River Revised Comprehensive Management Plan, Amend and Supplement Information, Yosemite National Park, El Portal Administrative Site, Tuolume,

Merced, Mono, Mariposa, and Madera Counties, CA.

Summary: No formal letter was sent to the preparing agency.

Dated: July 19, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–14552 Filed 7–21–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–0292]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Regular Clearance.

Title of Information Collection: Burn Bed Enumeration.

Form/OMB No.: OS–0990–0292.

Use: The Office for Public Health Emergency Preparedness (OPHEP) will collect information on available burn beds, medical material for care of burn patients, and staffing levels to ensure the ability to manage a mass casualty event involving burns. No current system exists.

Frequency: Reporting, weekly, other (twelve additional days).

Affected Public: Federal , business or other for profit, not for profit institutions.

Annual Number of Respondents: 132.

Total Annual Responses: 8,448.

Average Burden per Response: 15 minutes.

Total Annual Hours: 2,112.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the Desk Officer at the address below:

OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–0292), New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 13, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–14475 Filed 7–21–05; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Workgroup on the National Health Information Infrastructure (NHII).

Time and Date: 1 p.m.–5 p.m., July 27, 2005; 9 a.m.–12 p.m., July 28, 2005.

Place: Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 800, Washington, DC 20201.

Status: Open.

Purpose: The Workgroup will meet to discuss their draft letter to the Secretary on personal health record systems, the group's work plan and next steps.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Mary Jo Deering, Lead Staff Person for the NCVHS Workgroup on the National Health Information Infrastructure, Director for Informatics Dissemination, NCI Center for Bioinformatics, National Cancer Institute, National Institutes of Health, USDHHS, 6116 Executive Blvd.—#400, Rockville, MD 20852, Phone: (301) 594–1273, Fax: (301) 480–3441, E-mail: *deeringm@mail.nih.gov* or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/,* where an agenda for the meeting will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: July 10, 2005.

James Scanlon,

Acting Deputy Assistant Secretary for Science and Data Policy Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 05–14507 Filed 7–21–05; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security (SSS).

Time and Date: July 26, 2005, 9 a.m.–5 p.m.; July 27, 2005, 8:30 a.m.–1 p.m.

Place: Hubert H. Humphrey Building, 200 Independence Avenue, SW., Room 800, Washington, DC 20201.

Status: Open.

Purpose: The morning of the 26th will be devoted to updates on e-prescribing standards and standards harmonization efforts, and updates from the Department of Health and Human Services on regulations and other initiatives related to e-prescribing. The afternoon will focus on secondary uses of clinical data. The Subcommittee will use the morning of the 27th to develop a work plan for future hearings.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Maria Friedman, Health Insurance Specialist, Security and Standards Group, Centers for Medicare and Medicaid Services, MS: C5–24–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, telephone: (410) 786–6333 or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone: (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: July 10, 2005.

James Scanlon,

Acting Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 05–14509 Filed 7–21–05; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Budget, Technology and Finance; Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) is being amended as follows: Chapter AM, ''Office of Budget, Technology and Finance,'' Chapter AMM, ''Office of Information Resources Management,'' as last amended at 70 FR 17690–91, dated April 7, 2005. This reorganization will retitle the Office of Information Resources Management (OIRM) and realign its functions in an Office of the Chief Information Officer (OCIO). The changes are as follows:

I. Under Chapter AM, ''Office of Budget, Technology and Finance, Section AM.10 Organization, delete, in its entirety and replace with the following:

Section AM.10 Organization: The Office of Budget, Technology, and Finance is headed by the Assistant Secretary for Budget, Technology and Finance (ASBTF). The Assistant Secretary for Budget, Technology, and Finance is the Departmental Chief Financial Officer (CFO), and reports to the Secretary. The office consists of the following components:

Immediate Office of the ASBTF (AM)
Office of Budget (AML)
Office of the Chief Information Officer (AMM)
Office of Finance (AMS)
Office of Grants (AMT)

II. Under Section AM.20 Functions, paragraph 3, titled ''Office of Information and Resources Management,'' delete in its entirety and replace with the following:

3. *Office of the Chief Information Officer (AMM).* The Deputy Assistant Secretary for Information Technology (DASIT), who is also the HHS Chief Information Officer, heads the Office of the Chief Information Officer (OCIO). OCIO provides the Secretary and the Assistant Secretary for Budget, Technology, and Finance (ASBTF) with strategic planning, information resources management and technology policy, architecture, investment review, and Office of the Secretary (OS) computer operations management support.

III. Under Section AM: Functions, delete Chapter AMM, ''Office of Information Resources Management,'' and replace with the following:

C. Chapter AMM, Office of the Chief Information Officer

AMM .00 Mission. The Office of the Chief Information Officer advises the Secretary and the Assistant Secretary for Budget, Technology and Finance on matters pertaining to the use of information and related technologies to accomplish Departmental goals and program objectives. The mission of the Office is to establish and provide: Assistance and guidance on the use of technology-supported business process reengineering; investment analysis; performance measurement; strategic development and application of information systems and infrastructure; policies to provide improved management of information resources and technology; and better, more efficient service to our clients and employees. The Office exercises authorities delegated by the Secretary to the Deputy Assistant Secretary for Information Technology, as the CIO for the Department. These authorities derive from the Clinger-Cohen Act of 1996, the Paperwork Reduction Act of 1995, the Computer Matching and Privacy Act of 1988, the Computer Security Act of 1987, the Federal Information Security Management Act (FISMA), the National Archives and Records Administration Act of 1984, the Competition in Contracting Act of 1984, the Federal Records Act of 1950, OMB Circulars A–130 and A–11, Government Printing and Binding Regulations issued by the Joint Committee on Printing, and Presidential Decision Directive 63.

Section AMM.10 Organization. The Office of the Chief Information Officer (OCIO) is headed by the Deputy Assistant Secretary for Information Technology/HHS CIO, who reports to the Secretary and the Assistant Secretary for Budget, Technology and Finance. The HHS CIO serves as the primary IT leader for the Department, and the OCIO consists of the following:

Immediate Office (AMM1)
Office of Resources Management (AMM2)
Office of Information Technology Operations (AMM3)
Office of Enterprise Architecture (AMM4)
Office of Enterprise Project Management (AMM5)

Section AMM.20 Functions

The Immediate Office of the Chief Information Officer (AMMI). The Immediate Office of the Chief Information Officer supports the DASIT/CIO, and also provides leadership in OS IT issues, HHS IT architecture, use of technology in HHS and the HHS Web site. It performs the following functions:

a. Provides continuous development and implementation of effective strategic solutions for enabling the HHS mission. Provides advice and counsel to the Secretary and the Assistant Secretary for Budget, Technology and Finance.

b. Ensures the development and updates to the Information Technology Five Year Strategic Plan.

c. Develops and coordinates information resources management policies applicable across the Department and the Office of the Secretary, including the creation, handling, storage, dissemination, and disposition of information.

d. Leads the development and implementation of an enterprise information infrastructure across the Department.

e. Oversees and manages risks associated with major information systems and information technology.

f. Evaluates major investments in information technology, and is responsible for their subsequent period review.

g. Guides and oversees the development of information systems and communications networks.

h. Provide leadership in e-government activities.

i. Provides data processing and communications equipment for the Office of the Secretary and participating HHS OPDIVs, and implements, operates, and maintains standard office automation applications running on the OS network.

j. Provides executive direction to align Departmental strategic planning for information resources and technology with the Department's strategic business planning.

k. Provides executive direction to develop and maintain Departmental information technology policy and architecture.

l. Promotes business process reengineering, investment analysis, and performance measurement throughout the Department, to capitalize on evolving information technology.

m. Represents the Department in Federal Government-wide initiatives to

develop policy and implement an information infrastructure.

n. Provides leadership to the Department's Information Technology Investment Review Board (ITIRB) and the Department's Chief Information Officers' Advisory Council. Oversees enterprise IT efforts and any similar OPDIV efforts related to architecture, technology and the HHS Web site. Provides review and guidance to the ITIRB and CIO Council via analyses of alternative analyses strategies, standards compliance, architectural conformance and technology solutions.

o. Develops and maintains HHS-wide Architecture, including the business, data, application and technology components. Establishes architecture tools and repositories, coordinates with OPDIV architectures, develops technical guidance, assists managers of applications systems, and coordinates expert working groups to populate the architecture. Advises the ASBTF, OPDIV CIOs and other senior officials on matters relating to technology. Leads the development of a department-wide investment strategy for advanced, innovative technology, and reviews agency technology policies, programs, processes and capabilities to ensure that HHS technology programs support the Department's objectives.

p. Performs alternative analysis for key emerging and enabling technologies. Coordinates or directs pilot projects in these areas to establish proof of concept, confirm return on investment, or implement initial production implementations.

q. Leads the development of HHS web communications to provide users with a single access point for HHS information. Leads the development of an enterprise information portal to improve the ability of HHS employees to communicate and collaborate with each other.

2. *Office of Resources Management (AMM2):* The Office of Resources Management (ORM) is headed by the Director, Office of Resources Management and is responsible for OCIO Business Operations. The Office advises the CIO and OCIO managers on matters relating to OCIO operations, HHS information collection, HHS policy development and interpretation, development of the OCIO budget, HHS IT workforce development, coordinates e-government efforts across the Department, and provides recommendations regarding funding of e-government efforts. The Office is responsible for the following:

a. Leading Departmental efforts to expand the availability of electronic means for conducting business.

b. Coordinates HHS activities that support the President's Management Agenda's objective for E-Government.

c. Coordinates planning and task tracking relating to HHS CIO responsibilities to ensure effective utilization of staff and other resources.

d. Prepares, manages, integrates and coordinates budget formulation, presentation and execution with respect to the responsibilities of the CIO. Conducts analyses of budget implementation for the CIO.

e. As directed by the DASIT, prepares staffing forecasts, analyzes staffing requirements and utilization, and recommends strategies for changes in human capital for OCIO.

f. Oversees full life-cycle of OCIO contracts. Works with HHS contracting organizations, contractors and other parties to ensure that contractual transactions are substantively correct, and to track completion of tasks.

g. Oversees and manages employee performance improvement programs to develop and maintain the technical expertise and qualifications of employees in OCIO.

h. Coordinates and directs the Department's compliance activities under the Rehabilitation Act (1973), Section 508.

i. Develops policies and guidance on information resources and technology management, including telecommunications, as required by law or regulation or to fulfill CIO responsibilities and Departmental initiatives.

j. Manages the Department's information collection program, including development of Departmental policies, coordinating the Department's information collection budget, and reviewing and certifying requests to collect information from the public.

k. Approves and reporting on computer matching activities as required by law through the Departmental Data Integrity Board.

l. Manages the Departmental printing management, records management, and mail management policy programs.

3. *Office of Information Technology Operations (AMM3):* The Office of Information Technology Operations (OITO) is directed by the Director of IT Services Center (ITSC), who also is the Office of the Secretary (OS) Chief Information Officer. OITO is responsible for providing Network Services, Help Desk, Call Center, Desktop Support, Web Architecture, Server Architectures, OPDIV IT Security, Secretary's Command Center and Continuity of Operations Planning (COOP) support, and Outreach/Customer Relationship Management (CRM). The Office is a primary resource for advising the HHS CIO on network and infrastructure related technology implementation, and for piloting HHS CIO special programs. OITO is responsible for the following:

a. Operating, maintaining, and enhancing the ITSC computer network and services, including services for participating HHS organizations.

b. Implementing and monitoring network policies and procedures, and developing plans and budgets for network support services.

c. Ensuring reliable, high-performance network services.

d. Implementing and operating electronic tools to enhance Secretarial communications with all HHS personnel.

e. Coordinating with OPDIVs and STAFFDIVs to develop ITSC, IT capital planning and budgeting processes, providing direct planning support to assure that IRM plans support agency business planning and mission accomplishment, as it applies to the infrastructure.

f. Implementing policies and guidance on information resources management within ITSC for acquisition and use of information technology, support of technical model, and coordination of implementation procedures.

g. Maintaining and operating the inventory of automated data processing equipment for ITSC participating agencies.

h. Operating and maintaining an information technology support service (Help Desk and Call Center) for participating HHS components.

i. Managing contracts for equipment and support services related to the provision of IT services in ITSC participating agencies.

j. Representing the Department through participation on interagency and Departmental work groups and task forces, as appropriate.

k. Responsible for ITSC compliance with and implementation of all applicable HHS policies and Federal Laws regarding IT Security.

l. Reviewing and facilitating acquisitions for activities related to ITSC.

m. Supporting the Director in the role of OS CIO which holds CIO responsibility for the OS as an OPDIV, including the Program Support Center (PSC) and the Office of the Inspector General, as well as other OPDIVs, as required and authorized by HHS senior officials.

5. *Office of Enterprise Architecture (AMM4):* The Office of Enterprise Architecture (OEA) is headed by the Director, Office of Enterprise Architecture who is also the HHS Chief

Enterprise Architect and supports all planning and enterprise programs that fall under the Office of the Chief Information Officer. The Office of Enterprise Architecture is responsible for:

a. Working with OPDIV Chief Information Officers (CIOs) to support Government-wide initiatives of the Federal CIO Council and to identify opportunities for participation and consultation in information technology projects with major effects on OPDIV program performance.

b. Providing leadership in the planning, design, and evaluation of major Departmental projects and oversight throughout project rollout and perform post implementation performance assessments.

c. Assessing risks that major information systems pose to performance of program operations and administrative business throughout the Department, develops risk assessment policies and standard operating procedures and tools, and uses program outcome measures to gauge the quality of Departmental information resources management.

d. Coordinating the Department's strategic planning, capital planning and investment control (CPIC), budgeting and performance management processes for information technology, and provides direct planning development and support to assure that IRM plans support agency business planning and mission accomplishment.

e. Coordinating the activities of the Departmental Information Technology Investment Review Board (ITIRB) in assessing and prioritizing the Department's major information systems, and in analyzing and evaluating IT investment decisions. Reviews OPDIV ITIRB implementations, IT capital funding decisions, and use of performance metrics to evaluate program for both initial and continued funding.

f. Coordinating and supports the Department's Chief Information Officer's Advisory Council, whose membership consists of the chief Information Officers from each OPDIV.

g. Representing the Department through participation on interagency and Departmental work groups and task forces, as appropriate.

h. Working with OPDIV Chief Information Officers to identify opportunities for administering information management functions and telecommunications initiatives with major effects on OPDIV performance. OEA provides leadership primarily in defining alternatives for acquisition of telecommunications services and coordinating implementation of information management initiatives in conjunction with the Chief Technology Officer and the Department Architect.

i. Providing support for special priority initiatives identified by the CIO.

j. Developing, implementing and administering the program to protect the information resources of the Department. This includes management and oversight of activities under the Federal Information Security Management Act (FISMA), IT critical infrastructure protection (CIP), and Department-wide security contracts and high level project management of OPDIV security programs, such as corrective action plans and security policies.

k. Implementing and administering the HHS security program to protect the information resources of the Department in compliance with legislation, Executive Orders, directives of the OMB, or other mandated requirements (*e.g.*, the Clinger-Cohen Act, Presidential Decision Directive 63, OMB Circular A–130), the National Security Agency, and other Federal agencies.

l. Directing the development of and implementing cyber security policies and guidance for the Department, including requirements for employees and contractors who are responsible for systems of data, or for the acquisition, management, or use of information resources.

m. Monitoring information system security program activities in the Department by reviewing OPDIV's and STAFFDIVs security plans for sensitive systems, recommending improvements, and evaluating safeguards to protect major information systems, or IT infrastructure.

n. Responding to requests in conjunction with OMB Circular A–130, the Computer Security Act of 1987, and Presidential Decision Directive 63, or other legislative or mandated requirements related to IT security or privacy.

o. Monitoring all Departmental systems development and operations for security and privacy compliance and providing advice and guidance to ensure compliance standards are included throughout system life cycle development.

p. Reviewing Departmental ITIRB and CIO Council business cases (as well as OMB circular A–11 requirements) for assurance of security and privacy compliance.

q. Recommending to the CIO to grant or deny programs the authority to operate information systems, based on security compliance.

r. Establishing and leading inter-OPDIV teams to conduct reviews to protect HHS cyber and personnel security programs and conduct vulnerability assessments of HHS critical assets. This includes regular certification of existing systems as well as newly implemented systems.

s. Reviewing the Department's information resources for fraud, waste, and abuse to avoid having redundant resources, in conformance with the Clinger-Cohen Act.

t. Developing, implementing, and evaluating an employee cyber security awareness and training program to meet the requirements as mandated by OMB Circular A–130 and the Computer Security Act.

u. Establishing and providing leadership to the Subcommittee of the HHS CIO Council on Security.

v. Establishing and leading the HHS Computer Security Incident Response Capability team, the Department's overall cyber security incident response/coordination center and primary point of contact for Federal Computer Incident Response Capability (FedCIRC) and National Infrastructure Protection Center (NIPC).

5. *The Office of Enterprise Project Management (AMM5):* The Office of Enterprise Project Management (OEPM) is headed by the Director, Office of Enterprise Project Management who is also the HHS Chief Technology Officer and supports the design, development, configuration, integration and implementation of all HHS enterprise information technology projects that fall under the Office of the Chief Information Officer. The Office of Enterprise Project Management (OEPM) is responsible for:

a. Advising the HHS CIO on all matters of technology implementation across HHS.

b. Providing IT project management and oversight for all major IT projects that have enterprise importance.

c. Managing the design, development, configuration, implementation and testing of major enterprise projects prior to their insertion into service.

d. Development and management of technical IT contracts in support of major enterprise projects.

e. Coordinating the HHS participation in, and the technical implementation of, all Presidents Management Agenda (PMA) E-Government initiatives.

f. Collaboration with the HHS Chief Enterprise Architect to evaluate technical proposals for IT projects to ensure the most beneficial technical alternative is chosen for HHS.

g. Representing HHS in all technical forums.

IV. *Continuation of Policy:* Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to the Office of Information and Resources Management heretofore issued and in effect prior to this reorganization are continued in full force and effect with respect to the Office of the Chief Information Officer.

V. *Delegation of Authority:* All delegations and redelegations of authority previously made to officials and employees of the Office of Information Resources Management will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

V. *Funds, Personnel, and Equipment:* Transfer of organizations and functions affected by this reorganization shall be accompanied by direct and support funds, positions, personnel, records, equipment, supplies, and other sources.

Dated: July 18, 2005.

Joe W. Ellis,

Assistant Secretary for Administration and Management.

[FR Doc. 05–14506 Filed 7–21–05; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10165]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration. The approval of an emergency clearance process for the application associated with this demonstration is essential in order to prevent possible public harm that may result if the normal clearance procedures were followed. The use of the normal clearance procedures will limit improved quality of care to beneficiaries.

The Medicare Care Management Performance (MCMP) Demonstration and its corresponding Report to Congress are mandated by the section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). Section 649 of the MMA provides for the implementation of a ''pay for performance'' demonstration under which Medicare would pay incentive payments to physicians who (1) adopt and use health information technology; and (2) meet established standards on clinical performance measures. This demonstration will be held in four States, Arkansas, California, Massachusetts, and Utah. Providers that are enrolled in the Doctors' Office Quality—Information Technology (DOQ–IT) project are eligible to participate in the demonstration.

To enroll in the MCMP Demonstration, a physician/provider must submit an application form. The information collected will be used to assess eligibility for the demonstration. The MCMP Demonstration is scheduled to start in August 2005. We are requesting emergency clearance so this application can be utilized to enroll practices into the congressionally mandated and administration priority demonstration project in a timely manner.

CMS is requesting OMB review and approval of this collection by August 19, 2005, with a 180-day approval period. Written comments and recommendation will be accepted from the public if received by the individuals designated below by August 15, 2005.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by August 15, 2005:

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, Fax Number: (410) 786–5267, Attn: William N. Parham, III, CMS–10165 and,

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 12, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–14149 Filed 7–14–05; 12:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10166]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed

information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Payment Error Rate Measurement in Medicaid and State Children's Health Insurance Program (SCHIP); *Form No.:* CMS–10166 (OMB # 0938–NEW); *Use:* The information collected will be used by CMS for, among other purposes, estimating improper payments in Medicaid and SCHIP as required by the Improper Payments Information Act (IPIA) of 2002. To implement the IPIA in Medicaid and SCHIP, CMS will engage a Federal contractor to produce Medicaid and SCHIP error rates. CMS plans to adopt this approach based on a recommendation made during public comment on the proposed rule entitled ''Medicaid Program and State Children's Health Insurance Program (SCHIP): Payment Error Rate Measurement'' which published on August 27, 2004 (69 FR 52620), that contained provisions for all states to produce error rates in Medicaid and SCHIP.

Each year, based on States' annual medical expenditures from the previous year, the Federal contractor will group all States into three equal strata of small, medium and large and select a random sample of an estimated 18 States to be reviewed for each program. The States selected for review would submit to the Federal contractor, annual expenditures, quarterly claims data, medical policies, and other information so that the contractor can determine the specific State sample sizes and conduct medical and data processing reviews on the sampled claims. In addition, the contractor will request medical records from providers whose claims were sampled; the medical records are needed to support the medical reviews. CMS is not requiring States and providers to use a specific form, *e.g.*, facsimile, electronic to transmit the information. Based on the reviews, the contractor will calculate State-specific error rates which will serve as the basis for calculating national Medicaid and SCHIP error rates. Each State reviewed also will submit a corrective action plan to CMS that is designed to address error causes for purposes of reducing the State's error rate; *Frequency:* Reporting—on occasion and quarterly; *Affected Public:* State, local or tribal government; *Number of Respondents:* 36; *Total Annual Responses:* 5076; *Total Annual Hours:* 29,880.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS'' Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 30 days of the date of display, July 15, 2005, and must be mailed directly to the CMS Paperwork Reduction Act Reports Clearance Officer designated at the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: William N. Parham, III, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 12, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–14155 Filed 7–15–05; 9:13 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1513]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Disclosure of Ownership and Financial Control Interest Statement; *Form No.:* CMS–1513 (OMB # 0938–0086); *Use:* This information must be collected by State agencies and CMS regional offices to determine whether providers/suppliers meet the eligibility requirements for Titles 18, 19, CLIA, and for grants under Titles V and XX. Review of ownership and control is particularly necessary to prohibit ownership and control for individuals excluded under Federal fraud statutes; *Frequency:* Recordkeeping and Reporting—Other (every 1 to 3 years); *Affected Public:* Business or other for-profit, not-for-profit institutions; *Number of Respondents:* 125,000; *Total Annual Responses:* 125,000; *Total Annual Hours:* 62,500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice to the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Melissa Musotto, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 8, 2005.

Carlos Simon,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–14156 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10060, CMS–37, and CMS–10117, 10118, 10119, 10135, 10136]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Quality Assessment and Performance Improvement (QAPI) Project Completion Report and Supporting Regulations in 42 CFR 422.152; *Use:* This project completion report derives from the Quality Improvement System for Managed Care (QISMC) Standards and Guidelines as required by the Balanced Budget Act of 1997 (as amended by Balanced Budget Refinement Act of 1999) and the related regulations, 42 CFR 422.152. These regulations established QISMC as a requirement for Medicare Advantage Organizations (MAOs) by requiring improved health outcomes for enrolled beneficiaries. The provisions of QISMC specify that MAOs will implement and evaluate quality improvement projects. The form submitted herein will permit MAOs to report their completed projects to CMS in a standardized fashion for evaluation by CMS of the MAO's compliance with regulatory provisions. This form will improve consistency and reliability in the CMS evaluation process, as well as provide a standardized structure for public use and review; *Form Number:* CMS–10060 (OMB No.: 0938–0873); *Frequency:* Annually; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 155; *Total Annual Responses:* 155; *Total Annual Hours:* 620.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid Program Budget Report; *Form Nos.:* CMS–37 (OMB No. 0938–0101); *Use:* The Medicaid Program Budget Report is prepared by the State Medicaid Agencies and is used by the Centers for Medicare & Medicaid Services (CMS) for (1) developing National Medicaid Budget estimates, (2) qualification of Budget Estimate Changes, and (3) the issuance of quarterly Medicaid Grant Awards. The structure of the currently approved CMS–37 was revised based on CMS experience with budget information provided by the States. (Note: Details are outlined in the Addendum which can be found on the CMS Web site address below.) *Frequency:* Quarterly; *Affected Public:* State, local or tribal government; *Number of Respondents:* 56; *Total Annual Responses:* 224; *Total Annual Hours:* 7,616.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Advantage Application for Coordinated Care, Private Fee-for-Service, Regional Preferred Provider Organization, Service Area Expansion for Coordinated Care and Private Fee-for-Service Plans, Medical Savings Account Plans; *Form Nos.:* CMS–10117, 10118, 10119, 10135, 10136 (OMB No. 0938–0935); *Use:* Health plans must meet certain regulatory requirements to enter into a contract with CMS to provide health benefits to Medicare beneficiaries. These applications are the collection forms to obtain the information from a health plan that will allow CMS staff to determine compliance with the regulations; *Frequency:* Other—one-time submission; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local or tribal government; *Number of Respondents:* 370; *Total Annual Responses:* 520; *Total Annual Hours:* 20,100.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections will be considered if they are mailed within 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 15, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–14474 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10167]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have

submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR 1320.13(a)(2)(iii). This is necessary to ensure compliance with an initiative of the Administration. The use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed.

The Competitive Acquisition Program (CAP) is required by Section 303(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and amends Title XVIII of the Social Security Act (the Act) by adding a new section 1847(B), which establishes a competitive acquisition program for the payment for Part B covered drugs and biologicals furnished on or after January 1, 2006. Physicians will be given a choice between buying and billing these drugs under the average sales price (ASP) system, or obtaining these drugs from vendors selected in a competitive bidding process.

A physician is provided an election process for the selection of an approved CAP vendor on an annual basis. The CAP election agreement will initiate physician participation and designation of their approved CAP vendor and agreement to abide by the CAP program requirements. The Physician Election Agreement will be used annually by physicians to elect to participate in the CAP or to make changes to the previous year's selections.

CMS is requesting OMB review and approval of this collection by August 12, 2005, with a 180-day approval period. Written comments and recommendation will be considered from the public if received by the individuals designated below by August 8, 2005.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by August 8, 2005:

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C5–13–27, 7500 Security Boulevard, Baltimore, MD 21244–1850, Fax Number: (410) 786–0262, Attn: William N. Parham, III, CMS–10167 and

OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 15, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–14476 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3158–N]

Medicare Program; Request for Nominations for Members for the Medicare Coverage Advisory Committee

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

ACTION: Notice.

SUMMARY: This notice requests nominations for consideration for membership on the Medicare Coverage Advisory Committee (MCAC).

DATES: Nominations will be considered if received at the designated address, as provided in the **ADDRESSES** section of this notice, no later than 5 p.m. on August 25, 2005.

ADDRESSES: Mail nominations for membership to the following address: Centers for Medicare & Medicaid Services, Office of Clinical Standards and Quality, Attention: Kimberly Long, 7500 Security Blvd., Mail Stop: Central Building 1–09–06, Baltimore, MD 21244.

A copy of the Secretary's Charter for the Medicare Coverage Advisory Committee can be obtained from Maria Ellis, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, 7500 Security Blvd., Mail Stop: Central Building 1–09–06, Baltimore, MD 21244, or by e-mail to *Maria.Ellis@cms.hhs.gov.* The Charter is also posted on the Web at *http://www.cms.hhs.gov/mcac/8b1–1.asp.*

FOR FURTHER INFORMATION CONTACT: Kimberly Long, 410–786–5702.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) announcing establishment of the Medicare Coverage Advisory Committee (MCAC). The Secretary signed the initial Medicare Coverage Advisory Committee Charter on November 24, 1998. The charter was renewed by the Secretary and will terminate on November 24, 2006, unless renewed again by the Secretary.

The Medicare Coverage Advisory Committee is governed by provisions of the Federal Advisory Committee Act (Pub. L. 92–463), as amended (5 U.S.C. App. 2), which sets forth standards for the formulation and use of advisory committees, and is authorized by section 222 of the Public Health Service Act, as amended (42 U.S.C. 217A).

The MCAC consists of a pool of 100 appointed members. Members are selected from among authorities in clinical medicine of all specialties, administrative medicine, public health, biologic and physical sciences, health care data and information management and analysis, patient advocacy, the economics of health care, medical ethics, and other related professions (for example, epidemiology and biostatistics), and methodology of trial design. A maximum of 88 members are standard voting members, and 12 are nonvoting members (6 of whom are representatives of consumer interests, and 6 of whom are representatives of industry interests).

The MCAC functions on a committee basis. The committee reviews and evaluates medical literature, reviews technology assessments, and examines data and information on the effectiveness and appropriateness of medical items and services that are covered or are eligible for coverage under Medicare. The Committee works from an agenda provided by the Designated Federal Official that lists specific issues and develops technical advice to assist us in determining reasonable and necessary applications of medical services and technology when making national coverage decisions for Medicare.

As of November 2005, there will be 15 terms of membership expiring, one of which is a non-voting industry representative. Accordingly, we are requesting nominations for both voting and nonvoting members to serve on the MCAC. Nominees are selected based upon their individual qualifications, and not as representatives of

professional associations or societies. We have a special interest in ensuring that women, minority groups, and physically challenged individuals are adequately represented on the MCAC. Therefore, we encourage nominations of qualified candidates from these groups.

All nominations must be accompanied by curricula vitae. Nomination packages must be sent to Kimberly Long at the address listed in the **ADDRESSES** section.

II. Criteria for Committee Members

Nominees for voting membership must have expertise and experience in one or more of the following fields: Clinical medicine of all specialties, administrative medicine, public health, patient advocacy, biologic and physical sciences, health care data and information management and analysis, the economics of health care, medical ethics, and other related professions (for example, epidemiology and biostatistics), and methodology of trial design.

We are also seeking nominations for one nonvoting industry representative. Nominees for this position must possess appropriate qualifications to understand and contribute to the MCAC's work.

The nomination letter must include a statement that the nominee is willing to serve as a member of the MCAC and appears to have no conflict of interest that would preclude membership. We are requesting that all curricula vitae include the following: Date of birth, place of birth, social security number, title and current position, professional affiliation, home and business address, telephone and fax numbers, e-mail address, and a list of areas of expertise. In the nominations letter, we are requesting that the nominee specify whether applying for a voting membership position or the industry representative nonvoting position. Potential candidates will be asked to provide detailed information concerning financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

Members are invited to serve for overlapping 2-year terms. A member can serve after the expiration of the member's term until a successor takes office. Any interested person may nominate one or more qualified persons. Self-nominations are also accepted.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 16, 2005.

Barry M. Straube,

Acting Chief Medical Officer, Acting Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 05–14150 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4093–N]

Medicare Program; Request for Nominations for the Advisory Panel on Medicare Education

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

ACTION: Notice.

SUMMARY: This notice requests nominations for individuals to serve on the Advisory Panel on Medicare Education (the Panel). The Panel advises and makes recommendations to the Secretary of the Department of Health and Human Services (HHS) (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) (the Administrator) on opportunities for CMS to optimize the effectiveness of the National Medicare Education Program and other CMS programs that help Medicare beneficiaries understand the Medicare program and the range of health plan options available. Nominees must be knowledgeable in the field of labor and retirement benefits.

DATES: Nominations will be considered if received at the appropriate address, provided in the **ADDRESSES** section of this notice, no later than 5 p.m., e.d.t., on August 12, 2005.

ADDRESSES: Mail or deliver nominations to the following address: Lynne G. Johnson, Center for Beneficiary Choices, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop S2–23–05, Baltimore MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Lynne G. Johnson, Health Insurance Specialist, Division of Partnership Development, Center for Beneficiary Choices, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail stop S2–23–05, Baltimore, MD 21244–1850, (410) 786–0090. Please refer to the CMS Advisory Committees Information Line (1 877–449–5659 toll free)/(410–786–9379 local) or the Internet (*http://www.cms.hhs.gov/faca/apme/default.asp*) for additional information and updates on committee activities, or contact Ms. Johnson via e-mail at *ljohnson3@cms.hhs.gov*. Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: Section 222 of the Public Health Service Act, as amended, grants to the Secretary of the Department of Health and Human Services (HHS) (the Secretary) the authority to establish an advisory panel if the Secretary finds the panel necessary and in the public interest. The Secretary signed the charter establishing the Advisory Panel on Medicare Education (the Panel) on January 21, 1999, and renewed the charter on January 14, 2005. The Panel advises HHS and the Centers for Medicare & Medicaid Services (CMS) on opportunities to enhance the effectiveness of consumer education materials serving the Medicare program.

The goals of the Panel are to provide advice on the following:

- Developing and implementing a national Medicare education program that describes the options for selecting health plans and prescription drug benefits under Medicare.
- Enhancing the Federal government's effectiveness in informing the Medicare consumer, including the appropriate use of public-private partnerships.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of a national Medicare education program.
- Assembling an information base of best practices for helping consumers evaluate health plan options and building a community infrastructure for information, counseling, and assistance.

The Panel shall consist of a maximum of 20 members. The charter requires that meetings be held approximately four times per year. Members are expected to attend all meetings.

This notice is an invitation to interested organizations or individuals to submit their nominations for membership on the Panel. The Secretary, or his designee, will appoint the new members to the Panel from among those candidates determined to have the expertise required to meet specific agency needs, and in a manner to ensure an appropriate balance of membership.

Each nomination must state that the nominee has expressed a willingness to serve as a Panel member and must be accompanied by a resume and a brief summary of the nominee's experience. In order to permit an evaluation of

possible sources of conflict of interest, potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts. Self-nominations will also be accepted.

Authority: (Section 222 of the Public Health Service Act (42 U.S.C. 217(a)) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a) and 41 CFR 102–3).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: July 6, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–14153 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3153–N]

Medicare Program; Meeting of the Medicare Coverage Advisory Committee—October 6, 2005

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

ACTION: Notice.

SUMMARY: This notice announces a public meeting of the Medicare Coverage Advisory Committee (MCAC). The Committee provides advice and recommendations about whether scientific evidence is adequate to determine whether certain medical items and services are reasonable and necessary under the Medicare statute. This meeting concerns the treatments for bone fractures that fail to progress to union. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)).

DATES: The public meeting will be held on Thursday, October 6, 2005 from 7:30 a.m. until 4:30 p.m. e.d.t.

Deadlines: Deadline for Presentations and Comments: Written comments and presentations must be received by August 31, 2005, 5 p.m., e.d.t.

Deadline for Registration to Attend Meeting: For security reasons, individuals wishing to attend this meeting must register by close of business on September 28, 2005.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary by August 31, 2005 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: The meeting will be held in the main auditorium of the Centers for Medicare & Medicaid Services, 7500 Security Blvd., Baltimore, MD 21244.

FOR FURTHER INFORMATION CONTACT: Kimberly Long, Executive Secretary, by telephone at 410–786–5702 or by email at *Kimberly.Long@cms.hhs.gov*.

Web Site: You may access up-to-date information on this meeting at *http://www.cms.hhs.gov/mcac/default.asp#meetings*.

Presentations and Comments: Interested persons may present data, information, or views orally or in writing on issues pending before the Committee. Please submit written comments to Kimberly Long, by email at *Kimberly.Long@cms.hhs.gov* or by mail to the Executive Secretary for MCAC, Coverage and Analysis Group, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C1–09–06, Baltimore, MD 21244.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) to describe the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to us about clinical issues. This notice announces a public meeting of the Committee.

Meeting Topic: The Committee will discuss evidence, hear presentations and public comments, and make recommendations regarding the treatments for bone fractures that fail to progress to union. The MCAC will discuss scientific evidence on the effectiveness of certain procedures used in the Medicare population to treat bone fractures where progress to union has stopped. Committee members will be given a presentation reviewing the current literature of treatments and will also receive public comments to assist in the discussions and recommendations regarding net health outcomes of treatments for bone fractures that fail to progress to union.

Background information about this topic, including panel materials, is available on the Internet at *http://www.cms.hhs.gov/coverage/*.

II. Procedure

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. The Committee may limit the number and duration of oral presentations to the time available. If you wish to make formal presentations, you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section and submit the following by the *Deadline for Presentations and Comments* date listed in the **DATES** section of this notice: A brief statement of the general nature of the evidence or arguments you wish to present, the names and addresses of proposed participants, and a written copy of your presentation. Your presentation should consider the questions we have posed to the Committee and focus on the issues specific to the topic. The questions will be available on our Web site at *http://www.cms.hhs.gov/mcac/default.asp* meetings. We require that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow a 15 minute unscheduled open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote and the Committee will make its recommendation.

III. Registration Instructions

The Coverage and Analysis Group is coordinating meeting registration. While there is no registration fee, individuals must register to attend. You may register by contacting Maria Ellis at 410–786–0309, mailing address: Coverage and Analysis Group, OCSQ; Centers for Medicare & Medicaid Services; 7500 Security Blvd., Mailstop: C1–09–06; Baltimore, MD 21244, or by e-mail at *Maria.Ellis@cms.hhs.gov*. Please provide your name, address, organization, telephone and fax number, and e-mail address.

You will receive a registration confirmation with instructions for your arrival at the CMS complex. You will be notified if the seating capacity has been reached.

This meeting is located on Federal property; therefore, for security reasons, any individuals wishing to attend this meeting must register by close of business on September 28, 2005.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security.

In order to gain access to the building and grounds, individuals must present photographic identification to the Federal Protective Service or Guard Service personnel before being allowed entrance.

Security measures also include inspection of vehicles, inside and out, at the entrance to the grounds. In addition, all individuals entering the building must pass through a metal detector. All items brought to CMS, whether personal or for the purpose of demonstration or to support a demonstration, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a demonstration.

Parking permits and instructions will be issued upon arrival.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 30 to 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

Authority: 5 U.S.C. App. 2, section 10(a).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 14, 2005.

Barry M. Straube,

Acting Chief Medical Officer and Acting Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 05–14152 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1315–N]

Medicare Program; August 22, 2005, Meeting of the Practicing Physicians Advisory Council and Request for Nominations

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

ACTION: Notice.

SUMMARY: This notice announces a quarterly meeting of the Practicing Physicians Advisory Council (the Council). The Council will be meeting to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary of the Department of Health and Human Services (the Secretary). This meeting is open to the public. In addition, this notice invites all organizations representing physicians to submit nominations for consideration to fill four seats that will be vacated by current Council members in 2006.

DATES: The Council meeting is scheduled for Monday, August 22, 2005, from 8:30 a.m. until 5 p.m. e.d.t.

ADDRESSES: The meeting will be held in Room 705A 7th floor, in the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Meeting Registration: Persons wishing to attend this meeting must register by contacting Kelly Buchanan, the Designated Federal Official (DFO) by e-mail at *PPAC@cms.hhs.gov* or by telephone at (410) 786–6132, at least 72 hours in advance of the meeting. This meeting will be held in a Federal Government Building, Hubert H. Humphrey Building, and persons attending the meeting will be required to show a photographic identification, preferably a valid driver's license, and will be listed on an approved security list before persons are permitted entrance. Persons not registered in advance will not be permitted into the Hubert H. Humphrey Building and will not be permitted to attend the Council meeting.

Nomination Requirements: Nominations to fill vacancies on the Council will be considered if received at the appropriate address, no later than 5 p.m. e.d.t., September 16, 2005. Mail or deliver nominations to the following address: Centers for Medicare and Medicaid Services, Center for Medicare Management, Division of Provider Relations and Evaluations, Attention: Kelly Buchanan, Designated Federal Official Practicing Physicians Advisory Council, 7500 Security Boulevard, Mail Stop C4–11–07, Baltimore, MD 21244–1850.

Nominations must be submitted by medical organizations representing physicians. Nominees must have submitted at least 250 claims for physician services under the Medicare program in the previous year. Each nomination must state that the nominee has expressed a willingness to serve as a Council member and must be accompanied by a short resume or description of the nominee's experience. To permit an evaluation of possible sources of conflicts of interest, potential candidates will be asked to provide detailed information concerning financial holdings, consultant positions, research grants, and contracts.

FOR FURTHER INFORMATION CONTACT: Kelly Buchanan, (410) 786–6132, or e-mail *PPAC@cms.hhs.gov.* News media representatives must contact the CMS Press Office, (202) 690–6145. Please refer to the CMS Advisory Committees' Information Line (1–877–449–5659 toll free), (410) 786–9379 local) or the Internet at *http://www.cms.hhs.gov/faca/ppac/default.asp* for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces the quarterly meeting of the Practicing Physicians Advisory Council (the Council). The Secretary is mandated by section 1868(a)(1) of the Social Security Act (the Act) to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the Council's consultation must occur before **Federal Register** publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services not later than December 31 of each year.

The Council consists of 15 physicians, including the Chair. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members of the Council must be physicians as described in section 1861(r)(1) of the Act; that is, State-licensed doctors of medicine or osteopathy. The remaining 4 members may include dentists, podiatrists, optometrists and chiropractors. Members serve for overlapping 4-year terms; terms of more than 2 years are contingent upon the renewal of the Council by appropriate action prior to its termination.

Section 1868(a)(2) of the Act provides that the Council meet quarterly to discuss certain proposed changes in regulations and manual issuances that

relate to physicians' services, identified by the Secretary. Council members are expected to participate in all meetings. Section 1868(a)(3) of the Act provides for payment of expenses and a per diem allowance for Council members at a rate equal to payment provided members of other advisory committees. In addition to making these payments, the Department of Health and Human Services and CMS provide management and support services to the Council. The Secretary will appoint new members to the Council from among those candidates determined to have the expertise required to meet specific agency needs in a manner to ensure appropriate balance of the Council's membership.

The Council held its first meeting on May 11, 1992. The current members are: Ronald Castellanos, M.D. Chairperson; Jose Azocar, M.D.; M. Leroy Sprang, M.D.; Rebecca Gaughan, M.D.; Peter Grimm, D.O.; Carlos R. Hamilton, M.D.; Dennis K. Iglar, M.D.; Joe Johnson, D.C.; Christopher Leggett, M.D.; Barbara McAneny, M.D.; Geraldine O'Shea, D.O.; Laura B. Powers, M.D.; Gregory J. Przybylski, M.D.; Anthony Senagore, M.D.; and Robert L. Urata, M.D.

The meeting will commence with the swearing-in of one Council member. The Council's Executive Director will give a status report and the CMS responses to the recommendations made by the Council at the May 23, 2005 meeting and prior meeting recommendations. Additionally, an update will be provided on the Physician Regulatory Issues Team. In accordance with the Council charter, we are requesting assistance with the following agenda topics:

- Competitive Acquisition for Drugs.
- Physician Fee Schedule Proposed Rule.
- Part D Prescription Drug Program.
- Outpatient Proposed Rule.
- Surgical Care Improvement Partnership Program.
- Alliance for Cardiac Care Excellence Program.
- NPI-Outreach and Implementation.

For additional information and clarification on these topics, contact the DFO as provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual physicians or medical organizations that represent physicians wishing to make a 5-minute oral presentation on agenda issues must contact the DFO by 12 noon, e.d.t., August 5, 2005, to be scheduled. Testimony is limited to agenda topics only. The number of oral presentations may be limited by the time available. A written copy of the presenter's oral remarks must be submitted to Kelly Buchanan, DFO, no later than 12 noon, e.d.t., August 5, 2005, for distribution to Council members for review prior to the meeting. Physicians and medical organizations not scheduled to speak may also submit written comments to the DFO for distribution no later than noon, e.d.t., August 5, 2005. The meeting is open to the public, but attendance is limited to the space available.

Special Accommodations: Individuals requiring sign language interpretation or other special accommodation must contact the DFO by e-mail at *PPAC@cms.hhs.gov* or by telephone at (410) 786–6132 at least 10 days before the meeting.

Authority: (Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a).)

Dated: July 11, 2005.

Mark McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–14154 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

Part F., Section F.70. (Order of Succession) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), (**Federal Register**, Vol. 49, No. 174, p. 35251, dated September 6, 1984) is hereby rescinded and replaced by the following new Section F.70.

F.70. Order of Succession

During any period when the Administrator, Centers for Medicare & Medicaid Services (CMS), has died, resigned, or otherwise become unable to perform the functions and duties of the office of the Administrator, CMS, the following officers, in the order listed, shall act for and perform the functions and duties of the office of Administrator, CMS, until such time the Administrator, CMS, again becomes available, a permanent successor is appointed, or the temporary successor is otherwise relieved:

1. Deputy Administrator.
2. Chief Operating Officer.
3. Director, Center for Medicare Management.
4. Deputy Chief Operating Officer.
5. Director & Chief Financial Officer, Office of Financial Management.
6. Deputy Director, Center for Medicare Management.
7. Deputy Director, Office of Financial Management.

The authority to act as the Administrator, CMS, must be exercised in accordance with the provisions of the Federal Vacancies and Reform Act of 1998 (''the Vacancies Act''), 5 U.S.C. 3345 *et seq.* The ''Acting'' title is applicable and reserved only in instances in which the CMS Administrator position is vacant. In accordance with the Vacancies Act, the Deputy Administrator is herein designated as the first assistant for CMS.

During a planned absence, the Administrator, CMS, may designate an individual to serve as ''operationally in charge.'' No individual who is serving in an ''operationally in charge'' capacity shall exercise this authority unless he or she is herein designated as a delegatee.

This authority is limited to maintaining the Agency's essential functions and restoring the Agency's normal business functions under the CMS Continuity of Operations Plan (COOP).

Dated: June 16, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–14148 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3142–FN]

Medicare Program; Evaluation Criteria and Standards for Quality Improvement Program Contracts

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

ACTION: Final notice.

SUMMARY: This final notice describes the evaluation criteria we will use to evaluate the Quality Improvement Organizations (QIOs) under their contracts with us, for efficiency and effectiveness in accordance with the Social Security Act. These evaluation criteria are based on the tasks and related subtasks set forth in the QIO's Scope of Work (SOW). The current 7th SOW includes Tasks 1 through 4, with subtasks included under all tasks,

excluding Task 4. QIOs were awarded contracts for the 7th SOW, or 7th Round, for 3 years, with staggered starting dates beginning August 2002, November 2002, and February 2003. This final notice also responds to the public comments received regarding the evaluation criteria published in July 2004.

DATES: Effective August 22, 2005.

FOR FURTHER INFORMATION CONTACT: Maria Hammel, (410) 786–1775.

SUPPLEMENTARY INFORMATION:

I. Background

The Peer Review Improvement Act of 1982 (Title I, Subtitle C of Public Law 97–248) amended Part B of Title XI of the Social Security Act (the Act) to establish the Peer Review Organization (PRO) program. The PRO program (now called the Quality Improvement Organization (QIO) program) was established to redirect, simplify, and enhance the cost-effectiveness and efficiency of the medical peer review process. Sections 1152 and 1153 of the Act define the types of organizations eligible to become QIOs, and establish certain limitations and priorities regarding QIO contracting.

The Secretary enters into contracts with QIOs to perform three broad functions:

- Improve quality of care for beneficiaries by ensuring that beneficiary care meets professionally recognized standards of health care;
- Protect the integrity of the Medicare Trust Fund by ensuring that Medicare only pays for services and items that are reasonable and medically necessary and that are provided in the most economical setting;
- Protect beneficiaries by expeditiously addressing individual cases such as beneficiary quality of care complaints, contested hospital issued notices of noncoverage (HINNs), alleged Emergency Medical Treatment and Labor Act (EMTALA) violations (patient dumping), and other statutory responsibilities.

Section 1154 of the Act requires that QIOs review those services furnished by physicians; other health care practitioners; and institutional and non-institutional providers of health care services, including health maintenance organizations and competitive medical plans. Section 109 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), Pub. L. 108–173, amended section 1154(a)(1) of the Act to expand the scope of review of QIOs to include Medicare Advantage Organizations and prescription drug sponsors. Section 109 of the MMA also created a new section 1154(a)(17) of the Act, which requires QIOs to offer to providers, practitioners, Medicare Advantage Plans, and prescription drug sponsors quality improvement assistance pertaining to prescription drug therapy. We will not evaluate QIOs on these provisions in the current Scope of Work (SOW) because these provisions of sections 1154(a)(1) and (a)(17) of the Act were not included in the contract.

Section 1153(h)(2) of the Act requires the Secretary to publish in the **Federal Register** the general criteria and standards that would be used to evaluate the efficient and effective performance of contract obligations by QIOs and to provide the opportunity for public comment. The QIO contracts for the 7th SOW were awarded for 3 years with starting dates staggered into three approximately equal groups (rounds) starting August 2002, November 2002, and February 2003, respectively.

II. Provisions of the Notice With Comment

On July 23, 2004, we published a notice with comment in the **Federal Register** titled ''Medicare Program; Evaluation Criteria and Standards for Quality Improvement Organizations.'' The comment period for this notice closed on August 23, 2004. The evaluation criteria published in the notice are currently being used to evaluate QIO performance on the 7th SOW. The evaluation criteria is listed here for the reader's convenience. No modifications were made to the evaluation criteria based on comments provided in response to the notice.

A. Measuring QIO Performance

Under the 7th Round contracts, QIOs are responsible for completing tasks in the following four areas, with additional subtasks contained in the first three areas:

Task 1—Improving Beneficiary Safety and Health Through Clinical Quality Improvement

a. Nursing Home
b. Home Health
c. Hospital
d. Physician Office
e. Underserved and Rural Beneficiaries
f. Medicare+Choice Organizations (M+COs), now called Medicare Advantage Organizations (MAs)

Task 2—Improving Beneficiary Safety and Health Through Information and Communications

a. Promoting the Use of Performance Data
b. Transitioning to Hospital-Generated Data
c. Other Mandated Communications Activities

Task 3—Improving Beneficiary Safety and Health Through Medicare Beneficiary Protection Activities

a. Beneficiary Complaint Response Program
b. Hospital Payment Monitoring Review Program
c. All Other Beneficiary Protection Activities

Task 4—Improving Beneficiary Safety and Health Through Developmental Activities (Special Studies defined as work that we direct a QIO to perform or work that a QIO elects to perform with our approval that is not currently defined in the Tasks, but falls within the scope of the contract and section 1154 of the Act).

Under this contract, to merit having its contract renewed non-competitively, the QIO must meet the performance criteria (including a score of 1.0 or greater for Tasks 1a through 1e and 2b) on 10 of 12 subtasks (9 of 11 for States with no MA plans) of Tasks 1 through 3 of the 7th SOW. To renew the QIO's contract non-competitively for both of the subtasks that do not meet the criteria, the QIO must have: (1) Achieved a score of 0.6 or better on all quantitative subtasks, and (2) for the remaining subtasks only, in the judgment of the Project Officer, the QIO expended a reasonable effort to address these subtasks, and developed and implemented an appropriate initial work plan. The work plan must have been assessed by the Project Officer during the contract period to determine if it was achieving results likely to lead to success in meeting contractual performance expectations and had made appropriate adjustments to its work plan based on these results.

To be considered successful (that is, meeting the criteria outlined in the J–7 found at *http://www.cms.hhs.gov/qio/2.asp*), though not meriting a non-competitive renewal, the QIO must meet the performance criteria (including a score of 1.0 or greater for Tasks 1a through 1e and 2b) on 9 of 12 subtasks (8 of 11 for States with no MA plans) of Tasks 1 through 3 of the 7th Round Contract. For the subtasks that do not meet the criteria, the QIO must—

- Achieve a score of 0.6 or better on all quantitative subtasks;
- For the remaining subtasks only, in the judgment of the Project Officer, the QIO has expended a reasonable effort to address these subtasks, developed and implemented an appropriate initial work plan that was assessed by the Project Officer during the contract period to determine if it was achieving

results likely to lead to success in meeting contractual performance expectations, and had made appropriate adjustments to its work plan based on these results; and

• Failed to meet the criteria in no more than two subtasks of any one task.

For Task 4, except as provided in Task 3b that is evaluated by the Task Leader, all special studies approved under this task will be evaluated individually, based on study-specific evaluation criteria. The QIO's success or failure on a special study will not be factored into the evaluation of the QIO's work under Tasks 1 through 3.

However, meeting the minimum performance standards does not guarantee a noncompetitive renewal of the QIO's contract. For example, an organization within a particular State meeting the definition of a QIO may express interest in competing for a contract currently held by a QIO from outside that State, according to section 1153(i) of the Act. In this case, we will compete the contract despite acceptable performance by the current QIO. We will make a final decision on renewal/non-renewal by the end of the 30th month of the 7th Round contract. We will issue a ''Notice of Intent to Non-renew the QIO Contract'' letter to all QIOs that do not meet the minimum performance standards no later than the end of the 33rd month of the contract. The QIO will be considered to have met minimum performance standards if the QIO had demonstrated acceptable performance in each Task area as specified in section III of this notice, Standards for Minimum Performance.

If the QIO has not met the criteria to merit a noncompetitive renewal, it will be notified of our intention not to renew its contract and will be informed of its right to request an opportunity to provide information about its performance under the contract to a CMS-wide panel. The panel includes representatives from each of the four QIO Regional Offices and the Central Office. The QIO's Project Officer will not be eligible to represent the Regional Office on the panel when it reviews the work of his or her QIO. However, the Project Officer will be available to answer any questions. Also, the QIO will be given the opportunity to provide additional information. The panel will have the right to create its own procedures, but must apply them consistently to all QIOs. At a minimum, the panel will use the criteria listed below for all Tasks:

• The degree of collaboration the QIO exhibited with the Quality Improvement Organization Support Centers (QIOSCs) and other QIOs, both by sharing the lessons and tools it developed and by adopting practices and tools developed by other QIOs.

• Whether the QIO was a new contractor in the 7th SOW.

• Whether specific identifiable circumstances uniquely interfered with the QIO's efforts.

• Evidence suggesting that the QIO has done exceptional work in one or more of the other Task areas.

• Any other issues that the panel may deem relevant.

Upon completion of its review, the panel will recommend a final disposition of the QIO's contract renewal to the Director of CMS' Office of Clinical Standards and Quality (OCSQ).

B. Standards for Minimum Performance

General Criteria

We will evaluate the QIO's performance on each sub-task by some combination of the following elements:

• Statewide improvement on the quality measure(s).

• Improvement on the quality of care measure(s) among a group of identified participants as defined within each subtask.

• Satisfaction among providers and practitioners regarding their interaction with the QIO.

Satisfaction will be assessed using a survey, the purpose of which will be to:

• Measure satisfaction as one component of the QIO's evaluation.

• Identify opportunities where the QIO can improve satisfaction.

Task 1 (including subtasks a through e) and subtask 2b will be evaluated quantitatively. The QIO's success will be measured by assessing its relative improvement on each evaluation criterion. The term ''improvement'' as used in the 7th Round Contract will be defined mathematically to mean the relative reduction in the failure rate. The expected minimum improvement level, as determined by our management and defined in the J–7 at *http:www.cms.hhs.gov/qio/2.asp*, will serve as the reference point for each calculated relative improvement.

In a number of the Task 1 subtasks, statewide improvement will be averaged with the improvement among a set of identified participant providers. In these cases, we have set a target percentage of identified participant providers. The relative weights of the statewide improvement and of identified participants' improvement will combine to equal 80 percent of the subtask's weight, and will be a function of the percentage of the target percentage (up to 150 percent) that the QIO identifies as participants. Tasks 1f, 2a, 2c and all of Task 3 will be evaluated by the Project Officer using qualitative measures based on information provided in reports developed from data provided by the QIOs on the QIO's status to date.

C. Task Specific Standards

1. Task 1—Improving Beneficiary Safety and Health Through Clinical Quality Improvement

a. Task 1a—Nursing Home Quality Improvement

The QIO will be held accountable for improvement in the quality of care measure rates for all nursing homes in the State and for identified participant nursing homes. QIOs will be evaluated based on the following components: Statewide improvement on the set of three to five publicly reported quality of care measures that the QIO has selected in consultation with stakeholders, improvement in the selected nursing home publicly reported quality of care measures for identified participants, and nursing home satisfaction based on a survey of identified participating nursing homes. To view the weighting criteria for each component, go to *http://www.cms.hhs.gov/qio/2.asp* for a copy of the J–7.

b. Task 1b—Home Health Quality Improvement

The QIO will be held accountable for improvement in the Outcome Based Quality Improvement (OBQI) quality of care measure rates for a set of home health agencies that are identified participants. The QIOs will be evaluated based on the following components: The extent to which the number of participating home health agencies, with significant improvement in a targeted outcome, equals or exceeds 30 percent of the total number of home health agencies in the State, and the identified participant satisfaction that will be measured by a survey of identified participant home health agencies using a composite measure of satisfaction that reflects the type of activities that QIOs are expected to have undertaken with these providers.

c. Task 1c—Hospital Quality Improvement

QIOs will be evaluated on the following criteria: Statewide improvement on the quality of care measures listed in the 7th Round Contract, and hospital satisfaction based on feedback from the hospitals in the State. To view the specific criteria, go to *http://www.cms.hhs.gov/qio/2.asp* for a copy of the J–7.

d. Task 1d—Physician Office Quality Improvement

QIOs will be evaluated based on the following general criteria: statewide improvement on quality of care measures, improvement on diabetes and cancer screening quality of care measures for identified participant physicians, and physician satisfaction based on feedback from physician designees in the State who participated with the QIO. To view the specific criteria for this task, go to *http://www.cms.hhs.gov/qio/2.asp* for a copy of the J–7.

e. Task 1e—Underserved and Rural Beneficiaries Quality Improvement

The QIO's work on this task will be primarily evaluated on the success of the QIO's efforts to reduce disparity between the targeted underserved group and their geographically relevant non-underserved reference group from baseline to re-measurement. To be judged to have performed minimally successful on this task, the QIO must demonstrate disparity reduction. QIOs will also be evaluated on three factors that collectively demonstrate knowledge generated by the QIO about the underserved target group, the interventions planned upon the basis of that knowledge, the use of literature on effective interventions, and by demonstrating the effectiveness of their interventions through analyses comparing the intervention group and a contrast group. To view the specific criteria for this task, go to *http://www.cms.hhs.gov/qio/2.asp* for a copy of the J–7.

f. Task 1f—Medicare + Choice Organizations (M+COs) (Now Called Medicare Advantage Organizations (MAs)) Quality Improvement

QIOs will be expected to have demonstrated appropriate activity to include MAs in Tasks 1a to 1e as determined by the Project Officer. We will survey MAs that have worked with the QIO using a composite measure of satisfaction that reflects the types of activities that QIOs are expected to have undertaken with these organizations. We will further use the results of the Medicare+Choice Quality Review Organizations (M+CQRO) or accreditation organization evaluation of the Quality Assessment and Performance Improvement (QAPI) projects to determine if expected improvement was demonstrated.

2. Task 2—Improving Beneficiary Safety and Health Through Information and Communications

a. Task 2a—Promoting the Use of Performance Data

QIO success will be assessed on the timely completion and submission of a project work plan, timely completion and submission of all required reports and deliverables, and the extent to which the QIO uses information we have provided as well as any other feedback the QIO receives to refine its project activities to achieve the desired outcome.

b. Task 2b—Transitioning to Hospital-Generated Data

The evaluation for this task will be based on the following elements:

- We will determine the completeness of the assessment survey information for each hospital.
- We will review hospital data submitted to the national repository via QualityNet Exchange to determine the proportion of hospitals within the State that have implemented a data abstraction system to abstract quality of care measures.
- We will review hospital satisfaction with the QIO data abstraction support.

To view specific criteria for this task, go to *http://www.cms.hhs.gov/qio/2.asp* for a copy of the J–7.

c. Task 2c—Other Mandated Communication Activities

QIO success on this task will be assessed on the following elements: The establishment and use of a Consumer Advisory Council to advise and provide guidance regarding consumer related activities, the QIO's success at broadening consumer representation on the QIO Board of Directors, the successful operation of a beneficiary helpline, and the publication and distribution of an annual report.

3. Task 3—Improving Beneficiary Safety and Health Through Medicare Beneficiary Protection Activities

a. Task 3a—Beneficiary Complaint Response Program

QIO success will be assessed by the timeliness of completed reviews, quality improvement activities as the result of beneficiary complaints, reliability of the review of cases as determined by QIO assessment of the review determinations, and beneficiary satisfaction with the complaint process.

b. Task 3b—Hospital Payment Monitoring Review Program

The QIO must complete reviews within the prescribed timeframes. The QIO must also meet one of the following criteria: with respect to the absolute payment error rate, the follow-up payment error rate must be no greater than 1.5 standard errors above the baseline error rate, or the QIO must have made acceptable progress in improving provider performance in relation to all projects approved or directed by us.

c. Task 3c—Other Beneficiary Protection Activities

The QIO will be assessed on the timeliness of reviews for HINN/NODMAR, EMTALA review, other case review activities and post review activities.

III. Analysis of and Responses to Public Comments and Provisions of the Final Notice

We received several public comments on the 2004 **Federal Register** notice with comment period.

Comment: One commenter expressed concern over the hospital satisfaction survey in Task 1c. The commenter noted that some hospitals have changed to acute care hospitals late in the SOW. The commenter believes this does not provide the QIO ample opportunity to work with the hospital before the hospital completes the satisfaction survey. The commenter recommended that we establish a cut-off date for new entries as acute care hospitals participating in the satisfaction survey.

Response: While we understand the concern that hospitals with only recent experience in acute care could have an impact on the hospital satisfaction survey, we do not believe that it would be a significant impact for the 7th SOW. The Task 1c satisfaction scores from the first two rounds appear to support our position. All QIOs in the first two rounds received scores that met or exceeded the 80 percent passing threshold. The suggestion to include a cut-off date is a reasonable one that we can consider for subsequent Scopes of Work. We intend to evaluate all rounds for the current SOW identically.

Comment: One commenter expressed concern about the project plan requirements in Task 2a. Specifically, the commenter stated that the task only required a project plan for the Nursing Home Quality Initiative. The commenter requested more specific language in the evaluation criteria to address this issue.

Response: For the 7th SOW, we are requiring only one formal project plan for the Nursing Home Quality Initiative. A deliverable has not been added for subsequent plans. QIOs will not be held accountable for failing to deliver project plans that are not required deliverables for the task.

Comment: One commenter stated that there are no historical data to demonstrate that nursing homes' thresholds and home health thresholds are achievable or realistic.

Response: We believe that the thresholds are achievable for most QIOs. The results of the 1st Round 28-month evaluations show that the majority of the QIOs (87 percent) achieved or exceeded the target performance. Therefore, there is no indication that these thresholds should be changed.

Comment: One commenter stated that the tasks to be evaluated subjectively would be less ambiguous if the components of the evaluation were known before the start of the SOW.

Response: We agree with this comment. However, QIOs were provided a copy of the J–7 before the start of the SOW. The tool used to do the actual evaluation was based on the materials provided in the J–7, and did not include any criteria or standards not in the SOW. We will produce the tool for the 8th SOW early in the contract period. It will be distributed to QIOs as soon as it is available.

Comment: Three commenters questioned how statistical significance could be calculated for home health agencies with a small number of episodes of care.

Response: We use the Fisher's exact test to calculate statistical significance for agency outcomes with 10 to 30 episodes of care. This test does not require a large sample to estimate statistical significance. More information on this test can be found in Categorical Data Analysis by Alan Agresti. Additionally, we tested the impact of small HHAs by recalculating evaluation results. Excluding all HHAs with fewer than 30 episodes of care did not substantively improve the overall evaluation results. Based on this information, we decided not to modify the 1b evaluation criteria.

Comment: One commenter questioned how we determined the home health task denominator for the 30 percent.

Response: The home health denominator is made up of two components. It includes identified participants and non-identified participants. Identified participants are defined as all home health agencies that submitted an OBQI plan of action (POA) and have at least a one 3-bar OBQI report for any reporting period ending at least 12 months after the POA submission date. A 3-bar report allows the HHA to compare current outcome rates to prior year outcome rates and national outcome rates. Non-identified participants are defined as having no OBQI plan of action submitted, but with a 3-bar OBQI report for the reporting period ending in the 24th month of the contract. This definition recognizes the dynamic nature of the home health industry, and counts only agencies with sufficient caseload during the 24 months included in the 3-bar report. We believe that this definition provides QIOs with the best opportunity to successfully pass the evaluation, while including all agencies operating with a sufficient caseload during a large part of the SOW.

Comment: One commenter stated that many of the Task 1c hospital indicators will have a small number in the denominator. The commenter stated that by collecting the same number of cases for all States, the precision and confidence interval is much smaller for a large State, thereby making the evaluation of the QIO less accurate.

Response: The assumption on the part of the commenter is not completely accurate. The evaluation score equally weights the four conditions for hospital public reporting (see *http://www.cms.hhs.gov/quality/hospital* for list of conditions) to provide a more robust estimate of quality improvement. Three of the four conditions have large enough samples so that sample size (not population size) is the primary determinant driving the precision of the estimates. Acute Myocardial Infarction measures, one of the four conditions, with systematically small samples are weighted accordingly to minimize the impact of any unreliable estimates on the overall evaluation. AMI is the only one of the four conditions with systematically small samples. It is weighted accordingly to minimize the impact of any unreliable estimates on the overall evaluation.

Comment: One commenter stated that the Task 2b evaluation should not be considered under the quantitative evaluation criteria. The commenter stated that the largest weighted criterion for this task is related to the Reporting Hospital Quality Data for Annual Payment Update (RHQDAPU), which does not have a quantitative measurement.

Response: The RHQDAPU criterion for this subtask is dichotomous in nature and requires that QIOs contact all hospitals in their State and assist them in their data submission into the Standard Data Processing System Clinical Warehouse. QIOs must also document their communication and assistance with all hospitals, participating and non-participating. Although this task does involve some activities that may be evaluated in a qualitative manner, the majority of the activities are quantitative in nature. Therefore, we have chosen to evaluate this task quantitatively.

Comment: One commenter expressed concern over the lateness of data for Task 1d. The commenter believes that this has made it nearly impossible to assess the effectiveness of the QIO interventions, or to identify other areas for intervention.

Response: We recognize that time lags can hinder the QIO's technical assistance to providers in the outpatient setting. We have set the baseline period to allow QIOs to work with providers during the transition period between SOWs. Much of this work is reflected in the next SOW's evaluation results. The relative stability of QIOs in their States lessens the impact of the time lag.

Comment: One commenter suggested that we change the evaluation criteria in the J–7 for Task 1e to make them the same as the evaluation criteria that were originally developed for their QIO's improvement project.

Response: We assume the commenter is referring to the use of sub-county targeting in the evaluation of this Task. We have already modified the evaluation on this Task to allow sub-county targeting. This modification to the evaluation was approved by the Project Officers in the beginning of the SOW. We do not anticipate any further changes at this point.

Comment: One commenter suggested that Task 3 activities be elevated to a higher position in the SOW. This commenter believes the current Task 3 should be Task 1 or Task 2 to increase its importance in the contract.

Response: We agree that all of the Tasks performed by the QIOs are important to foster quality improvement in the health care delivered to Medicare beneficiaries. The evaluation criteria reflect this belief. Task 3 comprises 3 out of 12 subtasks evaluated by us. QIOs must successfully perform Task 3 work in order to be granted non-competitive contract renewal. We believe that the stringent evaluation criteria in place for this task reflect the importance of the work.

Comment: One commenter asked about the provider satisfaction survey and how we plan to use the survey if the QIO does not have a sufficient sample size.

Response: Identifying opportunities for improvement is part of a quality improvement feedback cycle. We believe that the results of the satisfaction survey are useful to QIOs in identifying quality improvement opportunities. CMS and its statistical contractor have provided all QIOs with detailed information about their satisfaction survey results. The

statistical contractor will also write a national analysis of the survey results to identify opportunities for QIO program improvement as a whole. In the few instances with insufficient sample size, we use the actual satisfaction rate to evaluate QIO performance. However, we grant QIOs a passing evaluation score when the overall evaluation status (that is, pass vs. fail) is sensitive to this potentially unreliable rate. Usually this rate does not affect a QIO's overall evaluation status on a particular subtask, since its relative weight is small in a subtask's evaluation.

Comment: One commenter stated that, with the development of the Excel spreadsheet to evaluate the qualitative tasks, these tasks are no longer qualitative. They are now being evaluated in a quantitative way.

Response: The Excel tool allows Project Officers to subjectively evaluate QIO performance in the qualitative tasks. It was developed in response to concerns from QIOs about inter-region variation in the 6th SOW. It uses the same evaluation criterion provided in the J–7, and is not intended to make the evaluation quantitative in nature. Rather, it gives some consistency to the subjective review by the Project Officers. We agree that this tool should be provided to QIOs as early as possible in the contract cycle. We will strive to provide this tool to the QIOs as early as possible for the 8th SOW.

Comment: One commenter stated that a great deal of effort was put into the National Voluntary Hospital Reporting Initiative (NVHRI), but this effort was not included in the evaluation criteria.

Response: We appreciate the fact that the NVHRI did require some additional effort on the part of the hospitals. However, participation could not be included in the evaluation criteria because this was a voluntary program on the part of hospitals. The voluntary nature of the program requires a different approach by the QIO than is required by the other subtasks and deliverables of the contract.

Comment: One commenter stated that for those States with 100 percent participation in hospital public reporting, the Hospital Generated Data (HGD) Survey is redundant. The commenter stated that the same information may be obtained through both sources.

Response: We have been careful to avoid redundant activities for both providers and QIOs. The HGD Survey does not determine if a hospital is a reporting hospital. Instead, it assesses the hospital's ability to collect data. Therefore both the survey and the actual hospital reporting are necessary and provide different information to us.

Comment: One commenter questioned the evaluation criteria for Task 3b. In the J–7, the term ''reliability'' is used. The guidance document states that the QIO will be evaluated based on both ''reliability'' and ''validity of review.'' This commenter also requested clarification as to why Tasks 3a and 3b require reliability while Task 3c does not require validity for evaluation.

Response: The reliability of the review is the primary criterion for evaluating this component of the task. We will ensure consistency in documents released for the 8th SOW. The evaluation criteria were chosen for each subtask in Task 3 based on the appropriateness for the task.

Comment: One commenter expressed concern over using Medicare physician billing as the method to measure the rate of statewide and identified participants' improvement in quality care measures for Task 1d.

Response: We are investigating this method of measuring improvement for the Round 1 evaluations, and have so far found nothing large-scale or systematic that would alter evaluation results for Task 1d. We believe that the evaluation measures are relatively stable and reliable estimates, and that billing issues as a whole do not contribute significant bias to these estimates. We understand the limitations of using billing information to estimate quality improvement, and are working to minimize its impact by identifying these problems and reporting questionable billing issues to the appropriate parties.

We are adopting the provisions of the notice with comment as final.

IV. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice with comment period was not reviewed by the Office of Management and Budget.

Authority: Section 1153 of the Social Security Act (42 U.S.C. 1320c–2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 14, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–14505 Filed 7–21–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Administration on Children, Youth and Families; Family and Youth Services Bureau; Notice of the Availability of Financial Assistance and Request for Applications To Establish and Operate the National Domestic Violence Hotline

Announcement Type: Grant.

Funding Opportunity Number: HHS–2005–ACF–ACYF–EV–0039.

CFDA Number: 93.592.

Due Date for Applications: August 22, 2005.

Executive Summary: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) announces the availability of funds in fiscal year 2005 for the award of one grant on a competitive basis to operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

I. Funding Opportunity Description

Authorizing Statutes and Regulations: The Family Violence Prevention and Services Act (the Act) was originally enacted in sections 301–316 of Title III of the ''Child Abuse Amendments of 1984'' (Pub. L. 98–457, 10/9/84). The Act was most recently amended by the ''Keeping Children and Families Safe Act of 2003'' (Pub. L. 108–36).

Supplementary Information: In accordance with amendments to the Act enacted by Pub. L. 108–36, ACF will award grants to one or more private, non-profit entities to assist in the establishment and operation of a highly secure Internet website to provide information and assistance to victims of domestic violence. A separate announcement regarding these awards will be issued at a future date.

Program and Focus Area: The purpose of the National Domestic Violence Hotline (Hotline) is to provide information and referral services, counseling, and assistance to victims of domestic violence, their children and other family members, and others affected by such violence; and enable them to find safety and protection in crisis situations. The successful applicant will be required to provide telephonic assistance on a 24 hours-per-day, seven days-a-week basis throughout the continental United States, Alaska, Hawaii, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Priority Area

Notice of the availability of financial assistance and request for applications to establish and operate the National Domestic Violence Hotline.

1. Description

Conceptual Framework and Scope of Services: The prevalence of family violence is widespread and its effective prevention and treatment requires coordination and collaboration among a broad range of legal and justice system entities, health and social service providers, and advocates at the Federal, State, and local levels.

To serve the wide range of expected calls effectively, the entity chosen as the Hotline recipient must have expertise about domestic violence and the delivery of services to victims of domestic violence. The staff also must understand the importance of using appropriate linkages with State and local resources to serve callers to the Hotline. The benefits of a highly visible national Hotline to victims and others affected by domestic violence will be directly related to the productive working relationships and coordinated provision of services between and among the Hotline, State and local hotlines, and other services and resources.

Calls to the Hotline may range from urgent and life-threatening to calls for general reference information. The target population to be served by the Hotline is specified in the statute as victims of domestic violence. The Hotline should be prepared to respond to the broad range of violence that occurs in the context of family and intimate relationships, domestic violence, spouse abuse, partner abuse, battering of women, sexual assault, date rape, and acquaintance rape. The Hotline also will serve those less directly affected by such abuse, *i.e.*, relatives, children of victims and other family members, friends, neighbors, perpetrators and batterers, other concerned individuals, and the general public.

In terms of the scope of the services provided by the Hotline, the statute requires the provision of information and assistance and counseling and referral services. Therefore, the applicant's proposed design and plan for operating the Hotline and responding to callers is important. However, the Hotline is not expected to provide extended or long-term counseling or therapy services. A more complete discussion of a problem and the consideration of options for the caller is done most appropriately at the local level, given the variation in laws and services available among the States and localities.

As domestic violence often contributes to isolation, helplessness, loss of self-esteem, and dependence, a self-help and empowerment model of services is needed. Such a model:

- Protects and assures safety for all victims and other family members;
- Builds on the strengths and resources of individuals and families;
- Offers options and support for independent decision-making based on specific individual and family needs and circumstances; and
- Assists individuals and families to obtain protection and needed services that are respectful of cultural and community characteristics.

Minimum Requirements: The following requirements must be met by the grantee and addressed in the application:

1. All funds received by the grantee pursuant to Section 316 of the Act must be used to establish and operate a national toll-free telephone hotline to provide information and assistance to victims of domestic violence.

2. In establishing the Hotline, the private, nonprofit entity shall:

- Contract with a carrier for the use of a toll-free telephone line;
- Employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services on a 24-hours-a-day basis;
- Assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve victims of battering and their children; and
- Publicize the Hotline to potential users throughout the United States, the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

3. To be approved by the Secretary of Health and Human Services (the Secretary), the application must include a complete description of the applicant's plan for the operation of a National Domestic Violence Hotline, including a description of:

- The training program for Hotline personnel;
- The hiring criteria for Hotline personnel;
- The methodology for the creation, maintenance, and updating of a resource database;
- A plan for publicizing the availability of the Hotline;
- A plan for providing service to non-English speaking callers, including Hotline personnel for callers whose primary language is Spanish; and
- A plan for facilitating access to the Hotline by persons with hearing impairments.

4. The applicant must demonstrate that it has:

- Expertise in the operation of a domestic violence hotline and a record of high quality service to victims of domestic violence, and;
- Commitment to diversity and to the provision of services, regardless of gender, to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities.

5. The applicant must demonstrate knowledge of the field, including the range of services and the resources available for domestic violence victims, their children and family members, perpetrators and batterers, and other concerned individuals. The applicant must also demonstrate knowledge of services and resources relating to substance and mental health problems, State and Indian Tribal domestic violence laws, including the availability of legal protection and the barriers affecting access to such services, resources, and protection.

6. The applicant must demonstrate experience in providing high quality crisis intervention, information and referral, and counseling services and support to battered individuals, their children, their family, and friends, other domestic violence victims, batterers, and the general public through a national toll-free hotline.

7. The applicant must demonstrate an understanding of the relationship of alcohol, drug abuse, and mental health problems to incidents of domestic violence and the ability to make appropriate referrals to callers.

8. The applicant must demonstrate an understanding of the need for a national hotline for domestic violence victims, including a description of the function and limitation of the current network of national and State crisis hotlines, information lines, and State victims referral services.

9. The applicant must provide a plan and demonstrate its ability to build, maintain, and keep current a comprehensive database of resource information that includes the full range of services available in local communities, the types of legal protection and services available in different States and localities, and the capability to access information.

10. The applicant must provide a detailed description of:

- The telecommunications and computer technology that is, or will be, employed to establish and support the Hotline, including all management

functions, referral functions, resource database management functions, monitoring functions, and overall project administration and quality control.

• The design and operation of the telephone system that will be used to provide the service and its capacity and limitations, including information such as the capacity to facilitate the number of incoming calls, call conferencing, automatic call referral to local providers, and service integration with computers.

• The methods that will be used to ensure that the Hotline is providing confidential crisis intervention and the specific provisions that will be in place to safeguard the confidentiality of callers and ensure the proper handling of confidential or sensitive information;

• The personnel recruitment, hiring, and training program (*i.e.*, a description of an initial and ongoing training plan for staff and volunteers should be included) that will ensure the delivery of quality crisis intervention, information and referral assistance, and counseling services to callers representing diverse populations;

• The specific emergency response and crisis protocol to be used, the ability to conference call (or ''patch'') a caller to a local domestic violence, legal services, mental health, or substance abuse program when appropriate; and the plans for minimizing such problems as crank or obscene calls and busy signals; and

• The methods the applicant will use to provide for the development, maintenance, and updating of a comprehensive resource database (distributed to the maximum extent appropriate); the technical capacity to link with other State and local databases in order to maintain an extensive and current resource locator or listing; the ability to facilitate communication among service providers to assist in the provision of services; and how the information on best practices gathered through various inventories will be used to assist victims of family violence.

11. The applicant must demonstrate an understanding of the technological requirements of such a project and include a detailed timeline to provide the following services nationally:

• 24-hours/365 days per year access;

• Direct access to English- and Spanish-speaking personnel at all times and the provision of services to other non-English speaking callers and the hearing impaired;

• Personnel (paid staff and volunteers) trained in crisis intervention, information and referral, and counseling skills;

• Comprehensive database of current information;

• The ability to connect callers directly to local programs or services when appropriate;

• Emergency response protocol for callers in immediate danger; and

• Appropriate confidentiality safeguards; and

• Data collection and data management capability sufficient to support program administration, reporting, monitoring, and an ongoing quality assessment of the Hotline service.

12. The applicant must provide a plan to coordinate, work with, and provide Hotline services and data resource and referrals that make maximum use of existing domestic violence programs and resources including, but not limited to, local and statewide domestic violence hotlines, state domestic violence coalitions, state sexual assault coalitions, shelter programs, emergency services, legal services programs, national domestic violence resource centers, other existing national hotlines and other national organizations, resources related to child abuse and youth endangerment, perpetrators and batterers programs, and the various activities of the Centers for Disease Control under its campaign to prevent violence against women. The applicant must provide support to State and local domestic violence hotlines in response to any increased demand generated by a national public awareness campaign.

13. The applicant must provide a description of the quality assurance system it will use to assess regularly the quality of the services being provided by the Hotline and the extent to which the goals and objectives of the service are being met. The quality assurance system also must include actions to address identified problems, such as, unanswered calls, wait time, data corruption, and other past and current technological problems.

14. The applicant must provide a comprehensive plan to publicize the Hotline to a national audience, including efforts to ensure promotion through the national media and through targeted outreach to racially and ethnically diverse communities, older individuals, and individuals with disabilities.

15. The applicant must demonstrate the ability to staff, financially support, and programmatically administer a national project of this scope.

16. The author(s) of the application must be clearly identified together with a description of their current relationship to the applicant organization and any future project role they may have if the project is funded.

17. The applicant must provide an assurance that any information collected as a part of this grant will become the property of the Federal Government.

18. The applicant must provide an assurance that it will work with the Federal Project Officer to identify the information that will be compiled based on incoming calls; this includes compilation of information on both maternal and child victims of domestic violence and the individual and situational factors characterizing violent and abusive behavior.

19. The applicant must provide an assurance that it will comply with grant administration requirements in 45 CFR Part 74.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $3,000,000.

Anticipated Number of Awards: 1.

Ceiling on Amount of Individual Awards: $3,000,000 per budget period.

Floor on Amount of Individual Awards: None.

Average Projected Award Amount: $3,000,000 per budget period.

Length of Project Periods: 60-month project with five 12-month budget periods.

Non-competitive, continuation grant awards for each of years two through five (FYs 2006–2009) are projected to be $3,000,000 per fiscal year subject to the availability of funds. As required by the Act, the provision of payments under a grant awarded to establish or operate the National Domestic Violence Hotline is subject to annual approval of the Secretary. Such annual approval may be withheld if a grantee does not comply with pertinent statutory changes enacted during the project period. Moreover, potential grantees are advised that the enactment of significant legislative changes during the project period may prompt a finding that early termination of the project and the holding of a new competition is in the best interest of the Federal Government.

III. Eligibility Information

1. Eligible Applicants

• Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education.

• Non-profits that do not have a 501(c)(3) status with the IRS, other than institutions of higher education.

Additional Information on Eligibility: Faith-based and community organizations are eligible applicants under this announcement.

Please see Section IV for required documentation supporting eligibility or funding restrictions if any are applicable.

2. Cost Sharing/Matching

None.

3. Other

All applicants must have a Dun & Bradstreet number. On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires Federal grant applicants to provide a Dun & Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.grants.gov/*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com/.*

Non-profit organizations applying for funding are required to submit proof of their non-profit status.

Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax exemption certificate.
- A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrues to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

When applying electronically we strongly suggest you attach your proof of non-profit status with your electronic application.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Disqualification Factors: Applications that exceed the ceiling amount will be considered non-responsive and will not be considered for funding under this announcement.

Any application that fails to satisfy the deadline requirements referenced in Section IV.3 will be considered non-responsive and will not be considered for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package

ACYF Operations Center, c/o Dixon Group, Attn: FV–FYSB Funding for National Domestic Violence Hotline, 118 Q Street, NE., Washington, DC 20002–2132. Phone: 866–769–1591. E-mail: *fysb@dixongroup.com.*

2. Content and Form of Application Submission

The narrative should be typed and double-spaced on a single-side of an 8½″ x 11″ plain white paper, with 1″ margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives and Need for the Project'' as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½″ x 11″ sheet of paper. Applicants are requested not to send pamphlets, maps, brochures, or other printed material along with their application as these pose photocopy difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

You may submit your application to us in either electronic or paper format.

To submit an application electronically, please use the *http://www.Grants.gov/Apply* site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. ACF will not accept grant applications via e-mail or facsimile transmission.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary, but strongly encouraged.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- We recommend you visit Grants.gov at least 30 days prior to filing your application to fully understand the process and requirements. We encourage applicants who submit electronically to submit well before the closing date and time so that if difficulties are encountered an applicant can still send in a hard copy overnight. If you encounter difficulties, please contact the Grants.gov Help Desk at 1–800–518–4726 to report the problem and obtain assistance with the system.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.grants.gov/.*
- You must search for the downloadable application package by the CFDA number.

Applicants that are submitting their application in paper format should submit an original and two copies of the complete application. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Standard Forms and Certifications: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Section V Application Review Information. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement.

Applicants seeking financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Applicants must sign and return the standard forms with their application.

Applicants must furnish prior to award an executed copy of the Standard Form LLL, Certification Regarding Lobbying, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must also understand they will be held accountable for the smoking prohibition included within Pub. L. 103–227, Title XII Environmental Tobacco Smoke (also known as the PRO–KIDS Act of 1994). A copy of the **Federal Register** notice which implements the smoking prohibition is included with this form. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification form. Complete the standard forms and the associated certifications and assurances based on the instructions on the forms. The forms and certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Those organizations required to provide proof of non-profit status, please refer to Section III.3.

Please see Section V.1 for instructions on preparing the full project description.

3. Submission Dates and Times

Due Date for Applications: August 22, 2005.

Explanation of Due Dates

The closing time and date for receipt of applications is referenced above. Applications received after 4:30 p.m. eastern time on the closing date will be classified as late.

Deadline: Applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date referenced in Section IV.6. Applicants are responsible for ensuring applications are mailed or submitted electronically well in advance of the application due date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., eastern time, at the address referenced in Section IV.6., between Monday and Friday (excluding Federal holidays).

ACF cannot accommodate transmission of applications by facsimile. Therefore, applications transmitted to ACF by fax will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Any application received after 4:30 p.m. eastern time on the deadline date will not be considered for competition.

Applicants using express/overnight mail services should allow two working days prior to the deadline date for receipt of applications. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

Receipt acknowledgement for application packages will not be provided to applicants who submit their package via mail, courier services, or by hand delivery. Applicants will receive an electronic acknowledgement for applications that are submitted via *http://www.grants.gov/.*

Checklist: You may use the checklist below as a guide when preparing your application package.

What to submit	Required content	Required form or format	When to submit
Project Abstract	See Sections IV.2. and V	Found in Sections IV.2. and V	By application due date.
Project Description	See Sections IV.2. and V	Found in Sections IV.2. and V	By application due date.
Budget Narrative/Justification	See Sections IV.2. and V	Found in Sections IV.2. and V	By application due date.
SF 424	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
SF LLL Certification Regarding Lobbying.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
Certification Regarding Environmental Tobacco Smoke.	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
Assurances	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By date of award.
SF 424A	See Section IV.2	See *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

What to submit	Required content	Required form or format	When to submit
Support Letters	See Section V	Found in Section V	By application due date.
Proof of Non-Profit Status	See Section III.3	Found in Section III.3	By date of award.

Additional Forms: Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms,'' ''Survey for Private, Non-Profit Grant Applicants,'' titled, ''Survey on Ensuring Equal Opportunity for Applicants,'' at: *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	See form	Found in *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.

4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 1, 2004, the following jurisdictions have elected to participate in the Executive Order process: Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, North Mariana Islands, Puerto Rico, and Virgin Islands. As these jurisdictions have elected to participate in the Executive Order process, they have established SPOCs. Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of prospective applications and receive instructions. Applicants must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations, which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

Although the remaining jurisdictions have chosen not to participate in the process, entities that meet the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. Therefore, applicants from these jurisdictions, or for projects administered by federally recognized Indian Tribes, need take no action in regard to E.O. 12372.

The official list, including addresses, of the jurisdictions that have elected to participate in E.O. 12372 can be found on the following URL: *http://www.whitehouse.gov/omb/grants/spoc.html*.

5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

ACYF will not fund any project where the role of the applicant is to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which the funding is requested. This prohibition does not bar the making of sub-grants or subcontracting for specific services or activities that are needed to conduct the project.

Construction and the purchase of real property are not allowable activities or expenditures under this grant award.

6. Other Submission Requirements

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. Please see Section IV.3 for an explanation of due dates. Applications should be mailed to: Operations Center, c/o The Dixon Group, Inc., FV–FYSB Funding for the National Domestic Violence Hotline, 118 Q Street, NE., Washington, DC 20002–2132.

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m. eastern time, Monday through Friday. Applications should be delivered to: Operations Center, c/o The Dixon Group, FV–FYSB Funding for the National Domestic Violence Hotline, 118 Q Street, NE., Washington, DC 20002–2132.

Electronic Submission: Please see Section IV.2 for guidelines and requirements when submitting applications electronically via *http://www.grants.gov/*.

V. Application Review Information

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 4/30/2007.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Criteria

The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''full project description'' sections of the

application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD).

Part I—The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, information responsive to each of the requested evaluation criteria must be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived.

For example, indicate the aggregate number of calls expected to be received and the number of individuals who will be assisted on an annual basis. Provide estimates of the expected volume of calls in service areas, such as, crisis counseling, immediate referrals to shelters, or the number of referrals made in response to non-English speaking callers.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished.

When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Evaluation

Provide a narrative addressing how the conduct of the project and the results of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Additional Information

The following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch and job description for each key person appointed. Job descriptions for each vacant key position should be included as well. As new key staff is appointed, biographical sketches will also be required.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners, such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. If the applicant is a non-profit organization, submit proof of non-profit status in its application.

The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; (b) a copy of a currently valid IRS tax exemption certificate, (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status, (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant

organization is a local non-profit affiliate.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding. All submissions should be included in the application *OR* by application deadline.

Budget and Budget Justification

Provide a budget with line-item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000).

Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, upon notification that an award will be made, it should immediately develop a tentative indirect cost rate proposal based on its most recently completed fiscal year, in accordance with the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. When an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Evaluation Criteria: The following evaluation criteria appear in weighted descending order. The corresponding score values indicate the relative importance that ACF places on each evaluation criterion; however,

applicants need not develop their applications precisely according to the order presented. Application components may be organized such that a reviewer will be able to follow a seamless and logical flow of information (*i.e.*, from a broad overview of the project to more detailed information about how it will be conducted).

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Approach—30 Points

The extent to which the application provides a sound workable plan of action (approach), which details: How the proposed work will be accomplished; how each task relates to the project's goals and activities; identifies the key staff member responsible for the specific tasks; provides a chart indicating the timetable for completing each task, the phasing in of the tasks over time, the lead staff person, and the time committed to the task; cites factors that might accelerate or decelerate the work; justifies the approach selected over other approaches; makes maximum use of existing facilities and resources and off-the-shelf technology; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social or community involvement; and provides projections of the accomplishments to be achieved and identifies the activities for which Federal technical assistance, advice, or guidance as the project is implemented is anticipated and would be acceptable. The extent to which the application details how possible problems such as unanswered calls, wait time, outdated equipment and technology, and data corruption would be avoided or resolved.

Results or Benefits Expected—20 Points

The extent to which the application identifies, in specific terms, the results and benefits to be derived from the project and relate each result and benefit to a specific objective. The extent to which the application indicates the aggregate number of calls expected to be received and individuals to be assisted on an annual basis, *e.g.*, the expected volume of calls in such service areas as crisis counseling, immediate referrals to shelters, or the number of referrals made in response to non-English speaking callers. The extent to which the application indicates the anticipated impact on and the subsequent benefit of the national hotline to victims of domestic violence and on the existing network of State and local shelters and services. The extent to which the application identifies the kinds of data to be collected, maintained, and updated, and discuss the criteria to be used to assure the quality of the services provided.

Objectives and Need for Assistance—20 Points

Need for Assistance: The extent to which the application provides a detailed discussion of the need for a national domestic violence hotline of the scope being proposed. The extent to which the application provides a detailed analysis of the available data related to the problem being addressed (both domestic violence in general and the specific lack of a national domestic violence hotline); the strengths and limitations of other national and local crisis intervention and victim services hotline/referral services available, and the ''state-of-art'' relative to the problem being addressed by the proposal.

Goals and Objectives: The extent to which the application clearly states the project goals and objectives. The extent to which the objectives are stated in concrete, measurable terms that clearly identify the population(s) to be served; the type, quality, and level of service to be provided; the timeline for the establishment and delivery of services; and other project benchmarks. The extent to which the application discusses the anticipated demand for hotline services during the initial start-up period; provides a projection of the demand on an ongoing basis; and provides supporting documentation.

Budget and Budget Justification—6 Points

The extent to which the proposed budget relates to the level of effort required to obtain the project objectives. The extent to which the proposed budget demonstrates that the project's costs are reasonable in view of the anticipated results.

Organizational Profiles—6 Points

The extent to which the application describes the adequacy of the staffing pattern for the proposed project; how the individual responsibilities are linked to project tasks; and the contributions to be made by key staff. The extent to which the application lists each collaborating or cooperative organization, individual consultant, or other key individuals who will work on the project, along with a description of the nature of their effort or contribution.

Letters of Support—12 Points

Collaborative Efforts: The extent to which the application describes the additional anticipated private sector resources that may be available to support or enhance the overall program. The extent to which the application discusses in detail and provides documentation for any proposed collaborative or coordinated efforts with other public and private agencies or organizations. The extent to which the application identifies these agencies or organizations and explains how their participation will enhance the project. The extent to which the application provides letters from these agencies and organizations discussing their interest and/or commitment in supporting this project, the stage of the planning and decision-making, and the expected level of resource commitment.

Staff and Position Data—6 Points

The extent to which the application describes the background and experience of the project director and key project staff, and the history and accomplishments of the organization; the qualifications of the project team, including any experience with similar projects; the variety of skills, relevant educational background, and the ability to effectively manage the project and to coordinate activities with other agencies. (One or two pertinent paragraphs on each key member are preferred to vitae/resumes. However, vitae/resumes may be included.)

2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application.

Experts from the domestic violence community as well as experts from social services programs will use the evaluation criteria listed in this announcement to review and score the applications. The results of this review are a primary factor in recommending funding decisions. To the extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution among states and geographical regions, and rural and urban areas.

Since ACF will be using non-Federal reviewers in the process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Approved but Unfunded Applications

Applications that are approved but unfunded may be held over for funding in the next funding cycle, pending the availability of funds, for a period not to exceed one year.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided (if applicable), and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

Grantees are subject to the requirements in 45 CFR Part 74 (non-governmental) or 45 CFR Part 92 (governmental).

Direct Federal grants, sub-award funds, or contracts under this ACF program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this Program. Regulations pertaining to the Equal Treatment For Faith-Based Organizations, which includes the prohibition against Federal funding of inherently religious activities, can be found at either 45 CFR 87.1 or the HHS Web site at: *http://www.os.dhhs.gov/fbci/waisgate21.pdf.*

3. Reporting Requirements

Grantees will be required to submit program progress and financial reports (SF–269 found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*) throughout the project period. Program progress and financial reports are due 30 days after the reporting period. Final programmatic and financial reports are due 90 days after the close of the project period.

Program Progress Reports: Semi-Annually.

Financial Reports: Semi-Annually.

VII. Agency Contacts

Program Office Contact: William D. Riley, Director, Family Violence Division, 330 C Street, SW., Switzer Building, Room 2117, Washington, DC 20447. Phone: 202–104–5529. E-mail: *wriley@acf.hhs.gov.*

Grants Management Office Contact: Peter Thompson, Grants Officer, Administration on Children, Youth and Families, 330 C Street, SW., Switzer Building, SW., Washington, DC 20447. Phone: 202–401–4608. E-mail: *pathompson@acf.hhs.gov.*

VIII. Other Information

Notice: Beginning with FY 2006, the Administration for Children and Families (ACF) will no longer publish grant announcements in the **Federal Register**. Beginning October 1, 2005, applicants will be able to find a synopsis of all ACF grant opportunities and apply electronically for opportunities via: *http://www.Grants.gov.* Applicants will also be able to find the complete text of all ACF grant announcements on the ACF Web site located at: *http://www.acf.hhs.gov/grants/index.html.*

Please reference Section IV.3 for details about acknowledgement of received applications.

Dated: July 15, 2005.

Joan E. Ohl,

Commissioner, Administration on Children, Youth & Families.

[FR Doc. 05–14459 Filed 7–21–05; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

General Hospital and Personal Use 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 the Committee: General Hospital and Personal Use 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 August 9, 2005, from 8 a.m. to 4 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Scott A. Colburn, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–6892, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512520. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will hear 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 discuss and make recommendations on methods to assess the potential of disease transmission by multiple-use nozzle jet injectors (i.e., jet injectors for which the fluid path for the injection is used more than once). The discussion will include premarket testing recommendations to address this issue.

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 August 3, 2005. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of deliberations and for approximately 30 minutes near the end of deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 3, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240–276–0450, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory committee Act (5 U.S.C. app. 2).

Dated: July 18, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–14455 Filed 7–21–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2002D–0492] (formerly Docket No. 02D–0492)

Guidance for Industry on Estimating the Maximum Safe Starting Dose in Initial Clinical Trials for Therapeutics in Adult Healthy Volunteers; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Estimating the Maximum Safe Starting Dose in Initial Clinical Trials for Therapeutics in Adult Healthy Volunteers.'' This guidance provides a description and basis for a process by which to select a maximum recommended starting dose (MRSD) for a first-in-human clinical trial of a therapeutic in adult healthy volunteers.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Lois M. Freed, Center for Drug Evaluation and Research (HFD–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2647.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Estimating the Maximum Safe Starting Dose in Initial Clinical Trials for Therapeutics in Adult Healthy Volunteers.'' This guidance provides a description and basis for a process by which to select an MRSD for a first-in-human clinical trial of a new molecular entity in adult healthy volunteers. In the **Federal Register** of January 16, 2003 (68 FR 2340), FDA published a notice making available a draft guidance entitled ''Estimating the Safe Starting Dose in Clinical Trials for Therapeutics in Adult Healthy Volunteers.'' The notice gave interested persons an opportunity to submit comments. As a result of the comments, certain sections of this guidance were reworded to improve clarity. The guidance outlines a recommended standardized approach (including common conversion factors for calculating human equivalent doses) and vocabulary for selecting an MRSD based on animal data, and discusses factors to be considered in determining reasonable safety margins. This approach is applicable to a first-in-human trial of a new drug or biological therapeutic, regardless of intended clinical use. The guidance also discusses alternative approaches and provides some examples of circumstances under which alternative approaches for selection of an MRSD should be considered. Dose escalation is not addressed.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on estimating the maximum safe starting dose in initial clinical trials for therapeutics in adult healthy volunteers. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance at any time. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: July 14, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–14456 Filed 7–21–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The National Health Service Corps Uniform Data System (OMB No. 0915–0232): Revision

The National Health Service Corps (NHSC) of the Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA), is committed to improving the health of the Nation's underserved by uniting communities in need with caring health professionals and by supporting communities' efforts to build better systems of care.

The NHSC needs to collect data on its programs to ensure compliance with legislative mandates and to report to Congress and policymakers on program accomplishments. To meet these objectives, the NHSC requires a core set of information collected annually that is appropriate for monitoring and evaluating performance and reporting on annual trends. The following information will be collected from each site: services offered and delivery method; users by various characteristics; staffing and utilization; charges and

collections; receivables, income, and expenses; and managed care.

The estimated burden is as follows:

Type of report	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Universal Report	1200	1	27	32,400

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 15, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05–14484 Filed 7–21–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as amended 68 FR 787–93, January 7, 2003; as amended at 68 FR 8515–8517, February 21, 2003, as last amended 69 FR 56433–56445, September 21, 2004.)

This notice reflects several revisions to the organizational and functional statements of the Bureau of Primary Health Care. Specifically, this notice (1) Renames the Division of Health Center Development to the Division of Policy and Development; (2) Moves the policy function from the Office of the Director; (3) Establishes the Policy Branch in the Division of Policy and Development; and (4) Establishes a new description for the Division Director.

Section RC–00 Mission

The Bureau of Primary Health Care (BPHC) directs national health programs which improve the health of the Nation by assuring access to high quality comprehensive preventive and primary health care services and improving the health status of the Nation's underserved and vulnerable populations.

Section RC–10 Organization

The Bureau of Primary Health Care (BPHC) headed by the Associate Administrator for Primary Health Care reports directly to the Administrator, Health Resources and Services Administration. BPHC includes the following components:

(1) Office of the Associate Administrator (RC)

(2) Office of Minority and Special Populations (RCE)

(3) Division of Policy and Development (RCH)

(4) Division of Health Center Management (RCJ)

(5) Division of Clinical Quality (RCK)

(6) Division of State and Community Assistance (RCL)

(7) Division of National Hansen's Disease Program (RC7)

(8) Division of Immigration Health Services (RC9)

Remove the policy function from the Office of the Associate Administrator and place it in the Division of Policy and Development; and change the functional statement as follows: The Division of Policy and Development (RCH) serves as the organizational focus of the competitive grant process for BPHC; and leads in drafting policy and conducting analyses of performance across BPHC's programs. Specifically, the Division of Policy and Development executes the following activities: (1) Leads and monitors the development and expansion of health centers and health systems infrastructure; (2) provides pre-application assistance to communities and community-based organizations related to the development and expansion of health centers and health systems infrastructure; (3) consults and coordinates with other components within HRSA, other Federal agencies, consumer and constituency groups, and national and State organizations on issues affecting BPHC's programs; (4) formulates budget justifications for BPHC's programs and provides input into the analysis of BPHC budget execution; (5) leads and coordinates the analysis, development and drafting of policy impacting BPHC's programs; (6) performs environmental scanning on issues that affect BPHC's programs; (7) serves as the focal point for designing and implementing a plan for assessing and improving program performance; and (8) serves as the focal point for monitoring BPHC's activities in relation to HRSA's Strategic Plan.

Revise the functional statement for the Office of the Associate Administrator as follows: Provides overall leadership, direction, coordination, and strategic planning in support of Bureau programs. Specifically: (1) Has lead responsibility to bring primary health care services to the Nation's neediest communities; (2) serves as a central point of contact for Bureau communication and information; (3) establishes program policies, goals, and objectives and provides oversight as to their execution; (4) interprets program policies, guidelines, and priorities; (5) stimulates, coordinates and evaluates program development and progress; (6) maintains effective relationships with HRSA, other Department and Health and Human Services (HHS) organizations, other Federal agencies, State and local governments, and other public and private organizations concerned with primary health and improving the health status of the Nation's underserved and vulnerable populations; and (7) plans, directs, coordinates and evaluates Bureau-wide administrative management activities; (8) assures BPHC's funding recommendations are consistent with authorizing legislation, program expectations and HHS and HRSA policies.

Section RC–30 Delegation of Authority

All delegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further re-delegation. I hereby ratify and affirm all actions taken by any HHS official which involves the exercise of these authorities prior to the effective date of this delegation.

This reorganization is effective upon the date of signature.

Dated: July 6, 2005.

Elizabeth M. Duke,

Administrator.

Bureau of Primary Health Care (BPHC) (RC)

Provides overall leadership, direction, coordination, and strategic planning in support of Bureau programs. Specifically:(1) Has lead responsibility to bring primary health care services to the Nation's neediest communities; (2) serves as a central point of contact for Bureau communication and information; (3) establishes program policies, goals, and objectives and provides oversight as to their execution; (4) interprets program policies, guidelines, and priorities; (5) stimulates, coordinates and evaluates program development and progress; (6) maintains effective relationships with HRSA, other Department and Health and Human Services (HHS) organizations, other Federal agencies, State and local governments, and other public and private organizations concerned with primary health and improving the health status of the Nation's underserved and vulnerable populations; (7) plans, directs, coordinates and evaluates Bureau-wide administrative management activities; and (8) assures BPHC's funding recommendations are consistent with authorizing legislation, program expectations and HHS and HRSA policies.

Dated: July 6, 2005.

Elizabeth M. Duke,

Administrator.

Bureau of Primary Health Care (BPHC) (RC)Division of Policy and Development (RCH)

The Division of Policy and Development serves as the organizational focus of the competitive grant process for BPHC; and leads in drafting policy and conducting analyses of performance across BPHC's programs. Specifically, the DPD executes the following activities: (1) Leads and monitors the development and expansion of health centers and health systems infrastructure; (2) provides pre-application assistance to communities and community-based organizations related to the development and expansion of health centers and health systems infrastructure; (3) consults and coordinates with other components within HRSA, other Federal agencies, consumer and constituency groups, and national and State organizations on issues affecting BPHC's programs; (4) formulates budget justifications for BPHC's programs and provides input into the analysis of BPHC budget execution; (5) leads and coordinates the analysis, development and drafting of policy impacting BPHC's programs; (6) performs environmental scanning on issues that affect BPHC's programs; (7) serves as the focal point for designing and implementing a plan for assessing and improving program performance; and (8) serves as the focal point for monitoring BPHC's activities in relation to HRSA's Strategic Plan.

Dated: July 6, 2005.

Elizabeth M. Duke,

Administrator.

[FR Doc. 05–14485 Filed 7–21–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; The National Diabetes Education Program Survey of the Public

SUMMARY: Under provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 9, 2003, pages 53176–53177, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: The National Diabetes Educations Program Survey of the Public. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The National Diabetes Education Program (NDEP) is a partnership of the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC) and more than 200 public and private organizations. The long-term goals of the NDEP are to improve the treatment and health outcomes of people with diabetes, to promote early diagnosis, and, ultimately, to prevent the onset of diabetes. The NDEP objectives are: (1) To increase awareness of the seriousness of diabetes, its risk factors, and strategies for preventing diabetes and its complications among people at risk for diabetes; (2) to improve understanding about diabetes and its control and to promote better self-management behaviors among people with diabetes; (3) to improve health care providers' understanding of diabetes and its control and to promote an integrated approach to care; (4) to promote health care policies that improve the quality of and access to diabetes care.

Multiple strategies have been devised to address the NDEP objectives. These have been described in the NDEP Strategic Plan and include: (1) Creating partnerships with other organizations concerned about diabetes; (2) developing and implementing awareness and education activities with special emphasis on reaching the racial and ethnic populations disproportionately affected by diabetes; (3) identifying, developing, and disseminating educational tools and resources for the program's diverse audiences; (4) promoting policies and activities to improve the quality of and access to diabetes care.

The NDEP evaluation will document the extent to which the NDEP program has been implemented, and how successful it has been in meeting program objectives. The evaluation relies heavily on data gathered from existing national surveys such as National Health and Nutrition Examination Survey (NHANES), the National Health Interview Survey (NHIS), the Behavioral Risk Factor Surveillance System (BRFSS), among others for this information. This clearance request is for the collection of additional primary data from NDEP target audiences on some key process and impact measures that are necessary to effectively evaluate the program. Approval is requested for survey of the public including people at risk for diabetes, people with diabetes and their families.

Frequency of Response: On occasion. *Affected Public:* Individuals or households. *Type of Respondents:* Adults. The annual reporting burden is as follows: *Estimated Number of Respondents:* 1600; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* .25; and *Estimated Total Annual Burden Hours Requested:* 400. The annualized cost to respondents is estimated at: $8,000.00. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

ESTIMATES OF HOUR BURDEN

Type of respondents	Number of respondents	Frequency of response	Average time per response	Total hour burden
Public, including people at risk for diabetes, patients and their family members	1600	1	.25	400
Totals	1,600			400

COST TO RESPONDENTS

Type of respondents	Number of respondents	Frequency of response	Hourly wage rate	Respondent cost
Public, including people at risk for diabetes, patients and their family members	1600	1	$20.00	$8,000.00
Total				$8,000.00

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Joanne Gallivan, M.S., R.D., Director, National Diabetes Education Program, NIDDK, NIH, Building 31, Room 9A04, 31 Center Drive, Bethesda, MD 20892, or call non-toll-free number (301) 494–6110 or e-mail your request, including your address to: *Joanne_Gallivan@nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect received within 30 days of the date of this publication.

Dated: June 28, 2005.

Barbara Merchant,

Executive Officer, NIDDK, National Institutes of Health.

[FR Doc. 05–14491 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing and Cooperative Research and Development Agreement (CRADA): Aminoflavone Prodrug

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions described below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 in association with collaborative research via a Cooperative Research and Development Agreement (CRADA) with the National Cancer Institute (NCI) of the National Institutes of Health. This opportunity is being offered to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information may be obtained by contacting George G. Pipia, PhD., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; telephone: 301/435–5560; fax: 301/402–0220; e-mail: *PipiaG@mail.nih.gov.*

CRADA inquiries may be addressed to Robert Wagner, M.S., M. Phil., at the Technology Transfer Branch, National Cancer Institute, 6120 Executive Boulevard, Suite 450, Rockville, MD 20852; telephone: 301/496–0477; fax: 301–402–2117; e-mail: *WagnerB@mail.nih.gov.*

Information regarding NCI drug development collaborations with the Cancer Therapy Evaluation Program can be found at *http://ctep.cancer.gov/.*

SUPPLEMENTARY INFORMATION: Scientists at the National Cancer Institute (NCI), NIH, have developed a novel anti-cancer agent, the aminoflavone prodrug (AFP–464, NSC 710464) which is a lysyl prodrug of aminoflavone (AF, NSC 686288). AFP–464 displays improved solubility in aqueous solutions over the parent compound AF and can be converted rapidly to AF in plasma. In the NCI 60-cell-line screen, both AFP–464 and AF have demonstrated anti-proliferative activity against several renal, breast and ovarian cancer cell lines. AFP–464 and AF have also demonstrated anti-tumor activity in human renal and breast carcinoma xenografts. Pharmacokinetic studies and toxicology studies of AFP–464 have been completed.

The results of the pre-clinical studies conducted by NCI have led to a decision by the NCI to initiate NCI-sponsored clinical trials of AFP–464. The Cancer Therapy Evaluation Program (CTEP), NCI expects to file an Investigational New Drug Application with the FDA for AFP–464 before the end of 2005.

Patent Portfolio: The patent portfolio for the aminoflavone compounds and the aminoflavone prodrug, claiming the compositions of matter and methods in the treatment of cancer includes issued patents and patent applications

claiming rights worldwide, as provided below (websites for patent application publications are included).

Patents and patent applications for the aminoflavone compounds, entitled ''5–Aminoflavone Derivative,'' consist of:

1. U.S. Patent No. 5,539,112 (issued 07/23/1996), (*http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=5539112.WKU.&OS=PN/5539112&RS=PN/5539112*);

2. European Patent No. 0638566 (issued 01/07/1999 and validated in GB, DE, FR, ES and IT), (*http://v3.espacenet.com/textdoc?DB=EPODOC&IDX=EP0638566&F=0*);

3. Canadian Patent Application No. 2129813 (filed 08/09/1994), (*http://patents1.ic.gc.ca/details?patent_number=2129813&language=EN*).

Patents and patent applications for the aminoflavone prodrug, entitled ''Aminoflavone Compounds, Compositions, and Methods of Use Thereof,'' consist of:

1. U.S. Patent No. 6,812,246 (issued 11/02/2004), (*http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=6812246.WKU.&OS=PN/6812246&RS=PN/6812246*);

2. European Patent Application No. 01923228.9 (filed April 6, 2001, now allowed and validated in GB, DE, FR, IT, ES, LU, BE, CH, and IE), (*http://v3.espacenet.com/textdoc?DB=EPODOC&IDX=US2004019227&F=0*);

3. Canada Patent Application No. 2405747 (filed April 6, 2001), *http://patents1.ic.gc.ca/details?patent_number=2405747&language=EN*);

4. Australia Patent Application No. 2001249940 (filed April 6, 2001), (*http://apa.hpa.com.au:8080/ipapa/view?hit=1&page=1*).

Licensing and Cooperative Research and Development Agreement Opportunity: The National Cancer Institute (NCI) seeks a collaborator to co-develop the aminoflavone pro-drug (AFP–464) for clinical use. A Cooperative Research and Development Agreement (CRADA) is the anticipated collaborative agreement to be entered into with NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of April 10, 1987, as amended. A CRADA is an agreement designed to enable certain collaborations between Government laboratories and non-Government laboratories. A CRADA is not a grant, and it is not a contract for the procurement of goods/services. The NCI is prohibited from transferring funds to a CRADA collaborator. Under a CRADA, NCI can contribute facilities, staff, materials, and expertise. The CRADA collaborator can contribute facilities, staff, materials, expertise, and funds. The CRADA collaborator will also have an option to negotiate the terms of an exclusive or non-exclusive commercialization license to subject inventions arising under the CRADA. The goals of the CRADA include the rapid publication of research results and timely commercialization of products, diagnostics, and treatments that result from the research. Licensing the above patent rights will be necessary to commercialize AFP–464 if clinical trials results are favorable. It is expected that a licensee to the above patent rights will become the NCI CRADA collaborator in the clinical development of AFP–464.

Those interested in this CRADA opportunity should prepare a confidential proposal and submit it to the NCI Technology Transfer Branch. Preference will be given to proposals received by the NCI within thirty days of publication of this announcement. Selection criteria for choosing the CRADA Collaborator shall include, but not be limited to: 1. Demonstrated expertise and success in clinical development of anti-cancer agents; 2. possession of the resources needed to support and perform the research and development activities to develop AFP–464 (*e.g.* facilities, personnel and expertise); 3. the ability to provide financial support for the CRADA-related Government activities; 4. the demonstration of the necessary resources to produce and supply formulated AFP–464 for all clinical trials in a timely manner; 5. the willingness to cooperate with the NCI in the timely publication of research results; 6. the willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any; and 7. the agreement to be bound by the appropriate HHS regulations relating to human subjects.

Dated: July 15, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–14495 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Standardizing Criteria on Cancer Biomarkers as Foundation of a Database: Creating a Common Language (Data Elements) for Cancer Biomarkers Tracking and Utilization for Professionals in Oncology Research

Mahin Khatami (NCI)
HHS Reference No. E–147–2005/0—Research Tool
Licensing Contact: Michelle A. Booden; (301) 451–7337; *boodenm@mail.nih.gov*.

Cancer biomarkers (CBs) are important biological tools in modern oncology research for diagnosis, prognosis, prevention, therapy and outcome. Biological characters of biomarkers are as diversified as their utilization potentials. Biomarkers may be proteins/peptides, glycoproteins, lipids, glycolipids, antigens/antibodies, cytokines/chemokines, receptors, enzymes, inhibitors, nutrients/metabolites, DNA/RNA mutations, etc. CBs are found in blood/serum, urine, other biological fluids, and/or tissue specimen.

The NCI has identified a common set of data elements or criteria to describe a large number of cancer biomarkers. These data elements may be used as a foundation for a cancer biomarker

database to track a wide range of data on biomarkers. Generic data elements selected by the NCI will be incorporated into a database and a set of elements will be chosen to tailor for specific markers for suitability and utilization.

The database may be further developed and improved by creation of a web accessible interface providing guidance on how to access a marker of choice according to relevant set of data elements from the foundation; *e.g.*, data elements that best define the marker for specific clinical utilization. Addition and identification of suitable markers within the database and tailoring of data elements could be accomplished by recommendation of a review panel of experts for suitability and/or utilization of selected markers. Marker data will be updated by individual investigators or by a database administrator as additional pertinent information becomes available in the literature on specific marker.

A fully enabled database would allow professionals within industry, research and clinical centers to easily access, retrieve and study the state of technology of a specific biomarker at a point of need. Standardization and proper evaluation and packaging of relevant integrated data on cancer biomarkers into a central database should eventually account for characteristics of an individual's state of health that will not only lead to improved detection of cancer, but also to better prevention and treatment of cancer. Access to archived data will direct industry to better assess the need for development of technologies dependent upon knowledge of the markers and may enhance communication among professionals by enabling them to correspond using a common vocabulary of standardized data elements for biomarkers by referring to the data elements that is the foundation of the database.

In order to facilitate the rapid adaptation of the biomarker database, the NCI inventors would be interested in collaborating with qualified commercial entities to develop the technology (software) under terms of a Cooperative Research and Development Agreement (CRADA).

Use of 8–C1–cAMP as Anticancer Drug

Yoon S. Cho-Chung (NCI)

U.S. Patent No. 5,792,752 issued 11 Aug 1998 (HHS Reference No. E–132–1988/0–US–05)

U.S. Patent No. 5,902,794 issued 11 May 1999 (HHS Reference No. E–132–1988/0–US–06)

Licensing Contact: Michelle A. Booden; (301) 451–7337; *boodenm@mail.nih.gov*.

Site-selective cAMP analogues that preferentially bind and activate PKA–I or PKA–II exhibit specificity not mimicked by parental cAMP. These analogues demonstrate a synergism of binding in appropriate combinations. 8–Cl–cAMP, which belongs to the ISD (isozyme site discriminator) class of site-selective cAMP analogues, activates and down-regulates PKA–I, but not PKA–II, by binding to both site A and B of RI and to site B of RII. 8–Cl–cAMP inhibits growth, in vitro and in vivo, in a broad spectrum of human carcinoma, fibrosarcoma, and leukemia cell lines without causing cytotoxicity. The growth-inhibitory effect of 8–Cl–cAMP correlates with the down-regulation of RI, the up-regulation of RII, and the suppression of c-myc and c-ras oncogene expression.

8–Cl–cAMP is a promising cancer chemotherapeutic agent that in preclinical studies can reverse the transformed phenotype of, and induce apoptotic cell death in, human cancer cells. Results of a Phase I clinical trial suggest that effective plasma levels (determined in preclinical studies) of 8–Cl–cAMP can be maintained below the maximum tolerated dose. More recently, the NCI has initiated and supported ongoing Phase I clinical trials of 8–Cl–cAMP for the treatment of colon cancer and multiple myeloma. The present invention provides compositions and methods for use of cAMP analogs, including 8–Cl–cAMP, as a therapeutic intervention for multiple human diseases.

This technology is available for licensing on an exclusive or a non-exclusive basis.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Dated: July 15, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–14497 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Adult Human Dental Pulp Stem Cells in vitro and in vivo

Dr. Songtao Shi *et al.* (NIDCR)

U.S. Patent Application No. 10/333,522 filed 17 Jan 2003 (HHS Reference No. E–233–2000/0–US–03), claiming priority to 21 Jul 2000.

Licensing Contact: Marlene Shinn-Astor; (301) 435–4426; *shinnm@mail.nih.gov*.

Many individuals with ongoing and severe dental problems are faced with the prospect of permanent tooth loss. Examples include dentinal degradation due to caries or periodontal disease; (accidental) injury to the mouth; and surgical removal of teeth due to tumors associated with the jaw. Clearly, a technology that offers a possible alternative to artificial dentures by designing and transplanting a set of living teeth fashioned from the patient's own pulp cells would greatly improve the individual's quality of life.

The NIH announces a new technology wherein dental pulp stem cells from an individual's own postnatal dental pulp tissue (one or two wisdom teeth) can potentially be used to engineer healthy living teeth. This technology is based upon the discovery of a subpopulation of cells within normal human dental

pulp tissue that has the ability to grow and proliferate in vitro. These (dental pulp) stem cells can be induced under defined culture conditions to form calcified nodules in vitro and have been shown to differentiate into a dentin/pulp like structure in vivo.

Postnatal Stem Cells and Uses Thereof

Drs. Songtao Shi and Pamela Robey (NIDCR)
PCT Application No. PCT/US03/12276 filed 19 Apr 2003 (HHS Reference No. E–018–2003/0–PCT–01), which published as WO 2004/094588 A2 on 04 Nov 2004.
Licensing Contact: Marlene Shinn-Astor; (301) 435–4426; *shinnm@mail.nih.gov*.

Many individuals with ongoing and severe dental problems are faced with the prospect of permanent tooth loss. Examples of such dental problems include: Dentinal degradation due to chronic dental disease (caries or periodontal); mouth injury; or through surgical removal, such as with tumors associated with the jaw. For many, a technology that offers a possible alternative to artificial dentures by designing and transplanting a set of living teeth fashioned from an individual's own pulp cells would greatly improve their quality of life.

The NIH announces a new technology wherein human postnatal deciduous dental pulp stem cells commonly known as ''baby teeth'', are used to create dentin and have been shown to differentiate into cells of specialized function such as neural cells, adipocytes, and odontoblasts. It is believed that these cells could be manipulated to repair damaged teeth, induce the regeneration of bone, and treat neural injury or disease.

This research is described, in part, in Miura *et al.*, ''SHED: Stem cells from human exfoliated deciduous teeth,'' Proc. Natl. Acad. Sci. USA, vol. 100 (no. 10; May 13, 2003) pp. 5807–5812.

Multipotent Postnatal Stem Cells From Human Periodontal Ligament and Uses Thereof

Dr. Songtao Shi *et al.* (NIDCR)
PCT Application No. PCT/US04/39248 filed 22 Nov 2004 (HHS Reference No. E–033–2004/0–PCT–02), claiming priority to 20 Nov 2003.
Licensing Contact: Marlene Shinn-Astor; (301) 435–4426; *shinnm@mail.nih.gov*.

It is estimated that over 40 percent of the adult population in the United States has periodontal disease in one form or another. Periodontal Disease is a chronic infection of the periodontal ligament (PDL) and the adjacent bone and cementum. The effects of Periodontal Disease range from simple gum inflammation to, in extreme cases, tooth loss.

The NIH announces a new technology wherein stem cells from the PDL have been isolated from adult human PDL. These cells are capable of forming cementum and PDL in immunocompromised mice. In cell culture, PDL stem cells differentiate into collagen fiber forming cells (fibroblasts), cementoblasts, and adipocytes. It is anticipated that these PDL stem cells will be useful for periodontal tissue regeneration to treat periodontal disease.

Dated: July 15, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–14498 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Cloning of a Genomic DNA Fragment Containing the Guinea Pig CXCR1 Gene, a Specific Receptor for Guinea Pig Interleukin-8

Teizo Yoshimura (NCI)
HHS Reference No. E–242–2005/0—Research Tool
Licensing Contact: Jesse S. Kindra; (301) 435–5559; *kindraj@mail.nih.gov*.

The present invention relates to cloning of a genomic DNA fragment containing the guinea pig CXCR1 gene, a specific receptor for guinea pig interleukin-8 (IL–8).

More specifically, the IL–8–CXCR1 axis is a major chemokine-chemokine receptor system that regulates the recruitment of neutrophils into sites of inflammation. In this invention, the inventors cloned a genomic DNA clone containing the gene for guinea pig IL–8 receptor CXCR1. Mice and rats are the most commonly used small animals to examine the efficacy of drugs developed for human use. However, neither IL–8 nor CXCR1, a specific receptor for IL–8, is present in these animals, making it impossible to use them as a model to test the effects or IL–8 or CXCR1 antagonists. Identification of CXCR1, along with IL–8, in the guinea pig may enable evaluation of the in vivo effects of the antagonists.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Anti-CD30 Antibodies That Bind To Intact CD30 but not to Soluble CD30

Satoshi Nagata and Ira Pastan (NCI)
U.S. Provisional Application No. 60/681,929 filed 16 May 2005 (HHS Reference No. E–208–2005/0–US–01),
Licensing Contact: Jesse S. Kindra; (301) 435–5559; *kindraj@mail.nih.gov.*

Human CD30 is a promising target for cancer immunotherapy since CD30 is highly expressed in Hodgkin's disease and anaplastic large-cell lymphoma. However, soluble CD30, the extracellular domain of CD30 that is shed from the cells, can reduce the effects of CD30-targeting agents by competitive binding.

This invention is the first successful attempt of producing CD30-targeting agents without the disadvantage of the reducing effects caused by soluble CD30. More specifically, two (2) epitopes on membrane-associated CD30 have been identified that are missing on soluble CD30. These epitopes are potentially superior targets for immunotherapy since targeting the epitopes should be free from the competitive effects of soluble CD30. Accordingly, the antibodies described in this invention may be used as targeting reagents for cancer therapy.

In addition to licensing, the technology is available for further

development through collaborative research opportunities with the inventors.

Isolation, Cloning and Characterization of New Adeno-Associated Virus (AAV) Serotypes

Michael Schmidt *et al.* (NIDCR)
U.S. Provisional Application No. 60/676,604 filed 29 April 2005 (HHS Reference No. E–179–2005/0–US–01)
Licensing Contact: Jesse S. Kindra; (301) 435–5559; *kindraj@mail.nih.gov.*

This invention relates to new adeno-associated viruses (AAV), vectors and particles derived therefrom and also provides methods for delivering specific nucleic acids to cells using the AAV vectors and particles. Vectors based on these new AAV serotypes may have a different host range and different immunological properties, thus allowing for more efficient transduction in certain cell types. In addition, characterization of these new serotypes will aid in identifying viral elements required for tissue tropism.

More specifically, in order to identify and characterize novel AAV isolates for development as gene therapy vectors, the inventors screened approximately one hundred (100) viral stocks. The inventors cloned and sequenced the genomes of AAVs found in twelve (12) simian adenovirus isolates and determined that the AAVs were novel. Ten (10) of these isolates had high similarity to AAV1 and AAV6 (>98%). Despite the high homology to AAV6, these novel AAVs demonstrated distinct cell tropisms and reactivity towards a panel of lectins, suggesting that they may use a distinct entry pathway. Therefore, these novel AAVs may be useful for gene therapy applications.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Anti-Mesothelin Antibodies Useful for Immunological Assays

Ira H. Pastan and Masanori Onda (NCI)
U.S. Provisional Application No. 60/681,104 filed 12 May 2005 (HHS Reference No. E–015–2005/0–US–01),
Licensing Contact: Jesse S. Kindra; (301) 435–5559; *kindraj@mail.nih.gov.*

This invention provides antibodies that have a surprisingly good combination of affinity for mesothelin and ability to be used in immunological assays for detecting the presence of mesothelin in biological samples. The invention further relates to methods of using antibodies and kits comprising them. The antibodies can also be used to target toxins and other agents to cells expressing mesothelin, and can be used in methods and medicaments for inhibiting the growth of such cells.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Methods for the Identification and Use of Compounds Suitable for the Treatment of Drug Resistant Cells

Gergely Szakacs *et al.* (NCI)
HHS Reference No. E–075–2004/2–PCT–01 filed 17 Jun 2005
Licensing Contact: Jesse S. Kindra; (301) 435–5559; *kindraj@mail.nih.gov.*

There is an important need to overcome cancer multiple drug resistance (MDR). ATP-binding cassette (ABC) transporters are a family of transporter proteins that contribute to drug resistance via ATP-dependent drug efflux pumps. Accordingly, based on the expression profile of 48 ABC transporters in sixty (60) cell lines, the present invention provides a method to identify (1) drugs that retain action in cells expressing MDR proteins, (2) compounds that reduce MDR by interfering with the efflux pumps. In addition, the invention describes a method to identify compounds whose antiproliferative effect is potentiated by the ABCB1/MDR1 transporter. These compounds might avoid the well-documented side-effects observed in clinical trials of ''classical'' MDR1 inhibitors and may serve as leads for development of novel anti-cancer agents to treat resistant disease.

Dated: July 15, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–14499 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Human Genome Research.

Date: September 11–13, 2005.

Closed: September 11, 2005, 7 p.m. and 10 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Open: September 12, 2005, 8:30 a.m. to 12 p.m.

Agenda: To discuss matters of program relevance.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Closed: September 12, 2005, 1 p.m. to 5 p.m. on September 13, 2005.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Mark S. Guyer, PhD, Director of Extramural Research, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9305, Bethesda, MD 20892, 301–496–7531, *guyerm@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.genome.gov/11509849*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: July 15, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14492 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Midcareer Investigator Award in Patient-Oriented Research (K24).

Date: August 4, 2005.

Time: 1 p.m. to 2 p.m.

To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD ED–30, Research Triangle Park, NC 27709, 919/541–1307.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 14, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14493 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis panel, Mechanisms of Endothelial and Embryonic Stem Cell Regulation in Pregnancy.

Date: August 8, 2005.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 15, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14496 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, United States Premature Oxygen Saturation Trial: US POST.

Date: August 10, 2005.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 15, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14500 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Intentional Single Motherhood Among Older Women.

Date: July 27, 2005.

Time: 1 p.m. to 1:30 p.m..

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 15, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14501 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Physical Activity and Stress.

Date: July 26, 2005.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Selmanoff, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3134, MSC 7844, Bethesda, MD 20892, (301) 435–1119, mselmanoff@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Immunotoxicity.

Date: July 27, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, (301) 435–1222, *nigidas@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Immunotherapy.

Date: July 28, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, (301) 435–1767, gubanics@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Behavorial and Social Science FIRCA.

Date: July 28, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dan D. Gerendasy, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5132, MSC 7843, Bethesda, MD 20892, (301) 594–6830, *gerendad@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Rehabilitation Sciences.

Date: July 28, 2005.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Special Skeletal Muscle Exercise Physiology.

Date: July 29, 2005.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard J. Bartlett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–6809, *bartletr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts—AIDS Behavioral Sciences.

Date: August 2, 2005.

Time: 10 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurogenesis and Development.

Date: August 2, 2005.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joanne T Fujii, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5204, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Technology for DNA Analysis.

Date: August 3, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sally Ann Amero, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7849, Bethesda, MD 20892, (301) 435–1159, *ameros@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurogenesis Special Interest Panel.

Date: August 4, 2005.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genetic Basis for Psychiatric Diseases.

Date: August 8, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, (301) 435–1038, *remondid@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pain Studies.

Date: August 8, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: J. Terrell Hoffeld, PhD, DDS, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781, *hoffeldt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuronal Calcium Signaling.

Date: August 11, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Peter B. Guthrie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular Mechanisms of Neurodegeneration.

Date: August 15, 2005.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Toby Behar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clincial Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 15, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14494 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of HIV-Dependent Expression Constructs and Uses Therefor for the Development of FDA-Approvable HIV Diagnostic Kits

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in PCT/US04/31967 filed September 28, 2004 from U.S. provisional application 60/507,034 (E–276–2003/0–US–01), entitled ''HIV-Dependent Expression Constructs and Uses Therefor'' (E–276–2003/0–PCT–02), (Inventors: Yuntao Wu and Jon Marsh), to Revix Technology LLC (hereafter Revix), having a place of business in Manassas, Virginia. The patent rights in these inventions have been assigned to the United States of America.

DATES: Only written comments and/or application for a license, which are received by the NIH Office of Technology Transfer on or before September 20, 2005 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Sally Hu, Ph.D., M.B.A., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; E-mail: *hus@mail.nih.gov;* Telephone: (301) 435–5606; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: E–276–2003/0–PCT–02 provides nucleic acid molecules comprising expressible sequences, which could be reporter or therapeutic genes, whose expression depends on the presence of HIV Tat and Rev proteins. This invention could be used for detection of HIV infection, in screening assays to identify compounds that inhibit HIV infection, and potentially as a therapeutic to kill HIV-infected cells and treat HIV-infected subjects.

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 60 days from the date of this published Notice, NIH receives written evidence and argument that 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.

The field of use may be limited to the development of FDA-approvable HIV clinical diagnostic kit.

It has to be noted that the non-exclusive license opportunities in the field(s) of use of the development of HIV detection kit/reagent for research use and/or cellular screening method for research use, as well as the exclusive license opportunity in the field of use of the development of a novel therapeutic against HIV infections are still available for subject invention.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent

permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 12, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–14502 Filed 7–21–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning renewal of the Standard Flood Hazard Determination Form (FEMA Form 81–93).

SUPPLEMENTARY INFORMATION: FEMA is seeking to extend the use of the Standard Flood Hazard Determination Form, required by Title V, Section 528 of the National Flood Insurance Reform Act of 1994 (NFIRA). The form records the determination of whether a structure is located within an identified Special Flood Hazard Area and whether flood insurance is available. Federally-regulated lender institutions, are mandated to complete this form for any loan made, increased, extended, renewed, or purchased.

Collection of Information

Title: Standard Flood Hazard Determination Form.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 1660–0040.

Form Numbers: FEMA 81–93 Standard Flood Hazard Determination Form.

Abstract: On September 23, 1994, the President signed the Riegle Community Development and Regulatory Improvement Act of 1994. Title V of this Act is the National Flood Insurance Reform Act (NFIRA). Section 528 of the NFIRA requires that FEMA develop a standard hazard determination form for recording the determination of whether a structure is located within an identified Special Flood Hazard Area and whether flood insurance is available. Section 528 of the NFIRA also requires the use of this form by regulated lending institutions, Federal agency lenders, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association for any loan made, increased, extended, renewed or purchased by these entities. The form developed to comply with the above requirements is the Standard Flood Hazard Determination form (FEMA Form 83–93, dated October 2002). This form will be completed by federally regulated lending institutions when making, increasing, extending, renewing or purchasing each loan for the purpose of documenting the factors considered as to whether flood insurance is required and available. An estimated 33,000,000 such uses are made each year. This number is entirely driven by the volume of mortgage transactions, of which fluctuations in interest rates is a principal factor.

Affected Public: Business or other for-profit, Federal Government.

Estimated Total Annual Burden Hours: 10,890,000 hours.

FEMA forms	No. of respondents (A)	Frequency of response (B)	Burden hours per response (C)	Annual burden hours (A x B x C)
81–93	33,000,000	1	0.33 (20 minutes)	10,890,000
Total	33,000,000	(1)	0.33	10,890,000

Estimated Cost: The total cost to federally-regulated lenders for completing FEMA Form 81–93 totals $295,119,000, representing an average cost of $8.00 per loan transaction (respondent).

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Cecelia Lynch, Program Specialist, Mitigation Division at (202) 646–7045 for additional information. You may contact the Records Management Section at (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

Dated: July 13, 2005.

George S. Trotter,

Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 05–14480 Filed 7–21–05; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1595–DR]

Florida; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–1595–DR), dated July 10, 2005, and related determinations.

EFFECTIVE DATE: July 13, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 10, 2005:

Bay, Franklin, Gulf, Okaloosa, Wakulla, and Walton Counties for Individual Assistance, (already designated for debris removal and emergency protective measures under the Public Assistance program, including direct Federal assistance. For a period of up to 72 hours, assistance for emergency protective measures, including direct Federal assistance, will be provided at 100 percent of the total eligible costs. The period of up to 72 hours at 100 percent excludes debris removal.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–14477 Filed 7–21–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1594–DR]

Mississippi; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–1594–DR), dated July 10, 2005, and related determinations.

EFFECTIVE DATE: July 13, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 10, 2005:

Pearl River, Simpson, and Hinds Counties for emergency protective measures (Category B) under the Public Assistance Program, including direct Federal assistance. For a period of up to 72 hours, assistance for emergency protective measures, including direct Federal assistance, will be provided at 100 percent of the total eligible costs. The period of up to 72 hours at 100 percent excludes debris removal.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–14478 Filed 7–21–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1594–DR]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–1594–DR), dated July 10, 2005, and related determinations.

DATE: Effective July 13, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Jesse Munoz, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Justo Hernandez as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–14479 Filed 7–21–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–29]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: Effective July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 14, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 05–14198 Filed 7–21–05; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Comprehensive Conservation Plan/Environmental Impact Statement for the Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces that a Draft Comprehensive Conservation Plan/Environmental Impact Statement (Draft CCP/EIS) for the Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Refuge is available for review and comment. This Draft CCP/EIS has been prepared pursuant to the National Environmental Policy Act of 1969 and is designed to address the Service's obligation under the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997. The Draft CCP/EIS describes the Service's proposal for managing these Refuge Units over the next 15 years. Also available for review and public comment in the Draft CCP/EIS are draft compatibility determinations for several public uses and a draft Predator Management Plan.

DATES: Written comments must be received at the address below on or before Monday, September 19, 2005.

ADDRESSES: A copy of the Draft CCP/EIS is available on compact disk or in hard copy, and you may obtain a copy by writing to: Victoria Touchstone, Refuge Planner, San Diego National Wildlife Refuge Complex, 6010 Hidden Valley Road, Carlsbad, CA 92011. You may also access or download copies of the Draft CCP/EIS at the following Web site address: *http://pacific.fws.gov/planning*.

Hard copies of the Draft CCP/EIS are also available for viewing at the following locations:

- San Diego National Wildlife Refuge Complex, 6010 Hidden Valley Road, Carlsbad, CA;
- Tijuana Estuary Visitor Center, 301 Caspian Way, Imperial Beach, CA;
- Chula Vista Public Library, Civic Center Branch, 365 F Street, Chula Vista, CA and South Chula Vista Branch, 389 Orange Avenue, Chula Vista, CA;
- Coronado Public Library, 640 Orange Avenue, Coronado, CA;
- Imperial Beach Library, 810 Imperial Beach Boulevard, Imperial Beach, CA;
- National City Library, 200 East 12th Street, National City, CA; and
- City of San Diego, Central Library, Government Publications, 820 E Street, Logan Heights Branch Library, 811 South 28th Street, Otay Mesa Branch Library, 3003 Coronado Avenue, and Paradise Hills Branch Library, 5922 Rancho Hills Drive, San Diego, CA.

A public meeting to present the details of the Draft CCP/EIS is scheduled for Wednesday, August 31, 2005, from 6:30 p.m. to 8 p.m. at the Chula Vista City Council Chambers located at 276 Fourth Avenue, Chula Vista, California 91910.

Comments on the Draft CCP/EIS should be addressed to: Victoria Touchstone, Refuge Planner, San Diego National Wildlife Refuge Complex, 6010 Hidden Valley Road, Carlsbad, CA 92011. Comments may also be submitted via electronic mail to *Victoria_Touchstone@fws.gov* or via fax to (760) 930–0256. Please type ''San Diego Bay CCP'' in the subject line.

FOR MORE INFORMATION CONTACT: Victoria Touchstone, Refuge Planner, at (760) 431–9440 extension 349.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee *et seq*) requires the Service to develop a Comprehensive Conservation Plan (CCP) for each National Wildlife Refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (Refuge System), consistent with sound principles of fish and wildlife science, conservation, legal mandates, and Service policies. In addition to outlining broad management direction for conserving wildlife and their habitats, the CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to review and update these CCPs at least every 15 years. Revisions to the CCP will be prepared in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370d).

Background

The CCP for the Refuge Units in San Diego Bay was initiated in June 2000. At that time and throughout the process, public comments were requested, considered, and incorporated in numerous ways. Public outreach has included scoping meetings, public workshops, planning updates, a CCP webpage, and two **Federal Register** notices. When the CCP was initiated, these refuge lands were referred to as the Sweetwater Marsh National Wildlife Refuge and the South San Diego Bay Unit of the San Diego National Wildlife Refuge. However, in June 2004, these lands were reorganized into the San Diego Bay National Wildlife Refuge.

This action was taken to streamline management and facilitate public understanding and recognition of the two refuge areas within San Diego Bay. This change had no affect on the approved refuge boundaries or the current management practices. All that changed were the names. We now refer to these areas as the Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Refuge.

The San Diego Bay National Wildlife Refuge is located approximately 10 miles north of the United States-Mexico border in southwestern San Diego County, California. Collectively, the two Refuge Units encompass approximately 2,620 acres of land and water in and around the south end of San Diego Bay. The native coastal salt marsh and intertidal mudflats preserved within this Refuge annually provide essential foraging and resting habitat for tens of thousands of migratory shorebirds and wintering waterfowl traveling along the Pacific Flyway.

The Sweetwater Marsh Unit was established as a National Wildlife Refuge in 1988. Encompassing approximately 316 acres, this Refuge was established to protect federally listed endangered and threatened species. The coastal salt marsh and upland areas within the Sweetwater Marsh Unit support 6 federally listed species, including 3 listed birds that nest within the Unit, one State-listed endangered species, and 26 species of birds identified by the Service as Birds of Conservation Concern.

The South San Diego Bay Unit was established in 1999 as a unit of the San Diego National Wildlife Refuge for the purpose of protecting, managing, and restoring habitats for federally listed endangered and threatened species and migratory birds. The Service currently manages approximately 2,300 acres of the 3,940 acres included within the Unit's approved acquisition boundary. The majority of this management area is leased to the Service by the California State Lands Commission. Included within this Unit is the largest remaining expanse of intertidal mudflats in San Diego Bay. This and other habitats within the Unit support 5 federally listed endangered and threatened species, 1 State-listed endangered species, and 19 species of birds identified by the Service as Birds of Conservation Concern. Open water is the dominant habitat, followed by intertidal mudflats, disturbed uplands, salt marsh, and freshwater wetlands. The Unit includes an active commercial solar salt operation that is managed under a Special Use Permit. The salt pond levees provide important nesting habitat for a variety of colonial nesting seabirds.

Purpose and Need for Action

The CCP is intended to provide a coherent, integrated set of management actions consistent with the purposes for which the two Refuge Units were established; the mandates of the Refuge System; and the vision, goals, and objectives defined in the CCP. The CCP identifies the Refuge Units' roles in support of the mission of the Refuge System, describes the Service's management actions, and provides a basis for budget needs. This CCP is also intended to satisfy a condition of the Public Agency Lease between the California State Lands Commission and the Service, requiring management and public access plans for the South San Diego Bay Unit and to fulfill the Service's obligation described in a Cooperative Agreement between the Service and the Unified Port of San Diego to prepare ''a holistic habitat restoration plan'' for a 1,035-acre portion of the existing salt ponds within the South San Diego Bay Unit.

Alternatives

The Draft CCP/EIS identifies and evaluates three alternatives for managing the Sweetwater Marsh Unit and four alternatives for managing the South San Diego Bay Unit for the next 15 years. One alternative for each Refuge Unit that appears to best meet the Refuge purposes is identified as the preferred alternative. The preferred alternatives were identified based on the analysis presented in the Draft CCP/EIS, which may be modified following the completion of the public comment period based on comments received from other agencies, Tribal governments, non-governmental organizations, or individuals.

Alternatives for the Sweetwater Marsh Unit

Under Alternative A—No Action, the Sweetwater Marsh Unit would continue to be managed as it has in the past. No major changes in habitat management would occur. The existing wildlife observation, photography, environmental education, and interpretation programs would remain unchanged.

Under Alternative B, current management activities would be expanded to emphasize enhancement of existing salt marsh habitat. Tidal and freshwater circulation within the salt marsh would be improved to enhance habitat quality for the endangered light-footed clapper rail and other trust species. Existing public uses would continue with added opportunities for environmental interpretation provided adjacent to Paradise Marsh and the F&G Street Marsh.

Under Alternative C (the preferred alternative), management activities would be expanded to include restoration of intertidal and upland habitat. The existing trail system on Gunpowder Point would be redesigned and new interpretive elements would be provided to better complement the existing environmental education programs supported by the Refuge.

Alternatives for the South San Diego Bay Unit

Under Alternative A—No Action, the South San Diego Bay Unit would continue to be managed as it has in the past. No major changes in habitat management would occur. The existing opportunities for fishing, wildlife observation, photography, environmental education, and boating would remain unchanged and commercial solar salt production would continue. The Service would continue to pursue land management opportunities within the approved acquisition boundary for the Unit. This activity would occur under any of the alternatives evaluated for this Unit.

Under Alternative B, current management activities would be expanded to emphasize enhancement of nesting opportunities in and around the salt ponds for the California least tern, western snowy plover, and various other colonial seabirds. New nesting habitat would be created and levee tops would be capped with clean, light sand to improve the quality of available nesting substrate. The current public use programs would remain unchanged.

Under Alternative C, portions of the salt ponds and all of the Otay River floodplain would be restored to native coastal habitats, and the nesting enhancements described in Alternative B would be implemented. Two restoration options are presented for both the salt ponds and the Otay River floodplain that could result in the restoration of up to 410 acres of intertidal habitat in the salt works and 140 acres of habitat, including intertidal salt marsh, freshwater wetlands, and native uplands, within the Otay River floodplain. Opportunities for fishing and wildlife observation would be expanded, the Otay Valley Regional Trail would be facilitated, and the construction of a boardwalk along the south side of the salt ponds is proposed. The commercial solar salt operation would continue within a reduced footprint.

Under Alternative D (the preferred alternative), the habitat potential within the salt ponds would be maximized. Approximately 600 acres of salt ponds would be restored to tidal influence to support intertidal mudflat and coastal salt marsh habitats. Additionally, some 30 acres of new nesting habitat would be created, 230 acres of pond area would be managed to benefit waterfowl and shorebird foraging and nesting, and 44 acres of salt ponds and associated levees would be managed to sustain a viable population of brine invertebrates to support the foraging needs of specific species of migratory birds. The Otay River floodplain would be restored as described in Alternative C and the nesting enhancements described under Alternative B would be implemented. Opportunities for wildlife observation, photography, and environmental interpretation would be expanded, the regional trail and boardwalk described in Alternative C would be provided, and the other public uses that are currently provided, including fishing, environmental education, and boating, would be maintained. Restoration under this alternative would be phased and would ultimately result in the closure of the existing commercial solar salt operation.

Predator Management Plan

A draft predator management plan has also been prepared to accompany the CCP. Implementation of this plan is proposed pursuant to the Service's endangered species management responsibilities and would occur on the Refuge in conjunction with other wildlife and habitat management activities. Species to benefit from the implementation of predator management include the federally listed endangered California least tern and light-footed clapper rail and the threatened western snowy plover. The predator management plan has been developed as a comprehensive wildlife damage control program that addresses a range of management actions from vegetation control and nesting habitat enhancement to non-lethal and lethal control of both mammalian and avian predators. Under this plan, the most effective, selective, and humane techniques available to deter or remove individual predators or species that threaten nesting, breeding, or foraging California least terns, western snowy plovers, or light-footed clapper rails would be implemented.

Public Comments

After the review and comment period ends for this Draft CCP/EIS, comments will be analyzed by the Service and addressed in the Final CCP/EIS. All comments received from individuals, including names and addresses, become part of the official public record and may be released. Requests for such comments will be handled in accordance with the Freedom of Information Act, the Council on Environmental Quality's NEPA regulations, and Service and Departmental policies and procedures.

Dated: July 14, 2005.

Ken McDermond,

Manager, California/Nevada Operations, Sacramento, California.

[FR Doc. 05–14217 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species for the Monument Creek Interceptor Tie-In Project Along Jackson Creek, El Paso County, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

SUMMARY: On February 15, 2005, a notice was published in the **Federal Register** (Vol. 70, No. 30, FR 7754), that an application had been filed with the U.S. Fish and Wildlife Service (Service) by the Triview Metropolitan District and Forest Lakes Metropolitan District for a permit to incidentally take, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539) as amended, Preble's meadow jumping mouse (*Zapus hudsonius preblei*), pursuant to the terms of the ''Low-Effect Habitat Conservation Plan for Issuance of an Endangered Species Act Section 10(a)(1)(B) Permit for the Incidental Take of the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) for the Monument Creek Interceptor Tie-In Along Jackson Creek, El Paso County, Colorado.''

Notice is hereby given that on June 30, 2005, as authorized by the provisions of the Endangered Species Act, the Service issued a permit (TE–097228–0) to the above named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

Additional information on this permit action may be requested by contacting the Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, telephone (303) 275–2370, between the hours of 7 a.m. and 4:30 p.m. weekdays.

Dated: July 8, 2005.

Mike Stempel,

Acting Regional Director, Denver, Colorado.

[FR Doc. 05–14503 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–931–6320 HAG5–0121]

Notice of Availability of a Final Integrated Pest Management Program Environmental Impact Statement for the Horning Seed Orchard; Clackamas County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 102 of the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) announces the availability of a Final Environmental Impact Statement (EIS) that evaluates, analyzes, and discloses to the public direct, indirect, and cumulative environmental impacts of a proposed integrated pest management program at the Horning Seed Orchard in Clackamas County, Oregon, in BLM's Salem District. The integrated pest management program is proposed to control the insect, weed, animal, and disease problems at the orchard, and to maintain healthy, vigorous crop trees for the production of seed and other vegetative materials used for reforestation and a variety of land management actions.

DATES: Written comments on the Final EIS will be accepted for 30 days following the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability in the **Federal Register**. BLM asks that those submitting comments on the Final EIS make them as specific as possible with reference to page numbers and chapters of the document. Comments will not receive a formal response; however, they will be considered and included as part of the BLM decision-making process.

Freedom of Information Act Considerations: Public comments submitted for this planning action, including names and street addresses of

respondents, will be available for public review at the BLM Salem District Office, 1717 Fabry Road, SE., Salem, Oregon, during regular business hours (7:30 a.m. to 4 p.m.), Monday through Friday, except holidays or at the Horning Seed Orchard, 27004 S. Sheckly Road, Colton, Oregon, by appointment (503–630–8406). Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of officials of organizations or businesses, will be made available for public inspection in their entirety.

ADDRESSES: Please address questions, comments, or requests for copies of the Final EIS to Mr. Jeffrey Gordon, Supervisor or Mr. Terry Garren, Horticulturist, Horning Seed Orchard at 27004 S. Sheckly Road, Colton, OR 97017, or by fax at 503–630–6888, or by e-mail to *orhsoipmeis@or.blm.gov*. A copy of the Final EIS has been sent to those persons who responded to BLM indicating that they wished to receive a copy of the Final EIS. Copies of the Final EIS will be available at all 13 city and county public libraries located in Clackamas County, Oregon, and on the BLM Salem District Web site at *http://www.or.blm.gov/salem/html/planning/horning_ipm.htm*. Public reading copies will also be available for review at the following locations:

Horning Seed Orchard, 27004 S. Sheckly Road, Colton, OR 97017, 503–630–8406.

BLM Salem District Office, 1717 Fabry Road, SE., Salem, OR 97306, 503–375–5646.

USDI Bureau of Land Management, Oregon State Office (OR931), 333 SW. First Avenue, Portland, OR 97204, 503–808–6001.

Bureau of Land Management Office of Public Affairs, Main Interior Building, Room 3321, 1849 C St., NW., Washington, DC 20240, 202–452–5140.

Background information and maps used in developing the Final EIS are available at the Salem District Office and the Oregon State Office in Portland.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Tyler, Manager, Horning Seed Orchard at 27004 S. Sheckly Road, Colton, OR 97017, 503–630–8406, *orhsoipmeis@or.blm.gov*.

SUPPLEMENTARY INFORMATION: The Final EIS analyzes four action alternatives and the no action alternative to manage pests at Horning. The alternatives can be summarized as follows:

Alternative A—Maximum Production Integrated Pest Management. Pests would be managed using all identified biological, chemical, prescribed fire, cultural, and other pest control methods, including aerial application by helicopter.

Alternative B—Integrated Pest Management with Environmental Protection Emphasis. Pests would be managed using all of the methods in Alternative A, with special exceptions designed to further protect workers' health and safety and the environment. The limitations were based on results of the human health and ecological risk assessment, scoping comments, and consultation with the National Oceanic and Atmospheric Administration's Fisheries office under the Endangered Species Act.

Alternative C—Ground-Based Integrated Pest Management. This alternative is identical to Alternative B except for the exclusion of helicopter application.

Alternative D—Pest Management with No Pesticides. Pests would be managed using only the non-pesticide biological, prescribed fire, cultural, and other methods listed under Alternative A.

Alternative E—No Action: Continuation of Current Management Approach. The current management system allows for use of all non-pesticide pest control practices at the seed orchard, as well as the use of pesticides on a specific case-by-case basis. All non-pesticide biological, prescribed fire, cultural, and other methods would be used in accordance with current procedures. When a specific need is identified for a biological or chemical pesticide, the action would be reviewed to determine whether it is encompassed by an existing environmental assessment (EA) or EIS.

Agency Preferred Alternative: BLM's preferred alternative is Alternative B. Public participation has occurred throughout the NEPA process. Two Notices of Intent were filed in the **Federal Register** (FR) on March 26, 1999 (64 FR 14747) and March 29, 2001 (66 FR 17192). BLM held an open house, conducted direct mailings and a site visit during scoping to solicit comments and ideas. BLM provided a 60-day written comment period for review of the Draft EIS, during which two public meetings were conducted at the Horning Seed Orchard on July 17, 2003 from 1 to 3 p.m. and 5 to 7 p.m. A new appendix in the Final EIS provides a complete set of public comments received on the Draft EIS, with BLM's response to each comment.

Following the 30-day availability period that begins with publication of EPA's **Federal Register** Notice of Availability, BLM will issue a Record of Decision announcing selection of the alternative to be implemented. This forest management decision may be protested under 43 CFR 5003—Administrative Remedies. In accordance with 43 CFR 5003.2, the decision for this project will not be subject to protest until the publication of a notice of decision in a newspaper of general circulation, a minimum of 30 days after the Notice of Availability of this Final EIS. Protests of the decision must be filed with this office within 15 days of the publication of a notice of decision in the newspaper. If no protest is received by the close of business (4 p.m. Pacific standard time) on the 15th day, the decision will become final. If a timely protest is received, the decision will be reconsidered in light of the protest and other pertinent information available in accordance with 43 CFR 5003.3.

Dennis Williamson,

District Manager.

[FR Doc. 05–14418 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–931–6320 HAG5–0122]

Notice of Availability of a Final Integrated Pest Management Program Environmental Impact Statement for the Provolt and Sprague Seed Orchards; Jackson and Josephine Counties, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 102 of the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) announces the availability of a Final EIS that evaluates, analyzes, and discloses to the public direct, indirect, and cumulative environmental impacts of a proposed integrated pest management program at the Provolt and Sprague Seed Orchards in Jackson and Josephine Counties, Oregon, in BLM's Medford District. The integrated pest management program is proposed to control the insect, weed, animal, and disease problems at the

orchards, and to maintain healthy, vigorous crop trees for the production of seed and other vegetative materials used for reforestation and a variety of land management actions.

DATES: Written comments on the Final EIS will be accepted for 30 days following the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability in the **Federal Register**. BLM asks that those submitting comments on the Final EIS make them as specific as possible with reference to page numbers and chapters of the document. Comments will not receive a formal response; however, they will be considered and included as part of the BLM decision-making process.

Freedom of Information Act Considerations: Public comments submitted for this planning action, including names and street addresses of respondents, will be available for public review at the BLM Medford District Office, 3040 Biddle Road, Medford, Oregon, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays; or at the respective seed orchard locations, by appointment (see addresses and telephone numbers below). Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

ADDRESSES: Please address questions, comments, or requests for copies of the Final EIS to Mr. Gordon Lyford, Natural Resource Specialist, Provolt and Sprague Seed Orchards at 3040 Biddle Road, Medford, OR 97504, or by fax at 541–618–2400, or by e-mail to *Medford_SPOEIS_Mail@or.blm.gov*. A copy of the Final EIS has been sent to those persons who responded to BLM indicating that they wished to receive a copy of the Final EIS. Copies of the Final EIS will be available at Medford and Grants Pass public libraries located in Jackson and Josephine Counties, OR, and on the BLM Medford District Web site at *http://www.or.blm.gov/medford/planning/medpest_eis_main.html*. Public reading copies will also be available for review at the following locations:

Provolt Seed Orchard, 14171 Williams Highway, Grants Pass, OR 97527, 541–846–7296.

Sprague Seed Orchard, 1980 Russell Road, Merlin, OR 97532, 541–476–4432.

BLM Medford District Office, 3040 Biddle Road, Medford, OR 97504, 541–618–2200.

USDI Bureau of Land Management, Oregon State Office (OR931), 333 SW. First Avenue, Portland, OR 97204, 503–808–6002.

Bureau of Land Management Office of Public Affairs, Main Interior Building, Room 3321, 1849 C St., NW., Washington, DC 20240.

Background information and maps used in developing the Final EIS are available at the Medford District Office and the Oregon State Office in Portland.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon Lyford, Natural Resource Specialist, Provolt and Sprague Seed Orchards at 3040 Biddle Road, Medford, OR 97504, 541–618–2401, *Medford_SPOEIS_Mail@or.blm.gov*.

SUPPLEMENTARY INFORMATION: The Final EIS analyzes three action alternatives and the no action alternative to manage pests at Provolt and Sprague. The alternatives can be summarized as follows:

Alternative A—Maximum Production Integrated Pest Management. Pests would be managed using all identified biological, chemical, prescribed fire, cultural, and other pest control methods, including aerial application by helicopter.

Alternative B—Integrated Pest Management with Environmental Protection Emphasis. Pests would be managed using all of the methods in Alternative A, with special exceptions designed to further protect workers' health and safety and the environment.

The limitations were based on results of the human health and ecological risk assessment, scoping comments, and consultation with the National Oceanic and Atmospheric Administration's Fisheries office under the Endangered Species Act.

Alternative C—Pest Management with No Pesticides. Pests would be managed using only the non-pesticide biological, prescribed fire, cultural, and other methods listed under Alternative A.

Alternative D—No Action: Continuation of Current Management Approach. The current management system allows for use of all non-pesticide pest control practices at the seed orchard, as well as the use of pesticides on a specific case-by-case basis. All non-pesticide biological, prescribed fire, cultural, and other methods would be used in accordance with current procedures. When a specific need is identified for a biological or chemical pesticide, the action would be reviewed to determine whether it is encompassed by an existing environmental assessment (EA) or EIS.

Agency Preferred Alternative: BLM's preferred alternative is Alternative B.

Public participation has occurred throughout the NEPA process. Two Notices of Intent were filed in the **Federal Register** (FR) on March 26, 1999 (64 FR 14747) and March 29, 2001 (66 FR 17192). An open house, mailouts, and a site visit were conducted during scoping to solicit comments and ideas. A written comment period of 60 days was provided for review of the Draft EIS, during which two public meetings were conducted at the Sprague Seed Orchard on July 14, 2003 from 1 to 3 p.m. and 5 to 7 p.m., and at the Provolt Seed Orchard on July 15, 2003 from 1 to 3 p.m. and 5 to 7 p.m. A new appendix in the Final EIS provides a complete set of public comments received on the Draft EIS, along with BLM's response to each comment.

Following the 30-day availability period that begins with publication of EPA's **Federal Register** Notice of Availability, BLM will issue a Record of Decision announcing selection of the alternative to be implemented. This forest management decision may be protested under 43 CFR 5003—Administrative Remedies. In accordance with 43 CFR 5003.2, the decision for this project will not be subject to protest until the publication of a notice of decision in a newspaper of general circulation, a minimum of 30 days after the Notice of Availability of this Final EIS. Protests of the decision must be filed with this office within 15 days of the publication of a notice of decision in the newspaper. If no protest is received by the close of business (4:30 p.m. Pacific Standard Time) on the 15th day, the decision will become final. If a timely protest is received, the decision will be reconsidered in light of the protest and other pertinent information available in accordance with 43 CFR 5003.3.

Timothy B. Reuwsaat,

District Manager.

[FR Doc. 05–14416 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–931–6320 HAG5–0120]

Notice of Availability of a Final Integrated Pest Management Program Environmental Impact Statement for the Tyrrell Seed Orchard; Lane County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 102 of the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) announces the availability of a Final Environmental Impact Statement (EIS) that evaluates, analyzes, and discloses to the public direct, indirect, and cumulative environmental impacts of a proposed integrated pest management program at the Tyrrell Seed Orchard in Lane County, Oregon, in BLM's Eugene District. The integrated pest management program is proposed to control the insect, weed, animal, and disease problems at the orchard, and to maintain healthy, vigorous crop trees for the production of seed and other vegetative materials used for reforestation and a variety of land management actions.

DATES: Written comments on the Final EIS will be accepted for 30 days following the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability in the **Federal Register**. BLM asks that those submitting comments on the Final EIS make them as specific as possible with reference to page numbers and chapters of the document. Comments will not receive a formal response; however, they will be considered and included as part of the BLM decision-making process.

Freedom of Information Act Considerations: Public comments submitted for this planning action, including names and street addresses of respondents, will be available for public review at the BLM Eugene District Office, 2890 Chad Drive, Eugene, Oregon, during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays; or at the Tyrrell Seed Orchard at 26350 Siuslaw River Road, Lorane, Oregon, by appointment (541–683–6445). Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of officials of organizations or businesses, will be made available for public inspection in their entirety.

ADDRESSES: Please address questions, comments, or requests for copies of the Final EIS to Mr. Glenn Miller, Manager, Tyrrell Seed Orchard at 26350 Siuslaw River Road (P.O. Box 121), Lorane, OR 97451, or by fax at 541–683–6597, or by e-mail to *OR_Eugene_TSOEIS@or.blm.gov*. A copy of the Final EIS has been sent to those persons who responded to BLM indicating that they wished to receive a copy of the Final EIS. Copies of the Final EIS will be available at Eugene (Eugene city library-downtown branch), Springfield, Cottage Grove, and Veneta public libraries located in Lane County, OR, and on the BLM Eugene District Web site at *http://www.edo.or.blm.gov/planning/seed_orchard/pest_mgmt_eis.htm*.

Public reading copies will also be available for review at the following locations:

Tyrrell Seed Orchard, 26350 Siuslaw River Road, Lorane, OR 97451, 541–683–6445.

BLM Eugene District Office, 2890 Chad Drive, Eugene, OR 97440, 541–683–6600.

USDI Bureau of Land Management, Oregon State Office (OR931), 333 SW. First Avenue, Portland, OR 97204, 503–808–6002.

Bureau of Land Management Office of Public Affairs, Main Interior Building, Room 5600, 1849 C St., NW., Washington, DC 20240, Need telephone number.

Background information and maps used in developing the Final EIS are available at the Eugene District Office and the Oregon State Office in Portland.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Miller, Manager, Tyrrell Seed Orchard at 26350 Siuslaw River Road, Lorane, OR 97451, 541–683–6445, *OR_Eugene_TSOEIS@or.blm.gov*.

SUPPLEMENTARY INFORMATION: The Final EIS analyzes four action alternatives and the no action alternative to manage pests at Tyrrell. The alternatives can be summarized as follows:

Alternative A—Maximum Production Integrated Pest Management. Pests would be managed using all identified biological, chemical, prescribed fire, cultural, and other pest control methods, including aerial application by helicopter.

Alternative B—Integrated Pest Management with Environmental Protection Emphasis. Pests would be managed using all of the methods in Alternative A, with special exceptions designed to further protect workers' health and safety and the environment. The limitations were based on results of the human health and ecological risk assessment, scoping comments, and consultation with the National Oceanic and Atmospheric Administration's Fisheries office under the Endangered Species Act.

Alternative C—Ground-Based Integrated Pest Management. This alternative is identical to Alternative B except for the exclusion of helicopter application.

Alternative D—Pest Management with No Pesticides. Pests would be managed using only the non-pesticide biological, prescribed fire, cultural, and other methods listed under Alternative A.

Alternative E—No action: Continuation of Current Management Approach. The current management system allows for use of all non-pesticide pest control practices at the seed orchard, as well as the use of pesticides on a specific case-by-case basis. All non-pesticide biological, prescribed fire, cultural, and other methods would be used in accordance with current procedures. When a specific need is identified for a biological or chemical pesticide, the action would be reviewed to determine whether it is encompassed by an existing environmental assessment or EIS.

Agency Preferred Alternative: BLM's preferred alternative is Alternative B.

Public participation has occurred throughout the NEPA process. Two Notices of Intent were filed in the **Federal Register** on March 26, 1999 (64 FR 14747) and March 29, 2001 (66 FR 17192). An open house, direct mailings, and a site visit were conducted during scoping to solicit comments and ideas. A written comment period of 60 days was provided for review of the Draft EIS, during which two public meetings were conducted at the Tyrrell Seed Orchard on July 16, 2003 from 1 to 3 p.m. and 5 to 7 p.m. A new appendix in the Final EIS provides a complete set of public comments received on the Draft EIS, along with BLM's response to each comment.

Following the 30-day availability period that begins with publication of EPA's **Federal Register** Notice of Availability, BLM will issue a Record of Decision announcing selection of the alternative to be implemented. This forest management decision may be protested under 43 CFR part 5003—

Administrative Remedies. In accordance with 43 CFR 5003.2, the decision for this project will not be subject to protest until the publication of a notice of decision in a newspaper of general circulation, a minimum of 30 days after the Notice of Availability of this Final EIS. Protests of the decision must be filed with this office within 15 days of the publication of a notice of decision in the newspaper. If no protest is received by the close of business (4:15 p.m. Pacific standard time) on the 15th day, the decision will become final. If a timely protest is received, the decision will be reconsidered in light of the protest and other pertinent information available in accordance with 43 CFR 5003.3.

Julia Dougan,

District Manager.

[FR Doc. 05–14417 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 120 5882 CD99; HAG# 05–0169]

Notice of Public Meeting, Coos Bay Resource Advisory Committee Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Bureau of Land Management (BLM) Coos Bay District Resource Advisory Committee Meeting as identified in Section 205(f)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000, Public Law 106–393 (the Act).

SUMMARY: The BLM Coos Bay District Resource Advisory Committee is scheduled to meet on August 4, 2005 from 9 a.m. to 4:30 p.m. at the BLM Coos Bay District Office. The BLM Office is located at 1300 Airport Lane in North Bend, Oregon. The purpose of this meeting will be for the BLM Coos Bay District Resource Advisory Committee to recommend for funding Title II projects, as identified under the Act. The BLM Coos Bay District Resource Advisory Committee meeting is open to the public and there will be an opportunity for the public to comment at approximately 11 a.m. at this meeting. The BLM Coos Bay District Resource Advisory Committee may also meet on August 11, 2005 for the same purpose. The need for this meeting will be dependent upon the progress made in making recommendations at the meeting on August 4. The scheduled meeting time and location for the August 11 meeting will be the same as for the meeting scheduled on August 4.

FOR FURTHER INFORMATION CONTACT: Sue Richardson, BLM Coos Bay District Manager, at (541) 756–0100, or Glenn Harkleroad, District Restoration Coordinator, at (541) 751–4361, or *glenn_harkleroad@or.blm.gov*. The mailing address for the BLM Coos Bay District Office is 1300 Airport Lane, North Bend, Oregon 97459.

Dated: July 15, 2005.

Sue E. Richardson,

Coos Bay District Manager.

[FR Doc. 05–14473 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–954–05–1910–BM–4677]

Montana: Filing of Plats of Amended Protraction Diagrams

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats of amended protraction diagrams.

SUMMARY: The Bureau of Land Management (BLM) will file the plats of the amended protraction diagrams of the lands described below in the BLM Montana State Office, Billings, Montana, (30) days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steven G. Schey, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800, telephone (406) 896–5132 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: The amended protraction diagrams were prepared at the request of the U.S. Forest Service and are necessary to accommodate Revision of Primary Base Quadrangle Maps for the Geometronics Service Center.

The lands for the prepared amended protraction diagrams are:

Principal Meridian, Montana

Tps. 25, 26, 27, and 28 N., Rs. 30, 31, 32, 33, 34, and 35 W.

The plat, representing the Amended Protraction Diagram 39 Index of unsurveyed Townships 25, 26, 27, and 28 North, Ranges 30, 31, 32, 33, 34, and 35 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 25 N., R. 31 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 25 North, Range 31 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 26 N., R. 30 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 26 North, Range 30 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 26 N., R. 31 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 26 North, Range 31 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 27 N., R. 30 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 27 North, Range 30 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 27 N., R. 31 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 27 North, Range 31 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 27 N., R. 32 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 27 North, Range 32 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 27 N., R. 33 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 27 North, Range 33 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 27 N., R. 34 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 27 North, Range 34 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 27 N., R. 35 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 27 North, Range 35 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 28 N., R. 30 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 28 North, Range 30 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 28 N., R. 31 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 28 North, Range 31 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 28 N., R. 32 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 28 North, Range 32 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 28 N., R. 33 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed

Township 28 North, Range 33 West, Principal Meridian, Montana, was accepted June 17, 2005.

T. 28 N., R. 34 W.

The plat, representing Amended Protraction Diagram 39 of unsurveyed Township 28 North, Range 34 West, Principal Meridian, Montana, was accepted June 17, 2005.

Tps. 33, 34, 35, 36, and 37 N., Rs. 30, 31, 32, 33, and 34 W.

The plat, representing the Amended Protraction Diagram 49 Index of unsurveyed Townships 33, 34, 35, 36, and 37 North, Ranges 30, 31, 32, 33, and 34 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 33 N., R. 30 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 33 North, Range 30 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 33 N., R. 32 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 33 North, Range 32 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 33 N., R. 33 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 33 North, Range 33 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 34 N., R. 30 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 34 North, Range 30 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 34 N., R. 31 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 34 North, Range 31 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 34 N., R. 32 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 34 North, Range 32 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 34 N., R. 33 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 34 North, Range 33 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 34 N., R. 34 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 34 North, Range 34 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 35 N., R. 30 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 35 North, Range 30 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 35 N., R. 31 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 35 North, Range 31 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 35 N., R. 32 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 35 North, Range 32 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 35 N., R. 33 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 35 North, Range 33 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 35 N., R. 34 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 35 North, Range 34 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 36 N., R. 32 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 36 North, Range 32 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 36 N., R. 33 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 36 North, Range 33 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 36 N., R. 34 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 36 North, Range 34 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 37 N., R. 32 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 37 North, Range 32 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 37 N., R. 33 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 37 North, Range 33 West, Principal Meridian, Montana, was accepted May 24, 2005.

T. 37 N., R. 34 W.

The plat, representing Amended Protraction Diagram 49 of unsurveyed Township 37 North, Range 34 West, Principal Meridian, Montana, was accepted May 24, 2005.

We will place copies of the plats of the amended protraction diagrams we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against these amended protraction diagrams, as shown on these plats, prior to the date of the official filings, we will stay the filings pending our consideration of the protest.

We will not officially file these plats of the amended protraction diagrams until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Dated: July 14, 2005.

Thomas M. Deiling,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 05–14487 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0136).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The new title of this information collection request (ICR) is titled ''30 CFR PART 206—PRODUCT VALUATION, subpart C—Federal Oil and subpart D—Federal Gas (Form MMS–4393, Request to Exceed Regulatory Allowance Limitation).'' We changed the title of this information collection request (ICR) to clarify the regulatory language we are covering under 30 CFR part 206, and to incorporate relevant portions of three previous ICRs. The three ICRs, now consolidated into this ICR, were previously titled:

- 1010–0095: 30 CFR Part 206—Product Valuation (Request to Exceed Transportation and Processing Allowance Limitation), subpart B—Indian Oil, § 206.54(b)(2); subpart C—Federal Oil, § 206.109(c)(2); subpart D—Federal Gas, §§ 206.156(c)(3), 206.158(c)(3), and 206.158(d)(2)(i); and subpart E—Indian Gas, §§ 206.177(c)(2) and 206.177(c)(3);
- 1010–0136: 30 CFR 206—subpart C, Federal Oil Valuation; and
- 1010–0157: 30 CFR 206—subpart C, Federal Oil.

Citations concerning Indian oil and gas, referred to in the above three ICRs, are currently covered in ICR 1010–0103.

DATES: Submit written comments on or before September 20, 2005.

ADDRESSES: Submit written comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service or wish to hand carry your comments, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3781, or e-mail *sharron.gebhardt@mms.gov*.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR PART 206—PRODUCT VALUATION, subpart C—Federal Oil and subpart D—Federal Gas (Form MMS–4393, Request to Exceed Regulatory Allowance Limitation).

OMB Control Number: 1010–0136.

Bureau Form Number: Form MMS–4393.

Abstract: The Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The MMS assists the Secretary in performing the royalty management functions.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure that the royalties are paid appropriately.

Section 101(a) of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended, requires that the Secretary ''establish a comprehensive inspection, collection, and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and collect and account for such amounts in a timely manner.'' In order to accomplish these tasks, MMS developed valuation regulations for Federal leases at 30 CFR part 206—Product Valuation. Market value is a basic principle underlying royalty valuation. Consequently, these regulations include methods to capture the true market value of crude oil and gas produced from Federal leases, both onshore and offshore. The valuation regulations at 30 CFR part 206 require companies to collect and/or submit information used to value their Federal oil and gas.

The MMS uses the information collected to ensure that proper royalty is paid on oil and gas produced from Federal onshore and offshore leases. Please refer to the chart for all reporting requirements and associated burden hours. Regulations developed ensure the information requested is the minimum necessary to carry out our mission and places the least possible burden on respondents. The requested information provides a critical link to establishing the proper value of oil and gas from Federal lands. If the information is not collected, it may result in a loss of royalties for both Federal and state governments.

Transportation and Processing Allowances

Under certain circumstances, lessees are authorized to claim a transportation allowance for the reasonable actual costs of transporting the royalty portion of produced oil and gas from the lease to a processing or sales point not in the immediate lease area.

When gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. Transportation and processing allowances are a part of the product valuation process that MMS uses to determine if the lessee is reporting and paying the proper royalty amount.

The regulations establish a limit on transportation allowance deductions for oil and gas at 50 percent of the value of the oil and gas at the point of sale. The MMS may approve a transportation allowance in excess of 50 percent upon proper application from the lessee. Similarly, the regulations establish a limit of 66⅔ percent of the value of each gas plant product as an allowable gas processing deduction. The MMS may also approve a processing allowance in excess of 66⅔ percent upon proper application from the lessee.

Request To Exceed Regulatory Allowance Limitation

The MMS may approve an allowance exceeding the regulatory allowance limit upon proper application from the lessee. To request permission to exceed a regulatory allowance limit, lessees must write a letter to MMS explaining why a higher allowance limit is necessary and provide supporting documentation. The MMS developed Form MMS–4393, Request to Exceed Regulatory Allowance Limitation, to accompany the lessee's letter requesting approval to exceed the regulatory allowance limit. This form provides MMS with the data necessary to make a decision and track deductions on royalty reports. Data reported on the form is also subject to subsequent audit and adjustment.

Proprietary information submitted to MMS under this collection is protected, and no items of a sensitive nature are collected. A response is mandatory for valuation requirements and required to obtain the benefit of allowances.

Applicable Citations

Applicable citations of the laws pertaining to mineral leases include Public Law 97–451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982 [FOGRMA]); Public Law 104–185—Aug. 13, 1996 (Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 [RSFA]), as corrected by Public Law 104–200—Sept. 22, 1996); the Mineral Leasing Act of 1920, Section 36, as amended (30 U.S.C. 192); Outer Continental Shelf Lands Act of 1953, Section 27, as amended (43 U.S.C. 1353); 30 U.S.C. 189 pertaining to Public Lands; 30 U.S.C. 359 pertaining to Acquired Lands; and 43 U.S.C. 1334 pertaining to OCS Lands. Public laws pertaining to mineral royalties are located on our Web site at *http://www.mrm.mms.gov/Laws_R_D/PublicLawsAMR.htm.*

The applicable regulations include 30 CFR part 206—Product Valuation. In addition, we also are including applicable citations from the 2004 Federal Oil Valuation Rule (69 FR 24959, published May 5, 2004) and the 2005 Federal Gas Valuation Rule (70 FR 11869, published March 10, 2005).

Frequency of Response: Monthly, and when necessary, annually.

Estimated Number and Description of Respondents: 100 Federal lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 21,815 hours.

We are revising this ICR to include non-standard reporting requirements that were overlooked in the previous renewal, and we have adjusted the burden hours accordingly. The hours also reflect our recent analysis related to the implementation of the 2004 Federal Oil Valuation rule and the 2005 Federal Gas Valuation rule. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the breakdown of the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	Subpart C—Federal Oil			
	§ 206.102 How do I calculate royalty value for oil that I or my affiliate sell(s) under an arm's-length contract?			
206.102(e)(1)	206.102(e) If you value oil under paragraph (a) of this section: (1) MMS may require you to certify that your or your affiliate's arm's-length contract provisions include all of the consideration the buyer must pay, either directly or indirectly, for the oil.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
	§ 206.103 How do I value oil that is not sold under an arm's-length contract?			
206.103	This section explains how to value oil that you may not value under § 206.102 or that elect under § 206.102(d) to value under this section. First determine whether paragraph (a), (b), or (c) of this section applies to production from your lease, or whether you may apply paragraph (d) or (e) with MMS approval.	33.25	5	166.25
206.103(a)	206.103 (a) Production from leases in California or Alaska. Value is the average of the daily mean ANS spot prices published in any MMS-approved publication during the trading month most concurrent with the production month * * * (1) To calculate the daily mean spot price * * * ..... (2) Use only the days * * * ..... (3) You must adjust the value * * *.			
206.103(a)(4)	206.103(a)(4) After you select an MMS-approved publication, you may not select a different publication more often than once every 2 years, * * *.	8	2	16
206.103(b)(1)	206.103(b) Production from leases in the Rocky Mountain Region. * * * (1) If you have an MMS-approved tendering program, you must value oil * * *.	400	2	800
206.103(b)(1)(ii)	206.103(b)(1)(ii) If you do not have an MMS-approved tendering program, you may elect to value your oil under either paragraph (b)(2) or (b)(3) of this section. * * *.	400	2	800
206.103(b)(4)	206.103(b)(4) If you demonstrate to MMS's satisfaction that paragraphs (b)(1) through (b)(3) of this section result in an unreasonable value for your production as a result of circumstances regarding that production, the MMS Director may establish an alternative valuation method.	400	2	800
206.103(c)(1)	206.103(c) Production from leases not located in California, Alaska or the Rocky Mountain Region. (1) Value is the NYMEX price, plus the roll, adjusted for applicable location and quality differentials and transportation costs under § 206.112.	50	10	500
206.103(e)(1)	206.103(e) Production delivered to your refinery and the NYMEX price or ANS spot price is an unreasonable value. (1) * * * you may apply to the MMS Director to establish a value representing the market at the refinery if: * * *.	330	2	660
206.103(e)(2)	206.103(e)(2) You must provide adequate documentation and evidence demonstrating the market value at the refinery * * *.			
	§ 206.105 What records must I keep to support my calculations of value under this subpart?			
206.105	206.105 If you determine the value of your oil under this subpart, you must retain all data relevant to the determination of royalty value. * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
	§ 206.107 How do I request a value determination?			
206.107(a)	206.107(a) You may request a 330 82,640 value determination from MMS * * *.	330	8	2,640

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
§ 206.109 When may I take a transportation allowance in determining value?				
206.109(c)(2)	206.109(c) Limits on transportation allowances. (2) You may ask MMS to approve a transportation allowance in excess of the limitation in paragraph (c)(1) of this section. * * * Your application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for MMS to make a determination. * * *.	4.25	1	4.25
§ 206.110 How do I determine a transportation allowance under an arm's-length transportation contract?				
206.110(a)	206.110(a) * * * You must be able to demonstrate that you or your affiliate's contract is at arm's length. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.110(d)(3)	216.110(d) If your arm's-length transportation contract includes more than one liquid product, and the transportation costs attributable to each product cannot be determined * * * (3) You may propose to MMS a cost allocation method * * *	330	2	660
206.110(e)	206.110(e) If your arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, then you must propose an allocation procedure to MMS.	330	1	330
206.110(e)(1)	206.110(e)(1) * * * If MMS rejects your cost allocation, you must amend your Form MMS–2014 * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.110(e)(2)	206.110(e)(2) You must submit your initial proposal, including all available data, within 3 months after first claiming the allocated deductions on Form MMS–2014.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140, (Form MMS–2014), expires 10/31/2006.		
206.110(g)(2)	206.110(g) If your arm's-length sales includes a provision reducing the contract price by a transportation factor, * * * (2) You must obtain MMS approval before claiming a transportation factor in excess of 50 percent of the base price of the product.	330	1	330
§ 206.111 How do I determine a transportation allowance if I do not have an arm's-length transportation contract or arm's-length tariff?				
206.111(g)	206.111(g) To compute depreciation, you may elect to use either * * * After you make an election, you may not change methods without MMS approval. * * *.	330	1	330
206.111(k)(2)	206.111(k)(2) You may propose to MMS a cost allocation method on the basis of the values * * *.	330	1	330
206.111(l)(1)	206.111(l)(1) Where you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to MMS.	330	1	330
206.111(l)(2)	206.111(l)(2) * * * If MMS rejects your cost allocation, you must amend your Form MMS–2104 for the month/months that you used the rejected method and pay any additional royalty and interest due.	There are no burden hours to report in this ICR. All burden hours associated with your Form MMS–2104 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.111(l)(3)	206.111(l)(3) You must submit your initial proposal, including all available data, within 3 months after first claiming the allocated deductions on Form MMS–2014.	Burden covered under § 206.111(l)(1).		
§ 206.112 What adjustments and transportation allowances apply when I value oil production from my lease using NYMEX prices or ANS spot prices?				
206.112(a)(1)(ii)	206.112(a)(1)(ii) * * * under an exchange agreement that is not at arm's length, you must obtain approval from MMS for a location and quality differential. * * *..	330	1	330

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.112(a)(1)(ii)	206.112(a)(1)(ii) * * * If MMS prescribes a different differential, you must apply * * *. You must pay any additional royalties owed * * * plus the late payment interest from the original royalty due date, or you may report a credit * * *.	330	2	660
206.112(a)(3)	206.112(a)(3) If you transport or exchange at arm's length (or both transport and exchange) at least 20 percent, but not all, of your oil produced from the lease to a market center, determine the adjustment between the lease and the market center for the oil that is not transported or exchanged (or both transported and exchanged) to or through a market center as follows: * * *.	330	4	1,320
206.112(a)(4)	206.112(a)(4) If you transport or exchange (or both transport and exchange) less than 20 percent of your crude oil produced from the lease between the lease and a market center, you must propose to MMS an adjustment between the lease and the market center for the portion of the oil that you do not transport or exchange (or both transport and exchange) to a market center. * * *.	330	4	1,320
206.112(a)(4)	206.112(a)(4) If MMS prescribes a different adjustment * * *. You must pay any additional royalties owed * * * plus the late payment interest from the original royalty due date, or you may report a credit * * *.			
206.112(b)(3)	206.112(b)(3) * * * you may propose an alternative differential to MMS. * * * If MMS prescribes a different differential * * *. You must pay any additional royalties owed * * * plus the late payment interest from the original royalty due date, or you may report a credit * * *.	330	4	1,320
206.112(c)(2)	206.112(c)(2) * * * If quality bank adjustments do not incorporate or provide for adjustments for sulfur content, you may make sulfur adjustments, based on the quality of the representative crude oil at the market center, of 5.0 cents per one-tenth percent difference in sulfur content, unless MMS approves a higher adjustment.	330	2	660

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
§ 206.114 What are my reporting requirements under an arm's-length transportation contract?				
206.114	206.114 You or your affiliate must use a entry on Form MMS 2014 to notify MMS of an allowance based on transportation costs you or your affiliate incur.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.114	206.114 MMS may require you or your affiliate to submit arm's-length transportation contracts, production agreements, operating agreements, and related documents.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
§ 206.115 What are my reporting requirements under a non-arm's-length transportation arrangement?				
206.115(a)	206.115(a) You or your affiliate must use a separate entry on Form MMS–2014 to notify MMS of an allowance based on transportation costs you or your affiliate incur.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.115(c)	206.115(c) MMS may require you or your affiliate to submit all data used to calculate the allowance deduction. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
Subpart D—Federal Gas				
§ 206.152 Valuation standards—unprocessed gas.				
206.152(b)(1)(i)	206.152(b)(1)(i) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.152(b)(1)(iii)	206.152(b)(1)(iii) * * * When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.152(b)(2)	206.152(b)(2) * * * The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; * * *.	330	1	330
206.152(b)(3)	206.152(b)(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the gas.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.152(e)(1)	206.152(e)(1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.152(e)(2)	206.152(e)(2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Office of the Inspector General of the department of the Interior, or other person authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased or otherwise obtained by the lessee from the field or area or from nearby fields or areas.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.152(e)(3)	206.152(e)(3) A lessee shall notify MMS if it has determined value pursuant to paragraph (c)(2) or (c)(3) of this section. * * *.	330	2	660
206.152(g)	206.152(g) The lessee may request a value determination from MMS. * * * the lessee shall submit all available data relevant to its proposal. * * *.	330	6	1,980

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
§ 206.153 Valuation standards—processed gas.				
206.153(b)(1)(i)	206.153(b)(1)(i) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.153(b)(1)(iii)	206.153(b)(1)(iii) * * * When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.153(b)(2)	206.153(b)(2) * * * The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; * * *.	330	1	330
206.153(b)(3)	206.153(b)(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the residue gas or gas plant product.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.153(e)(1)	206.153(e)(1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.153(e)(2)	206.153(e)(2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality residue gas and gas plant products sold, purchased or otherwise obtained by the lessee from the same processing plant or from nearby processing plants.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.153(e)(3)	206.153(e)(2) A lessee shall notify MMS if it has determined any value pursuant to paragraph (c)(2) or (c)(3) of this section. * * *.	330	2	660
206.153(g)	206.153(g) The lessee may request a value determination from MMS * * * the lessee shall submit all available data relevant to its proposal. * * *.	330	4	1,320
§ 206.154 Determination of quantities and qualities for computing royalties.				
206.154(c)(4)	206.154(c)(4) * * * A lessee may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease. * * *.	330	1	330
§ 206.156 Transportation allowances—general.				
206.156(c)(3)	206.156(c)(3) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraphs (c)(1) and (c)(2) of this section. * * * An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation necessary for MMS to make a determination. * * *.	4.25	4	17

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
§ 206.157 Determination of transportation allowances.				
206.157(a)(1)(i)	206.157(a) Arm's-length transportation contracts. (1)(i) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.157(a)(1)(i)	206.157(a)(1)(i) * * * The lessee must claim a transportation allowance by reporting it on a separate line entry on the Form MMS–2014.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.157(a)(1)(iii)	206.157(a)(1)(iii) * * * When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.	PRODUCE RECORDS—The ORA determines that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.157(a)(2)(ii)	206.157(a)(2)(ii) * * * the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported. * * *.	330	1	330
206.157(a)(3)	206.157(a)(3) If an arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. *** The lessee shall submit all relevant data to support its proposal. * * *.	330	1	330
206.157(a)(5)	206.157(a)(5) * * * The transportation factor may not exceed 50 percent of the base price of the product without MMS approval.	100	1	100
206.157(b)(1)	206.157(b) Non-arm's-length or no contract. (1) The lessee must claim a transportation allowance by reporting it on a separate line entry on the Form MMS–2014. * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.157(b)(2)(iv)	206.157(b)(2)(iv) After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval.	100	1	100
206.157(b)(2)(iv)(A)	After an election is made, the lessee may not change methods without MMS approval. * * *.			
206.157(b)(3)(i)	206.157(b)(3)(i) * * * Except as provided in this paragraph, the lessee may not take an allowance for transporting a product which is not royalty bearing without MMS approval.	100	1	100
206.157(b)(3)(ii)	206.157(b)(3)(ii) * * * the lessee may propose to the MMS a cost allocation method on the basis of the values of the products transported.	100	1	100
206.157(b)(4)	206.157(b)(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. * * * The lessee shall submit all relevant data to support its proposal. * * *.	100	1	100

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.157(b)(5)	206.157(b)(5) You may apply for an exception from the requirement to compute actual costs under paragraphs (b)(1) through (b)(4) of this section.	100	1	100
206.157(c)(1)(i)	206.157(c) Reporting Requirements. (1) Arm's-length contracts. (i) You must use a separate entry on Form MMS–2014 to notify MMS of a transportation allowance.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.157(c)(1)(ii)	206.157(c)(1)(ii) The MMS may require you to submit arm's-lenth transportation contracts, production agreements, operating agreements, and related documents. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.157(c)(2)(i)	206.157(c)(2) Non-arm's-length or no contract. (i) You must use a separate entry on Form MMS–2014 to notify MMS of a transportation allowance.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.157(c)(2)(iii)	206.157(c)(2)(iii) The MMS may require you to submit all data used to calculate the allowance deduction. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.157(e)(2)	206.157(e) Adjustments. (2) For lessees transporting production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.157(e)(3)	206.157(e)(3) For lessees transporting gas production from leases on the OCS, if the lessee's estimated transportation allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with its payments, in accordance with instructions provided by MMS. * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.157(f)(1)	206.157(f) Allowable costs in determining transportation allowances. * * * (1) Firm demand charges paid to pipelines. * * * if you receive a payment or credit from the pipeline for penalty refunds, rate case refunds, or other reasons, you must reduce the firm demand charge claimed on the Form MMS–2014 by the amount of that payment. You must modify Form MMS–2014 by the amount received or credited for the affected reporting period and pay any resulting royalty and late payment interest due; * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
§ 206.158 Processing allowances—general.				
206.158(c)(3)	206.158(c)(3) Upon request of a lessee, MMS may approve a processing allowance in excess of the limitation prescribed by paragraph (c)(2) of this section. * * * An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation for MMS to make a determination. * * *.	4.25	17	72.25

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.158(d)(2)(i)	206.158(d)(2)(i) If the lessee incurs extraordinary costs for processing gas production from a gas production operation, it may apply to MMS for an allowance for those costs * * *.	9.5	2	19
206.158(d)(2)(ii)	206.158(d)(2)(ii) * * * to retain the authority to deduct the allowance the lessee must report the deduction to MMS in a form and manner prescribed by MMS.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
§ 206.159 Determination of processing allowances.				
206.159(a)(1)(i)	206.159(a) Arm's-length processing contracts. (1)(i) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.159(a)(1)(i)	206.159(a)(1)(i) * * * The lessee must claim a transportation allowance by reporting it on a separate line entry on the Form MMS–2014.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140. (Form MMS–2014), expires 10/31/2006.		
206.159(a)(1)(iii)	206.159(a)(1)(iii) * * * When MMS determines that the value of the processing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's processing costs.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.159(a)(3)	206.159(a)(3) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. * * * The lessee shall submit all relevant data to support its proposal. * * *.	330	1	330
206.159(b)(1)	206.159(b) Non-arm's-length or no contract. (1) * * * The lessee must claim a processing allowance by reflecting it as a separate line entry on the Form MMS–2014. * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.159(b)(2)(iv)	206.159(b)(2)(iv) * * * When a lessee has elected to use either method for a processing plant, the lessee may not later elect to change to the alternative without approval of the MMS.	100	1	100
206.159(b)(2)(iv)(A)	206.159(b)(2)(iv)(A) * * * After an election is made, the lessee may not change methods without MMS approval. * * *.			

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR 206	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.159(b)(4)	206.159(b)(4) A lessee may apply to MMS for an exception from the requirements that it compute actual costs in accordance with paragraphs (b)(1) through (b)(3) of this section. * * *.	100	1	100
206.159(c)(1)(i)	206.159(c) Reporting requirements—(1) Arm's-length contracts. (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.159(c)(1)(ii)	206.159(c)(1)(ii) The MMS may require that a lessee submit arm's-length processing contracts and related documents.* * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.159(c)(2)(i)	206.159(c)(2) Non-arm's-length or no contract. (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.159(c)(2)(iii)	206.159(c)(2)(iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. * * *.	PRODUCE RECORDS—The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
206.159(e)(2)	206.159(e) Adjustments. (2) For lessees processing production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
206.159(e)(3)	206.159(e)(3) For lessees processing gas production from leases on the OCS, if the lessee's estimated processing allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with its payment, in accordance with instructions provided by MMS. * * *.	There are no burden hours to report in this ICR. All burden hours associated with Form MMS–2014 are included in OMB Control Number 1010–0140 (Form MMS–2014), expires 10/31/2006.		
Total			109	21,815

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: We have identified no ''non-hour'' cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments: Before submitting an ICR to OMB, PRA Section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens for this information collection. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you without charge upon request. The ICR also will be posted on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.*

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.* We also will make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we will withhold an individual respondent's home address from the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's

identity, as allowable by law. If you request that we withhold your name and/or address, state your request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: July 14, 2005.

Richard Adamski,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. 05–14528 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, modified, discontinued, or completed since the last publication of this notice on April 19, 2005. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Sandra L. Simons, Manager, Contract Services Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone (303) 445–2902.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939 and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

The March 10, 2005, notice should be used as a reference point to identify changes. The numbering system in this notice corresponds with the numbering system in the March 10, 2005, notice.

Definitions of Abbreviations Used in This Document

BCP—Boulder Canyon Project
Reclamation—Bureau of Reclamation
CAP—Central Arizona Project
CVP—Central Valley Project
CRSP—Colorado River Storage Project
FR—Federal Register
IDD—Irrigation and Drainage District
ID—Irrigation District
M&I—Municipal and Industrial
NMISC—New Mexico Interstate Stream Commission
O&M—Operation and Maintenance
P–SMBP—Pick-Sloan Missouri Basin Program
PPR—Present Perfected Right
SOD—Safety of Dams
SRPA—Small Reclamation Projects Act of 1956
WD—Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone (208) 378–5344.

The Pacific Northwest Region has no updates to report for this quarter. Please refer to the March 10, 2005, publication of this notice for current contract actions.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone (916) 978–5250.

New contract actions:

39. Mercy Springs WD, CVP, California: Proposed partial assignment of 2,825 acre-feet of Mercy Springs WD's CVP supply to San Luis WD for irrigation and M&I use.

40. Oro Loma WD, CVP, California: Proposed partial assignment of 4,000 acre-feet of Oro Loma WD's CVP supply to Westlands WD for irrigation and M&I use.

41. San Luis WD, CVP, California: Proposed partial assignment of 2,400 acre-feet of San Luis WD's CVP supply to Santa Nella County WD for M&I use.

42. Placer County Water Agency, CVP, California: Proposed exchange agreement under Section 14 of the Reclamation Project Act of 1939 of up to 74,000 acre-feet.

Modified contract actions:

9. El Dorado ID, CVP, California: Execution of long-term Warren Act contracts for conveyance of nonproject water (one contract for Weber Reservoir and pre-1914 ''ditch'' rights in the amount of 3,344 acre-feet, and one contract for Project 184 in the amount of 11,000 acre-feet). The contracts will allow CVP facilities to be used to deliver nonproject water to El Dorado ID for use within its service area.

22. City of Vallejo, Solano Project, California: Execution of long-term Warren Act contract for conveyance of nonproject water. This contract will allow Solano Project facilities to deliver nonproject water to the City of Vallejo for use within its service area.

23. Sacramento Suburban WD, CVP, California: Execution of long-term Warren Act contract for conveyance of nonproject water. This contract will allow CVP facilities to be used to deliver nonproject water provided from the Placer County Water Agency to the Sacramento Suburban WD for use within its service area.

26. San Joaquin Valley National Cemetery, U.S. Department of Veteran Affairs; Delta Division, CVP; California: Renewal of the long-term water service contract for up to 850 acre-feet. Contract executed February 28, 2005. Wheeling agreement for conveyance through the California State Aqueduct is pending.

31. Delta Lands Reclamation District No. 770, CVP, California: Long-term Warren Act contract for conveying nonproject flood flows.

Discontinued contract Action:

15. Plain View WD, CVP, California: Long-term Warren Act contract for conveyance of nonproject water in the Delta-Mendota Canal.

Completed contract actions:

26. San Joaquin Valley National Cemetery, U.S. Department of Veteran Affairs; Delta Division, CVP; California: Renewal of the long-term water service contract for up to 850 acre-feet. Contract executed February 28, 2005. Wheeling agreement for conveyance through the California State Aqueduct is pending.

34. Plain View WD, CVP, California: Reorganization and proposed full contract assignment of Plain View WD's CVP supply to Byron-Bethany ID. Contract was executed on March 14, 2005.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone (702) 293–8081.

Completed contract action:

41. Golden Shores Water Conservation District, BCP, Arizona: Amend the district's contract to include the water allocation for Topock Village Estates within the district's boundaries.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone (801) 524–3864.

Modified contract actions:

6. Sanpete County Water Conservancy District, Narrows Project, Utah: Application for a SRPA loan and grant to construct a dam, reservoir, and pipeline to annually supply approximately 5,000 acre-feet of water through a transmountain diversion from upper Gooseberry Creek in the Price River drainage (Colorado River Basin) to the San Pitch—Sevier River (Great Basin).

31. Central Utah Project, Utah. Petition for project water among the United States, the Central Utah Water Conservancy District, and the Duchesne County Water Conservancy District for use of 2,500 acre-feet of irrigation water from the Bonneville Unit of the Central Utah Project.

Completed contract actions:

1.(a) Ron Connell, Aspinall Storage Unit, CRSP: Mr. Connell has requested a 40-year water service contract for 6 acre-feet of water out of Blue Mesa Reservoir. Mr. Connell has submitted an augmentation plan to Water District 4, Case No. 04CW168. Contract was executed on February 2, 2005.

1.(c) Dry West Nursery, Aspinall Storage Unit, CRSP: Dry West Nursery has requested a 40-year water service contract for 3 acre-feet of water out of Blue Mesa Reservoir. Dry West Nursery has submitted their augmentation plan to Water District 4, Case No. 04CW174. Contract was executed on March 2, 2005.

21. Coon Creek Reservoir and Ditch Company, Collbran Project: The Coon Creek Reservoir and Ditch Company and the Collbran Conservancy District have requested a nonproject irrigation carriage contract (40-year) to have 3 cfs, not to exceed 1,000 acre-feet annually, of their direct flow irrigation water rights diverted into and delivered through the existing Southside Canal, a feature of Collbran Project delivery structures. Contract was executed on May 26, 2005.

22. Central Utah Water Conservancy District, Bonneville Unit, Central Utah Project, Utah: Negotiate a repayment contract for 60,000 acre-feet per year of M&I water from the Utah Lake System. Contract was executed on March 15, 2005.

24. Town of Palisade, Palisade ID, Mesa County ID, Reclamation, and the U.S. Fish and Wildlife Service; CRSP: The Colorado River is critical habitat for four endangered fish species. These agencies are entering into an agreement for each to provide the following: Reclamation shall provide cost-share funding for the recovery monitoring and research, and O&M (October 30, 2000, 114 Stat. 1602, Pub. L. 106–392); the districts are willing to allow the U.S. Fish and Wildlife Service and Reclamation to construct the fish passage; and the Town of Palisade proposes to provide related safety features on or near the fish passage. Contract was executed on May 3, 2005.

26. Reclamation, U.S. Fish and Wildlife Service, and the Colorado River Water Conservation District; Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin: Reclamation will provide cost-share funding for enlargement of Elkhead Reservoir (October 30, 2000, 114 Stat. 1602, Pub. L. 106–392) in a separate grant agreement. Contract was executed on February 15, 2005.

Great Plains Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone (406) 247–7752.

New contract actions:

51. Bostwick ID; Superior-Courtland and Franklin Units, Bostwick Division, P–SMBP; Red Cloud, Nebraska: The district requested a deferment of its 2005 construction obligations in accordance with the Act of September 21, 1959.

52. Kirwin ID No. 1; Kirwin Unit, Solomon Division, P–SMBP; Gaylord, Kansas: The district requested a deferment of its 2005 construction obligations in accordance with the Act of September 21, 1959.

53. Webster ID; Webster Unit, Solomon Division, P–SMBP; Gaylord,

Kansas: The district requested a deferment of its 2005 construction obligations in accordance with the Act of September 21, 1959.

54. Ainsworth ID; Ainsworth Unit, Sandhills Division, P–SMBP; Ainsworth, Nebraska: Contract renewal for a long-term water service contract.

55. Pueblo West Metropolitan District, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity in the Fryingpan-Arkansas Project.

56. Mark H. Allredge, H.S. Properties LLC (Individual); Boysen Unit, P–SMBP; Wyoming: Renewal of long-term water service contract for up to 84 acre-feet of supplemental irrigation water to serve 84 acres.

57. Western Heart River ID, P–SMBP, North Dakota: Amend existing power contract to allow for the installation of an additional pump site and to provide project use power to that site.

Modified contract actions:

46. Buford-Trenton ID, Buford-Trenton Project, North Dakota: Amend existing power contract to provide for increase in project use pumping power rate of delivery and enter new repayment and power contract for additional project use pumping power for project purposes in irrigating bench lands existing within the district.

47. East Bench ID; East Bench Unit, P–SMBP; Montana: The district requested a deferment of its 2005 construction obligation. A request is being prepared to amend Contract No. 14–06–600–3593 to defer payments in accordance with the Act of September 21, 1959.

49. Frenchman Valley ID; Frenchman Unit, Frenchman-Cambridge Division, P–SMBP; Culbertson, Nebraska: The district requested a deferment of its 2005 construction obligation in accordance with the Act of September 21, 1959.

50. Kansas-Bostwick ID No. 2; Courtland Unit, Bostwick Division, P–SMBP; Courtland, Kansas: The district requested a deferment of its 2005 construction obligations in accordance with the Act of September 21, 1959.

Completed contract actions:

12. Western Heart River ID; Heart Butte Unit, P–SMBP; North Dakota: Negotiation of water service contract to continue delivery of project water to the district. A new 40-year water service contract was executed on May 2, 2005.

15. Morkrid Enterprises, Inc.; Lower Marias Unit, P–SMBP; Montana: Initiating a long-term contract for up to 3,751 acre-feet of storage water from Tiber Reservoir to irrigate 1,875 acres. A new 40-year repayment contract was executed on March 4, 2005.

Dated: June 15, 2005.

Roseann Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. 05–14488 Filed 7–21–05; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

United States Section; Notice of Availability (NOA) of the Final Supplemental Environmental Impact Statement (FSEIS) for Clean Water Act (CWA) compliance at the South Bay International Wastewater Treatment Plant (SBIWTP), San Diego County, CA

AGENCY: United States Section, International Boundary and Water Commission (USIBWC).

ACTION: Notice of availability.

SUMMARY: This announces the availability of the FSEIS that assesses the potential environmental impacts of the construction and operation of a range of treatment and disposal alternatives for the SBIWTP to achieve compliance with the CWA and the requirements contained in its National Pollutant Discharge Elimination System (NPDES) permit. Situated in the United States at the United States/Mexico border, the SBIWTP treats sewage flows originating from the City of Tijuana, Mexico and the surrounding region and discharges the treated effluent into the Pacific Ocean through an ocean outfall. In December 2004, the USIBWC published a Draft SEIS (DSEIS) for this action which considered existing and new alternatives that would enable the USIBWC to bring the SBIWTP into compliance with the CWA and the requirements contained in its NPDES permit and to evaluate new information on the current discharges of advanced primary effluent from the SBIWTP through the South Bay Ocean Outfall (SBOO), as well as potential interim actions that would continue operations of the SBIWTP until the SBIWTP achieves CWA compliance. The United States Environmental Protection Agency (USEPA), Region 9, San Francisco, California, is a Cooperating Agency for this action.

DATES: Written comments are requested by August 24, 2005. The public comment period of the FSEIS will end 30 days after publication of the NOA in the **Federal Register**.

ADDRESSES: Written comments (no emails or faxes) must be addressed to: Mr. Daniel Borunda, Environmental Protection Specialist, Compliance Section, USIBWC, 4171 North Mesa Street, C–100, El Paso, Texas 79902. A copy of the FSEIS is available at *http://www.ibwc.state.gov* and in local public libraries in the San Diego area. A limited number of copies will be available, if you wish to obtain a copy contact Mr. Daniel Borunda at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Borunda, Environmental Protection Specialist, USIBWC, at (915) 832–4701, by fax at (915) 832–4167, or by mail at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the USIBWC has analyzed the impacts of alternatives for the SBIWTP to achieve compliance with the CWA and its NPDES permit. This action is needed because the SBIWTP currently operates and discharges only at the advanced primary level and cannot meet all the requirements of the CWA and its NPDES permit, including secondary treatment requirements.

This DSEIS also evaluated new information on the current discharges of advanced primary effluent from the SBIWTP through the SBOO, as well as potential treatment and disposal options in Mexico, to achieve compliance with the CWA and its NPDES permit.

The No Action Alternative and six action alternatives were evaluated in the DSEIS. The six action alternatives were developed in a manner that would enable wastewater flows to be treated in compliance with the CWA and the SBIWTP NPDES permit. Formulation of the alternatives was the result of a process that included public consultation involving the public, regulatory agencies and environmental organizations.

This DSEIS evaluated the following seven alternatives:

1. Alternative 1: No Action (Continue operation of SBIWTP as Advanced Primary Facility).

- Option A: With No Future Improvements to Mexico's Existing Conveyance Facilities.
- Option B: With Future Improvements to Mexico's Existing Conveyance Facilities.

2. Alternative 2: Operate SBIWTP as Advanced Primary Facility With Treated Flows Conveyed To Mexico for Discharge.

3. Alternative 3: Operate SBIWTP with City of San Diego Connections (Interim Alternative Only).

4. Alternative 4: Implementation of Public Law 106–457, Secondary Treatment Facility in Mexico.

• Treatment Option A: Operation of SBIWTP as Advanced Primary Facility, Secondary Treatment in Mexico.

• Treatment Option B: Cease Operation of SBIWTP, Secondary Treatment in Mexico.

• Treatment Option C: Bajagua Project, LLC Proposal—Operation of SBIWTP as Advanced Primary Facility, Secondary Treatment in Mexico.

• Discharge Option I: Treated Effluent Discharged in United States via SBOO.

• Discharge Option II: Treated Effluent Discharged in Mexico at Punta Bandera.

5. Alternative 5: Secondary Treatment in the United States at SBIWTP.

• Treatment Option A: Completely Mixed Aeration (CMA) Ponds at SBIWTP.

• Treatment Options B–1 and B–2: Activated Sludge Secondary Treatment at SBIWTP.

6. Alternative 6: Secondary Treatment in the U. S. and in Mexico.

7. Alternative 7: SBIWTP Closure/Shutdown.

Background: The original Draft EIS for the SBIWTP project (1991) proposed the construction of a facility in San Diego to achieve secondary treatment using an activated sludge technology. Based on a 1994 Final EIS and Record of Decision (ROD), the USIBWC and the USEPA approved the construction of the SBIWTP and the connecting SBOO. The SBIWTP is on a 75-acre site in south San Diego County, California, just west of San Ysidro near the intersection of Dairy Mart and Monument roads. Treated effluent is discharged to the Pacific Ocean through the SBOO, a 4.5-mile long piping system completed in January 1999. This outfall extends about 3.5 miles offshore.

Pursuant to the completion of an Interim Operations Supplemental EIS in 1996, the USIBWC and USEPA decided to operate the SBIWTP as an advanced primary treatment facility before completion of the necessary secondary facilities. This decision would expedite the treatment of up to 25 mgd of untreated sewage from Tijuana that would otherwise have continued to pollute the Tijuana River and Estuary, as well as coastal waters in the United States.

Before the SBOO was completed in 1999, advanced primary treated effluent was discharged through an emergency connection to the City of San Diego Point Loma Wastewater Treatment Plant. The emergency connection was used daily in the late 1980s and 1990s, but it has not been used in this manner since the SBIWTP started discharging through the SBOO in 1999.

After the release of the May 1994 Final EIS and ROD and the 1996 decision regarding interim operation, significant additional information became available and changed circumstances warranted reconsidering the best means to complete the SBIWTP secondary treatment facilities. The USIBWC and USEPA decided to prepare a Supplemental EIS to examine new information as a settlement to a lawsuit that challenged the 1994 Final EIS.

In January 1998, the USIBWC and the USEPA issued the Draft Long Term Treatment Options Supplemental EIS to re-evaluate the SBIWTP secondary treatment options. In October 1998, the agencies issued a supplement to the 1996 Interim Operation Supplemental EIS that addressed impacts of the advanced primary treatment. This supplement disclosed new information about the presence of dioxins and acute toxicity in the advanced primary discharge. This new information was incorporated into the Final Long Term Treatment Options Supplemental EIS released in March 1999.

In the 1999 ROD for the Long Term Treatment Options Supplemental EIS, the USEPA and the USIBWC selected the CMA pond system at the Hofer property as the long-term option for secondary treating 25 mgd of wastewater at the SBIWTP. However, Congress did not fund the construction of these secondary treatment facilities and the plant has continued to provide advanced primary treatment only.

The specific purpose of the current analysis is to determine the environmental impacts of the alternatives that could accomplish compliance with the CWA and the SBIWTP NPDES permit.

A Notice of Availability of the DSEIS was published in the **Federal Register** on December 30, 2004. A public hearing to present the findings of the DSEIS was held on February 2, 2005, in San Diego, California. The USIBWC has taken public comments on the December 2004 DSEIS into consideration and made clarifications and corrections as contained in the FSEIS. The USIBWC has identified Alternative 4, Treatment Option C with Discharge Option I, as the preferred alternative.

A copy of the FSEIS has been filed with the USEPA in accordance with 40 CFR parts 1500 through 1508 and USIBWC procedures. Written comments concerning the FSEIS will be accepted at the address above until August 24, 2005.

Dated: July 14, 2005.

Susan E. Daniel,

General Counsel.

[FR Doc. 05–14364 Filed 7–21–05; 8:45 am]

BILLING CODE 4710–03–P

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. 701–TA–355 and 731–TA–659–660]

Grain-Oriented Silicon Electrical Steel From Italy and Japan, Notice and Scheduling of Third Remand Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: The U.S. International Trade Commission (''the Commission'') hereby gives notice of proceedings in the remand investigation ordered by the United States Court of International Trade in Grain-Oriented Silicon Electrical Steel from Italy and Japan, Invs. Nos. 701–TA–355 and 731–TA–659–660.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran, Office of Investigations, telephone 202–205–2057 or Gracemary R. Roth-Roffy, Esq., Office of the General Counsel, telephone (202) 205–3117, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TODD terminal on (202) 205–1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *www.http://edis.usitc.gov*. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background

On February 23, 2001, the Commission determined that revocation of the countervailing duty order on grain-oriented electrical steel (''GOES'') from Italy would be likely to lead to continuation or recurrence of material injury to an industry in the United Sates within a reasonably foreseeable time. The Commission also determined that revocation of the antidumping duty orders on GOES from Italy and Japan would be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Grain-Oriented Silicon Electrical

Steel from Italy and Japan, Invs. Nos. 701–TA–355 and 731–TA–659–660 (Review) USITC Pub. 3396 (February 2001). The Commission's determinations were appealed to the U.S. Court of International Trade (''Court''). On December 24, 2002, the Court remanded the Commission's determinations on the grounds that the Commission did not apply the correct ''likely'' standard; that the Commission failed to specifically discuss each of the four factors outline in 19 U.S.C 1675a(a)(2)(A)–(D); and that the Commission failed to discuss whether the likely volume of imports of subject merchandise would be significant in absolute terms or relative to U.S. production and consumption, pursuant to 19 U.S.C. 1675a(a)a92). *Nippon Steel Crop., et al.* v *United States,* Slip Op 02–153 (December 24, 2002).

On first remand, the Commission again found that revocation of the countervailing duty order on GOES from Italy, and the antidumping duty orders on GOES from Italy and Japan would be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Grain-Oriented Silicon Electrical Steel from Italy and Japan, Invs. Nos. 701–TA–355 and 731–TA–659–660 (Remand) (Review), USITC Pub. 3585 (March 2003). On December 17, 2003, the Court issued an opinion remanding the Commission's first remand determination. *Nippon Steel Crop., et al,* v. *United States*, 301 F. Supp 1355 (CIT 2003). Specifically, the Court remanded the Commission's no discernible adverse impact, cumulation, likely volume, likely price and likely impact findings for reconsideration.

On second remand, the Commission found that revocation of the countervailing duty order on GOES from Italy, and the antidumping duty orders on GOES from Italy and Japan, would be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Grain-Oriented Silicon Electrical Steel from Italy and Japan, Inv. Nos. 701–TA–355 and 731–TA–659–660 (Review) (Remand), USITC Pub. 3650 (Mar. 2004).

On June 15, 2005, the Court issued an opinion affirming in part and remanding in part, the Commission's affirmative sunset determination on second remand Specifically, the court affirmed the Commission's determination with respect to discernible adverse impact, cumulation, and likely price effects. However, the court remanded the commission's likely volume and likely adverse impact determinations to the Commission with an order to take further action consistent with its instructions. The Commission is directed to issue its remand determination within 90 days of the issuance of the Court's decision *i.e.*, by September 13, 2005.

Reopening the Record

In order to assist it in making its determination on third remand, the Commission is reopening the record in this investigation to seek additional information with respect to certain of the instructions provided by the Court.

Participation in the Remand Proceedings

Only those interested parties who were parties to the original investigations (*i.e.,* persons listed on the Commission Secretary's service list) may participate in this remand proceeding. No additional filings with the Commission will be necessary for these parties to participate in the remand proceeding. Business proprietary information (BPI) obtained during the remand proceeding will be governed, as appropriate, by the administrative protective order (APO) issued in the original investigations. (Parties who participated in the original investigation, if no longer covered by the APO, are directed to contact the Commission Secretary.)

Written Submissions

Information obtained during the remand investigation will be released to the parties under the administrative protective order (''APO'') issued in the original investigations on or about July 28, 2005. The third remand staff report will be placed in the nonpublic record on August 8, 2005, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules. Parties that are participating in the remand proceedings may file comments on or before August 15, 2005 with respect to how the record, as supplemented, bears on the issues presented by the panel's remand instructions.

No additional factual information may be included in such comments. Comments shall not exceed 20 pages of textual material, double-spaced and single-sided, on stationery measuring 8½ × 11 inches.

All written submissions must conform withe provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or updated BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

Authority: This action is taken under the authority of the Tariff Act of 1930, title VII.

Issued: July 18, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–14483 Filed 7–21–05; 8:45 am]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. 701–TA–430B– and 731–TA–1019B]

Hard Red Spring Wheat From Canada; Notice of Revised Schedule for Remand Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: The U.S. International Trade Commission (the Commission) hereby gives notice of a revised schedule for the proceedings in the remand investigation ordered by a binational panel established under Article 1904 of the North American Free trade Agreement (NAFTA) in Hard Red Spring Wheat from Canada, Inv. Nos. 701–TA–430B and 731–TA–1019B (Final).

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise, Office of Investigations, telephone 202–708–5408 or Michael Diehl, Esq., Office of the General Counsel, telephone (202) 205–3095, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons are advised that

information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background

In October 2003, the Commission determined, by a two-to-two vote, that an industry in the United States was materially injured by reason of subject imports of hard red spring wheat from Canada. On June 7, 2005, a binational panel formed under Article 1904 of the NAFTA issued a decision in its review of the Commission's determination. The panel remanded the determination to the Commission to issue its remand determination within 90 days of the issuance of the Panel's decision, *i.e.*, by September 6, 2005.

On July 6, 2005, the Commission published in the **Federal Register** (70 FR 38981) a notice of the remand proceeding, of the Commission's decision to reopen the administrative record, and of the schedule for written submissions.

On July 7, 2005, the Panel granted a consent motion to extend the time period for filing the remand determination by 30 days to October 5, 2005.

Participation in the Remand Proceedings

Parties are referred to the Commission's July 6, 2005 notice with respect to participation in the remand proceedings.

Revised Schedule for Written Submissions

Given the extension of time granted by the Panel, the schedule for written submissions is revised as follows. Information obtained during the remand investigation will be released to the parties under the administrative protective order (''APO'') issued in the original investigations on or about July 22, 2005. The remand staff report will be placed in the nonpublic record on August 16, 2005, and a public version will be issued thereafter, pursuant to Section 207.22 of the Commission's rules.

Parties that are participating in the remand proceedings may file comments by August 23, 2005 with respect to how the record, as supplemented, bears on the issues presented by the Panel's remand instructions. No additional factual information may be included in such comments. Comments shall not exceed 30 pages of textual material, double-spaced and single-sided, on stationery measuring 8½ × inches.

Parties that are participating in the remand proceedings may also file final comments on or before September 2, 2005. Final comments are limited to providing commentary on party comments filed by August 23, 2005 and with respect to new information, if any, released on or after August 23, 2005. No additional factual information may be included in such final comments. Final comments shall not exceed 15 pages of textual material, double-spaced and single-sided, on stationery measuring 8½ × 11 inches.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extend permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or updated BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

Authority: This action is taken under the authority of the Tariff Act of 1930, title VII.

By order of the Commission.

Issued: July 18, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–14482 Filed 7–21–05; 8:45 am]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: U.S. International Trade Commission

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission (''Commission'') has issued an annual report on the status of its practice with respect to violations of its administrative protective orders (''APOs'') in investigations under Title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than under Title VII and violations of the Commission's rules including the rule on bracketing business proprietary information (''BPI'') (the ''24-hour rule''), 19 CFR 207.3(c). This notice provides a summary of investigations of breaches in proceedings under Title VII, section 421 of the Trade Act of 1974, as amended, and section 337 of the Tariff Act of 1930, as amended, completed during calendar year 2004. There were no completed investigations of 24-hour rule violations during that period, but there were two violations of Commission rule 210.34(d), the requirement that APO signatories inform the Commission in writing immediately upon learning that there has been a court order or discovery request for confidential business information (''CBI'') that has been released to signatories under an APO. The Commission intends that this report educate representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission and the corresponding types of actions the Commission has taken.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission can also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: Representatives of parties to investigations conducted under Title VII of the Tariff Act of 1930, sections 202 and 204 of the Trade Act of 1974, section 421 of the Trade Act of 1974, and seciton 337 of the Tariff Act of 1930, may enter into APOs that permit them, under strict conditions, to obtain access to BPI (Title VII) or confidential business information (''CBI'') (section 421, sections 201–204, and section 337) of other parties. See 19 U.S.C. 1677f; 19 CFR 207.7; 19 U.S.C. 2252(i); 19 U.S.C. 2451a(b)(3); 19 CFR 206.17; 19 U.S.C. 1337(n); 19 CFR 210.5, 210.34. The discussion below describes APO breach investigations that the Commission has completed, including a description of actions taken in response to breaches. The discussion covers breach investigations completed during calendar year 2004.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and the 24-hour rule. See 56 FR 4846 (Feb. 6, 1991); 57 FR 12,335 (Apr. 9, 1992); 58 FR 21,991 (Apr. 26, 1993); 59 FR 16,834 (Apr. 8, 1994); 60 FR 24,880 (May 10, 1995); 61 FR 21,203 (May 9, 1996); 62 FR 13,164 (March 19, 1997); 63 FR 25064 (May 6, 1998); 64 FR 23355 (April 30, 1999); 65 FR 30434 (May 11, 2000); 66 FR 27685 (May 18, 2001); 67 FR 39425 (June 7, 2002); 68 FR 28256 (May 23, 2003); 69 FR 29972 (May 26, 2004). This report does not provide an exhaustive list of conduct that will be deemed to be a breach of the Commission's APOs. APO breach inquiries are considered on a case-by-case basis.

As part of the effort to educate practitioners about the Commission's current APO practice, the Commission Secretary issued in March 2005 a fourth edition of *An Introduction to Administrative Protective Order Practice in Import Injury Investigation* (Pub. No. 3755). This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, tel. (202) 205–2000 and on the Commission's Web site at *http://www.usitc.gov.*

1. In General

The current APO form for antidumping and countervailing duty investigations, which was revised in March 2005, requires the applicant to swear that he or she will:

(1) Not divulge any of the BPI obtained under this APO or otherwise obtained in this investigation and not otherwise available to him or her, to any person other than—

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

(iv) Other persons such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decision making for an interested party which is a party to the investigation; and (d) have signed the acknowledgment for clerical personnel in the form attached hereto (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

(2) Use such BPI solely for the purposes of the above-captioned Commission investigation or for judicial or binational panel review of such Commission investigation;

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO or otherwise obtained in this investigation without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;

(4) Whenever materials (*e.g.,* documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

(5) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(6) Transmit each document containing BPI disclosed under this APO:

(i) With a cover sheet identifying the document as containing BPI,

(ii) With all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) If the document is to be filed by a deadline, with each page marked ''Bracketing of BPI not final for one business day after date of filing,'' and

(iv) If by mail, within two envelopes, the inner one sealed and marked ''Business Proprietary Information—To be opened only by [name of recipient]'', and the outer one sealed and not marked as containing BPI;

(7) Comply with the provisions of this APO and section 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (*e.g.,* change in personnel assigned in the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledged that breach of the APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate, including the administrative sanctions and actions set out in this APO.

The APO further provides that breach of an APO may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission, and issuance of a public or private letter of reprimand; and

(5) Such other actions; including but not limited to, a warning letter, as the Commission determines to be appropriate.

APOs in investigations other than those under Title VII contain similar, thnough not identical, provisions.

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through APO procedures. Consequently, they are not subject to the requirements of the APO with respect to the handling of CBI and BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI and CBI, and face potentially severe

penalties for noncompliance. *See* 18 U.S.C. 1905; Title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

An important provision of the Commission's Title VII and safeguard rules relating to BPI/CBI is the ''24-hour'' rule. This rule provides that parties have one business day after the deadline for filing documents containing BPI to file a public version of the document. The rule also permits changes to the bracketing of information in the proprietary version within this one-day period. No changes—other than changes in bracketing—may be made to the proprietary version. The rule was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule. If a party wishes to make changes to a document other than bracketing, such as typographical changes or other corrections, the party must ask for an extension of time to file an amended document pursuant to section 201.14(b)(2) of the Commission's rules.

During 2004, the Commission found two violations of another Commission rule which applies to section 337 investigations exclusively. The rule, 19 CFR 210.34(d), requires APO signatories to report in writing to the Commission immediately upon learning that confidential business information disclosed to him or her pursuant to the protective order is the subject of a subpoena, court or administrative order (other than an order of a court reviewing a Commission decision), discovery agent, agreement, or other written request, agreement, or other written request seeking disclosure by him or any other person, of that confidential business information to persons who are not, or may not be permitted access to that information pursuant to either a Commission protective order or Commission rule 210.5(b).

II. Investigations of Alleged APO Breaches

Upon finding evidence of an APO breach or receiving information that there is a reason to believe one has occurred, the Commission Secretary notifies relevant offices in the agency that an APO breach investigation has commenced and that an APO breach investigation file has been opened. Upon receiving notification from the Secretary, the Office of the General Counsel (OGC) prepares a letter of inquiry to be sent to the possible breacher over the Secretary's signature to ascertain the possible breacher's views on whether a breach has occurred.[1] If, after reviewing the response and other relevant information, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. In some cases, the Commission determines that although a breach has occurred, sanctions are not warranted, and therefore has found it unnecessary to issue a second letter concerning what sanctions might be appropriate. Instead, it issues a warning letter to the individual. A warning letter is not considered to be a sanction.

Sanctions for APO violations serve two basic interests: (a) Preserving the confidence of submitters of BPI that the Commission is a reliable protector of BPI; and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, ''[T]he effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation.'' H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI. The Commission considers whether there are prior breaches by the same person or persons in other investigations and multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit an economist or consultant to obtain access to BPI/CBI under the APO in a Title VII or safeguard investigation if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. 19 CFR 207.7(a)(3)(B) and (C); 19 CFR 206.17(a)(3)(B) and (C). Economists and consultants who obtain access to BPI/CBI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or consultant may also be held responsible for the breach of the APO.

The records of Commission investigations of alleged APO breaches in antidumpting and countervailing duty cases are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, section 135(b) of the Customs and Trade Act of 1990, and 19 U.S.C. 1677f(g).

The two types of breaches most frequently investigated by the Commission involve the APO's prohibition on the dissemination of BPI to unauthorized persons and the APO's requirement that the materials received under the APO be returned or destroyed and that a certificate be filed indicating which action was taken within a specified period after the termination of the investigation or any subsequent appeals of the Commission's determination. The dissemination of BPI usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included: the failure to bracket properly BPI in proprietary documents filed with the Commission; the failure to report immediately known violations of an APO; and the failure to supervise

[1] Procedures for inquiries to determine whether a prohibited act such as a breach has occurred and for imposing sanctions for violation of the provisions of a protective order issued during NAFTA panel or committee proceedings are set out in 19 CFR 207.100–207.120. Those investigations are initially conducted by the Commission's Office of Unfair Import Investigations. During 2004, no investigation regarding a possible violation of a protective order issued during a NAFTA panel or committee proceeding was completed under those procedures.

adequately non-legal personnel in the handling of BPI.

Counsel participating in Title VII investigations have reported to the Commission potential breaches involving the electronic transmission of public versions of documents. In these cases, the document transmitted appears to be a public document with BPI omitted from brackets. However, the BPI is actually retrievable by manipulating codes in software. The Commission has found that the electronic transmission of a public document containing BPI in a recoverable form was a breach of the APO.

The Commission advised in the preamble to the notice of proposed rulemaking in 1990 that it will permit authorized applicants a certain amount of discretion in choosing the most appropriate method of safeguarding the confidentiality of the BPI. However, the Commission cautioned authorized applicants that they would be held responsible for safeguarding the confidentiality of all BPI to which they are granted access and warned applicants about the potential hazards of storage on hard disk. The caution in that preamble is restated here:

> [T]he Commission suggests that certain safeguards would seem to be particularly useful. When storing business proprietary information on computer disks, for example, storage on floppy disks rather than hard disks is recommended, because deletion of information from a hard disk does not necessarily erase the information, which can often be retrieved using a utilities program. Further, use of business proprietary information on a computer with the capability to communicate with users outside the authorized applicant's office incurs the risk of unauthorized access to the information through such communication. If a computer malfunctions, all business proprietary information should be erased from the machine before it is removed from the authorized applicant's office for repair. While no safeguard program will insulate an authorized applicant from sanctions in the event of a breach of the administrative protective order, such a program may be a mitigating factor. Preamble to notice of proposed rulemaking, 55 FR 24,100, 24,103 (June 14, 1990).

In the past several years, the Commission completed APOB investigations which involved members of a law firm or consultants working with a firm who were granted access to APO materials by the firm although they were not APO signatories. In these cases, the firm and the person using the BPI mistakenly believed an APO application had been filed for that person. The Commission determined in all these cases that the person who was a non-signatory, and therefore did not agree to be bound by the APO, could not be found to have breached the APO. Action could be taken against these persons, however, under Commission rule 201.15 (19 CFR 201.15) for good cause shown. In all cases, the Commission decided that the non-signatory was a person who appeared regularly before the Commission and was aware of the requirements and limitations related to APO access and should have verified his or her APO status before obtaining access to and using the BPI. The Commission notes that section 201.15 may also be available to issue sanctions to attorneys or agents in different factual circumstances where they did not technically breach the APO but where their actions or inactions did not demonstrate diligent care of the APO materials even though they appeared regularly before the Commission and were aware of the importance the Commission placed on the care of APO materials. In 2004 there were two investigations where the Commission considered issuing sanctions to attorneys under section 201.15, but determined that there was not good cause. In one investigation the attorney had forwarded another party's public pre-hearing brief to his clients not knowing that the brief contained CBI. The Commission considered whether to issue sanctions against him for failure to retrieve the briefs even though he was found not to have breached the APO. The Commission considered mitigating circumstances and the fact that there were no provisions in the rules or the APO that would clarify the Commission's expectations and the attorney's responsibility under those circumstances. The Commission issued a letter warning the attorney and informing him that in the future he needed to be proactive regarding the care of BPI whether he receives it under the APO or from another source during the investigation. To prevent similar future occurrences such as this, the March 2005 version of the Title VII and safeguard APOs have added the requirement that the signatory not divulge any BPI or CBI disclosed under the APO ''or otherwise obtained in this investigation.''

Also in recent years the Commission has found the lead attorney to be responsible for breaches where he or she failed to provide adequate supervision over the handling of BPI. Lead attorneys should be aware that their responsibilities for overall supervision of an investigation, when a breach has been caused by the actions of someone elese in the investgiation, may lead to a finding that the lead attorney has also violated the APO. The Commission has found that a lead attorney did not violate the APO in cases where his delegation of authority was reasonable. A prior breach by a subordinate attorney would suggest that delegation of authority to that attorney may not be reasonable.

III. Specific Investigation in Which Breaches Were Found

The Commission presents the following case studies to educate user about the types of APO breaches found by the Commission. The studies provide the factual background, the actions taken by the Commission, and the factors considered by the Commission in determining the appropriate actions. The Commission has not included some of the specific facts in the descriptions of investigations where disclosure of such facts could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

Case 1. This APOB investigation involved four different law firms. The first two represented the same respondent in a Commission section 337 investigation. A third firm represented the complainant in the section 337 investigation. A fourth firm had not been involved in the Commission's section 337 investigation and none of its attorneys were signatories to the APO, but it was representing the respondent in a multi-district court litigation (MDL) and in a related matter involving the issuance of subpoenas by another government agency. The Commission found that three attorneys from the first two law firms (respondent's firms) breached the APO in a section 337 investigation when they released APO materials to non-signatories of the APO while responding to subpoenas from another government agency and that they violated Commission rule 210.34(d) because they failed to notify the Commission of the subpoenas.

The Commission found that a partner in the first law firm, who was also the lead attorney, breached the APO because he failed to prevent the production of certain APO documents to non-signatories by an attorney under his supervision. The Commission noted that the lead attorney was aware that the subpoenas had been issued and that they were seeking documents containing CBI obtained under the APO. In spite of this knowledge, there was no information provided in the APOB investigation suggesting that he took any action to prevent the release of the CIB

or to obtain permission from all of the sources of the CBI to release the materials. Because he did not notify the Commission in writing about these subpoenas, he violated rule 210.34(d).

The second attorney in the first law firm and one attorney in the second law firm violated rule 210.34(d) by failing to notify the Commission in writing about the subpoenas and they breached the APO by releasing materials containing CBI obtained under the APO to attorneys in the fourth law firm with the knowledge that those documents would be released to the other government agency. The attorneys had argued that they did not breach the APO by releasing the CBI to the fourth law firms because attorneys in that firm could appropriately receive the information under the MDL protective order. The attorneys in the fourth law firm were representing their client in the MDL and the Commission's record had been cross designated by all the parties to the Commission's investigation. The attorneys in the first and second law firms also argued that they did not breach the Commission's APO because the court-ordered protective order was controlling and that protective order permitted release of the documents pursuant to a government issued subpoena. The Commission rejected the attorneys' arguments that the MDL protective order was controlling and determined that the Commission's APO continued to apply the to the documents obtained under the APO in the Commission's section 337 investigation. Therefore, the attorneys were required to obtain permission to release the materials from all the sources of the CBI, which they did not do. In addition, the court-issued protective order required that the person releasing the materials notify the sources of the CBI, which the attorneys also did not do.

The Commission noted that the attorneys who released the materials to the fourth law firm had breached the APO because of their understanding and intent that the information would be released by the fourth law firm to the other government agency in response to the subpoenas. Although it would have been appropriate to give the materials to the fourth law firm for use in the MDL, it was a violation of the APO to give it to the firm for the purpose of releasing it to the other government agency. The Commission noted that it retained the authority to interpret its own APO and to determine whether or not cross-designation released the CBI from the Commission's APO jurisdiction. In addition, the Commission found that it was an aggravating circumstance that the attorneys who breached had taken actions based on their own interpretation of the APO rather than seeking advice from the Commission regarding the APO's jurisdiction over cross-designated material that were obtained under the Commission's APO.

The Commission reached the decision to sanction the attorneys who breached with a private letter of reprimand rather than a warning letter after considering the mitigating circumstance that it was their first breach of a Commission APO, but noting the aggravating circumstances that they had also violated Commission rule 210.34(d) by not informing the Commission immediately of the government subpoena; that they made independent interpretations of the Commission's APO, without seeking advice from the Commission about whether it applied to their release of the CBI obtained under the Commission's APO; and that there is a presumption that at least one-signatory at the other government agency reviewed the CBI after it was given to the agency in response to the subpoenas.

The Commission found that two attorneys in the first law firm also violated Commission rule 210.34(d) but, along with the remaining APO signatories at the first two firms, did not breach the APO. The two attorneys were issued warning letters for violating the rule. The Commission found that the attorneys from the third firm (complainant's law firm) did not breach the APO nor did they violate Commission rule 210.34(d). The Commission also determined to take no action against attorneys in the fourth law firm because they were not signatories to the APO and, therefore, did not breach the APO when they passed the APO documents on to the government agency. In addition, since they did not practice before the Commission, and had no present intention to do so, the Commission determined that it would not use Commission rule 19 CFR 201.15(a) to sanction them for their role in the release of the APO materials.

Case 2. The Commission found that one attorney breached an APO by failing to bracket CBI on a page of an attachment in the confidential version of the prehearing brief filed with the Commission and to delete that CBI and other CBI that was bracketed and left on another page of the attachment to the public version of the brief. The Commission issued a private letter of reprimand. The Commission determined that two other attorneys from the same firm and a secretary did not breach the APO. The two other attorneys did not have final responsibility for preparation and review of the bracketing and the secretary did not have a direct role in the circumstances contributing to a breach.

The attorney who breached the APO took immediate action to retrieve and replace copies of the page of the attachment containing unbracketed CBI but he failed to redact the bracketed information on another page of the attachment both in his original filing and in the replacement filing. He acknowledged his breach with regard to the CBI that had not been bracketed in the confidential brief but argued that the information left in brackets on a previous page of the attachment was not CBI because it was pricing data that was not company specific. The Commission did not accept this argument, noting that the data was in numerical form and that the Commission treats all questionnaire responses as CBI in their entirety unless the information is otherwise available from a public source, or is a non-numerical characterization of aggregate trends. The attorney also argued that the data were not CBI because release of the data would not impair the Commission's functions or cause substantial harm to the competitive position of the person, firm, corporation or other organization from which the information was obtained. The Commission rejected this argument also because disclosure of the pricing data would likely harm the Commission's ability to collect critical pricing data, since firms could become wary of providing the Commission with the pricing data in future investigations that are needed for the agency to perform its statutory functions.

The Commission issued a private letter of reprimand after considering the mitigating circumstances: that this was his first breach and that the breach was inadvertent. In addition, his firm acted quickly to replace the last page of the public attachment containing the unbracketed CBI, and reeducated its personnel on APO practices and instituted new requirements to strengthen its APO procedures. The Commission noted two aggravating circumstances: (1) Non-signatories had read the CBI, and (2) the attorney twice failed to redact bracketed CBI from the public version of the brief and did not take corrective action with regard to that particular CBI. He was also ordered to retrieve and destroy any copies of the page containing the bracketed CBI and certify to the Commission Secretary that he had done so within thirty days.

The Commission also found that there was not good cause for sanctioning an attorney in a different law firm for

failing to retrieve from his clients the public version of the pre-hearing brief containing the bracketed and unbracketed CBI which had been served on him by the attorney in the first firm. He sent the brief to his clients, relying on the fact that the brief had been clearly marked as a public document. The Commission warned the attorney in the second firm that it would hold him accountable in the future if he failed to take a more proactive approach to protect CBI that comes under his control and he becomes aware that it is CBI.

The attorney in the second firm had argued that he had not retrieved the brief because he had not received it under the APO. He stated that the attorney in the first firm had not asked him to retrieve and destroy the pages containing CBI and the Commission had not instructed him to do so. The attorney also raised questions about when he actually knew that the unbracketed and bracketed information was indeed CBI. Initially, the Commission had determined that he had not breached the APO because he did not know the brief contained CBI when he passed it along to his clients and he had not obtained the material under the APO.

However, the Commission considered whether to sanction him under Commission rule 201.15 for his failure to safeguard the materials after he learned they contained CBI. In deciding to warn the attorney instead of sanctioning him, the Commission considered the facts that it was the first time he was subject to a possible sanction under section 201.15 and that he had never breached an APO. In addition, he took prompt action to notify the Commission about the information in the brief that he later learned to be CBI, and the instructions given to him by the attorney in the first firm were not clear regarding retrieval and destruction of the pages containing CBI. Moreover, the Commission noted that its APO and rules did not explicitly address the need of the attorney in the second firm to take more active steps to safeguard CBI whether or not it was acquired by him through the APO directly or because of a breach committed by another party. In addition to the warning letter, the Commission ordered him to retrieve the copies of the brief and certify to the Commission that they were retrieved and destroyed. As noted earlier, the Commission has updated its rules to address this scenario.

Case 3. The Commission determined that an attorney and a secretary breached the APO for failing to redact business proprietary information from the public version of a brief. The Commission issued a private letter of reprimand to the attorney who was responsible for the preparation of the public version of the brief but who failed to follow the law firm's procedures of reviewing the brief for BPI before filing it with the Commission and sending it to other parties and to the attorney's client. The Commission issued a private letter of reprimand, even though it was the attorney's client. The Commission issued a private letter of reprimand, even though it was the attorney's first breach, because a recipient of the brief who was not a signatory to the APO had read several pages of the brief which included BPI.

The Commission found that the secretary, who had forgotten to run a computer program that would delete BPI from brackets in the brief, prepared the public version of the brief for filing with the Commission, yet failed to ensure that BPI had been completely deleted from the brackets. In reaching its decision on the appropriate sanction, the Commission considered the facts that (1) the BPI had been read by a non-signatory and (2) the secretary had previously breached an APO within the period generally examined by the Commission for purposes of determining sanctions. The Commission issued a private letter of reprimand with an additional requirement that the secretary, for one year, must certify with respect to any public version of a brief that he helped prepare, that he had inspected every page to ensure that all bracketed material had been removed.

Case 4. The Commission determined that an attorney in one law firm had breached the APO by failing to destroy or return APO materials after the Commission's Section 337 investigation was terminated. In addition, the Commission found that the same attorney failed to comply with Commission rule 210.34(d)(1) by failing to notify the Commission immediately upon learning that requests for production of CBI obtained under the APO were made in a parallel district court litigation. The Commission issued a warning letter for the breach and for the rule violation.

The Commission also determined that attorneys from a second law firm, representing the same client in the Commission investigation, did not breach the APO even though they did not return or destroy certain material obtained under the APO which contained a third party's CBI. The attorneys had entered into an agreement with the third party which allowed the attorneys to retain the material under the APO. They also retained material from another third party pending a response about whether to return or destroy the information. In response to a Commission inquiry about those documents, the attorneys responded that the third party had not marked any of those documents as containing CBI and there has been no further indication from the submitter that those documents contain CBI. The attorneys from this second law firm also indicated that they were not a part of the parallel litigation and, therefore, were not subject to any requests to produce CBI from the Commission investigation.

In determining that the attorney from the first law firm did breach the APO for failure to return or destroy the APO materials, the Commission considered his argument that discovery requests in a parallel litigation barred his compliance with his APO obligations. The Commission found the argument not persuasive because APO obligations are mandatory—not conditioned by other court proceedings. In addition, the district court judge ultimately ruled on the discovery request and allowed production but with the CBI redacted. Therefore, continued retention of the CBI materials was not necessary for discovery purposes. The Commission also did not find compelling the argument that destruction of the documents could lead the factfinder in the parallel litigation to take a negative inference against the party destroying the documents. The Commission found that the fact finder may reject any adverse inference if the documents were destroyed for an ''innocent reason,'' and that the mandatory obligation to ''return or destroy'' in the Commission's APO establishes an ''innocent reason.'' Finally, in determining whether or not there was a breach, the Commission found unpersuasive the attorney's concern that APO compliance could lead to a violation under his state's rules of professional conduct.

During the sanctions phase of the investigation, the Commission determined not to sanction the attorney but to issue him a warning letter for the breach and for the violation of Commission rule 210.34(d). In reaching this conclusion, the Commission considered several mitigating circumstances including that CBI was not disclosed to any unauthorized persons and that the attorney had not previously breached a Commission APO. In addition, the Commission determined that, although it seemed unlikely that the attorney would be disciplined under his state's rules of professional conduct for an unlawful destruction of documents relevant to the court proceeding, there is no authority

addressing the issue in a definitive manner. Therefore, the Commission decided to acknowledge that a legitimate doubt remained for the attorney and treated his concern about his state's Bar rules as a mitigating factor.

The Commission also considered several aggravating circumstances, including the long duration of the breach, the fact that the documents were not destroyed until the opposing counsel in the parallel litigation agreed, the fact that the attorney did not consider returning the documents to the source of the CBI rather than destroying the documents to avoid possible concerns about his state Bar rules, and the attorney's failure to seek Commission guidance and clarification of his ethical or discovery obligations from the district court.

Case 5. The Commission found that one lead attorney breached the APO by failing to redact bracketed BPI from the public version of his firm's final comments in a Commission Title VII investigation. The Commission issued him a private letter of reprimand. The Commission found that none of the other attorneys or staff at the law firm breached the APO as none of them was involved in the incident or neglected any supervisory responsibilities leading to the breach.

The attorney had argued that the unredacted information was not BPI because it involved data for more than three foreign producers, no one of whom accounted for more than 90 percent of the inventory ratio applicable to total cumulated shipments. The Commission found the data to be BPI because although similar data were treated as public in the preliminary staff report, the data had changed in such a way that certain foreign producers would be able to ascertain information about other producers using the earlier data that had been treated as public.

The Commission reached its decision to issue a private letter of reprimand after consideration of the mitigating factors that the attorney's failure to redact the information was unintentional; that he had not been involved in any breaches in the two years preceding the breach; and that his firm had implemented new procedures in order to ensure that redacted documents would be reviewed by at least two separate individuals, including the senior attorney responsible for the submission. The Commission also considered aggravating factors that made the private letter of reprimand rather than a warning letter the more appropriate action. The Commission noted the attorney's acknowledgment that the unredacted information was made available to the public; his failure to take corrective measures, other than filing and serving a revised page, to limit the dissemination of BPI to non-signatories and to ascertain whether the BPI had been read by non-signatories; his conscious decision to waive internal firm procedures and forego review of the public version of the document by a second person; and the fact that the Secretary's Office and not anyone at his firm discovered the error.

Case 6. The Commission found that one attorney and a legal assistant in one law firm and a legal assistant in another law firm breached the APO by failing to redact CBI from the public version of the administrative law judge's initial determination (ID) from a Commission 337 investigation which was attached to a claim construction brief in district court patent litigation. The Commission issued warning letters to all three after considering that none of them had breached an APO in the two-year period usually considered by the Commission in determining sanctions; the breach was unintentional; prompt action was taken to remedy the breach; and copies of the brief sent to three non-signatories were retrieved and the non-signatories stated that they did not review the CBI. There was one aggravating circumstance. The brief was available in the district court public file for a significant amount of time—one month—but based on the attorney's inquiries with the court, it appears that no unauthorized person actually viewed the CBI. The Commission determined that an attorney in the second law firm did not breach the APO as he was not involved in the preparation, filing, or distribution of the brief in court.

Case 7. The Commission found that three attorneys breached an APO by filing a ''non-confidential'' version of their client's brief in the U.S. Court of Appeals for the Federal Circuit which contained CBI covered by the APO issued in a Commission section 337 investigation. One other attorney was found not to have breached because he did not help prepare the non confidential brief but, instead, took actions to prevent disclosure of the CBI to non-signatories.

The Commission issued warning letters to the three attorneys. The circumstances of the breach were mitigated by the facts that none of the attorneys had breached an APO within the previous period typically considered by the Commission for the determination of sanctions, the breach was unintentional, the attorneys took prompt action to remedy the breach, and no non-signatory actually read the CBI.

Case 8. The Commission found that one attorney and one paralegal breached the APO in a Commission title VII investigation by failing to redact BPI from the public version of a pre-hearing brief. The Commission issued warning letters to the attorney and paralegal. The circumstances of the breach were mitigated by the fact that this was the only breach in which either the attorney or paralegal was involved in the two-year period generally examined by the Commission for the purpose of determining sanctions; the breach was unintentional; prompt action was taken to remedy the breach; and actions were taken by the firm to improve APO compliance procedures. The lead attorney was found not to have breached because he was out of the country and did not participate in the preparation of the prehearing briefs and because he has reasonably delegated the responsibility to another attorney who had no prior breaches. The Commission did not consider as a mitigating circumstance the attorney's argument that the unredacted BPI was not highly sensitive proprietary information.

Rule Violations—In two section 337 investigations, the Commission found that attorneys had failed to notify the Commission in writing immediately upon learning that CBI disclosed to the attorney pursuant to an APO was the subject of a ''subpoena, court or administrative order (other than an order of a court reviewing a Commission decision), discovery request, agreement, or other written request seeking disclosure, by him or any other person, of that CBI to persons who are not, or may not be, permitted access to that information pursuant to either a Commission protective order or [19 CFR] 210.5(b).'' In both cases the Commission issued warnings to the attorneys. Discussions of these rule violations can be found in the summaries of Cases 1 and 4 above.

Issued: July 18, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–14481 Filed 7–21–05; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0104(2005)]

Inorganic Arsenic Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in the Inorganic Arsenic Standard.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by September 20, 2005.

Facsimile and electronic transmission: Your comments must be received by September 20, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0104(2005), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

On January 5, 2005, OSHA published the Standards Improvement Project—Phase II, Final rule (70 FR 1112). The final rule removed and revised provisions of standards that were outdated, duplicative, unnecessary, or inconsistent and clarified or simplified regulatory language. The final rule contained several revisions to collections of information contained in the Inorganic Arsenic (IA) Standard, 29 CFR 1910.1018. These revisions included: reducing the frequency of medical examinations and updating compliance plans; allowing employers the option to post employee exposure-monitoring results instead of requiring individual notification; and eliminating the need for employers to report emergencies to OSHA and to notify OSHA when establishing a regulated area. Those changes reduced paperwork burden hours while maintaining worker protection and improving consistency among standards. This burden reduction was taken on an earlier ICR.

The information collection requirements remaining in the IA Standard protect employees from the adverse health effects that may result from their exposure to IA. The IA Standard requires employers to: monitor employees' exposure to inorganic arsenic; monitor employee health; develop and maintain employee exposure-monitoring and medical records; and provide employees with information about their exposures and the adverse health effects of exposure to inorganic arsenic.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of these collections of information (paperwork) requirements necessitated by the IA Standard. The Agency will include this summary in its request to OMB to extend the approval of these collections of information requirements.

Type of Review: Extension of currently approved information collection requirements.

Title: Inorganic Arsenic Standard.

OMB Number: 1218–0104.

Affected Public: Business or other for-profits; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

Average Time Per Response: Varies from 5 minutes (.08 hour) to maintain records to 1.67 hours to complete a medical examination.

Estimated Total Burden Hours: 4,861.

Estimated Cost (Operation and Maintenance): $396,322.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant

delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on July 19, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–14537 Filed 7–21–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0220(2005)]

Shipyard Employment Standards; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in its Shipyard Employment Standards (29 CFR 1915.113(b)(1) and 29 CFR 1915.172(d)).

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by September 20, 2005.

Facsimile and electronic transmission: Your comments must be received by September 20, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0220(2005), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The Standard specifies two paperwork requirements. The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to reduce employees' risk of death or serious injury by ensuring that equipment has been tested and is in safe operating condition.

- *Test Records for Hooks (paragraph 1915.113(b)(1)).* This paragraph requires that the manufacturer's recommendations be followed in determining the safe working loads of the various sizes and types of hooks. If the manufacturer's recommendations are not available, the hook must be tested to twice the intended safe working load before it is initially put into use. The employer must maintain and keep readily available a certification record which includes the date the such test, the signature of the person who performed the test, and the identifier for the hook which was tested.
- *Examination and Test Records for Unfired Pressure Vessels (paragraph 1915.172(d)).*

This paragraph requires that portable, unfired pressure vessels not built to the requirements of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section VII, Rules for Construction of Unfired Pressure Vessels, 1963, be examined quarterly by a competent person and subjected to a *yearly* hydrostatic pressure test. A certification record of such examinations and tests shall be maintained.

The records were used to assure that equipment has been properly tested. The records also provided the most efficient means for the compliance officers to determine that an employer is complying with the Standard. However, based on information provided to the Agency, OSHA does not believe that there are any unfired pressure vessels not built to the requirements of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section VIII, Rules for

Construction of Unfired Pressure Vessels, 1963 currently in use.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection of information (paperwork) requirements necessitated by the Shipyard Employment Standards (29 CFR 1915.113(b)(1) and 29 CFR 1915.172(d)). The Agency will include this summary in its request to OMB to extend the approval of these collection of information requirements.

Type of Review: Extension of currently approved information collection requirements.

Title: Shipyard Employment Standards (29 CFR 1915.113(b)(1) and 29 CFR 1915.172(d)).

OMB Number: 1218–0220.

Affected Public: Business or other for-profits; not for profit organizations; Federal Government; State, local or tribal government.

Frequency: On occasion.

Average Time per Response: Varies from 2 minutes (0.3 hour) to maintain a certification record to 35 minutes (.58 hour) to obtain certain information from a manufacturer.

Estimated Total Burden Hours: 145.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov*. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of the **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on July 19, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–14538 Filed 7–21–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0225(2005)]

Telecommunications (Training Certification Record); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirement contained in its Standard on Telecommunications (Training Certification Records) (29 CFR 1910.268(c)).

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by September 20, 2005.

Fascimile and electronic transmission: Your comments must be received by September 20, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICr+1218–0225(2005), by any of the followint methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–265, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov*. Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read and download comments or background materials, such as the complete information Collection Request (ICR) (containing the Supporting Statement, OMB–83 I Form, and attachments), go to OSHA's Web page at *http://OSHA.gov*. In addition, the ICR, comments, and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You also may contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing efforts to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format,

reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The Telecommunications Standard at 29 CFR 1910.268(c) specifies one information collection requirement. The following section describes who uses the information collected under the requirement as well as how they use it. The purpose of this requirement is to ensure that employees have been trained as required by the Standard to prevent risk of death or serious injury.

Training (paragraph (c)). Under the paperwork requirement specified by paragraph (c) of the Standard, employers must certify that his or her employees have been trained as specified by the performance-language training provision of the Standard. Specifically, employers must prepare a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification record shall be prepared at the completion of training and shall be maintained on file for the duration of the employee's employment. The information collected would be used by employers as well as compliance officers to determine whether employees have been trained according to the requirements set forth in 29 CFR 1910.268(c).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection of information (paperwork) requirement contained in the Standard of Telecommunications (Training Certification Records) (29 CFR 1910.268(c)). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of the collection of information requirement contained in the Standard.

Type of Review: Extension of currently approved information collection requirement.

Title: Telecommunications (Training Certification Records) (29 CFR 1910.268(c)).

OMB Number: 1218–0225.

Affected Public: Business or other for-profits; not-for-profit organizations; Federal government; State, local, or tribal government.

Number of Respondents: 651.

Frequency of Response: On occasion.

Total Responses: 140,050.

Average Time Per Response: 2 minutes (.03 hour) to generate or disclose training certification records.

Estimated Total Burden Hours: 4,202.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, a significant delay may occur in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Webpage are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice, as well as other relevant documents, are available on OSHA's Webpage. Since all submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on July 15, 2005.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 05–14539 Filed 7–21–05; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0219(2005)]

Servicing Multi-Piece and Single Piece Rim Wheels Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection requirements contained in its Standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177).

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by September 20, 2005.

Facsimile and electronic transmission: Your comments must be received by September 20, 2005.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0219 (2005), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including

attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Webpage for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Webpage at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You also may contact Theda Kenney at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, 200 Constitution Avenue, N.W., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instructions are clearly understand, and OSHA's estimates of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The Standard on Service Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177) (the Standard) specifies two paperwork requirements. The following sections describe who uses the information collection under the requirements, as well as how they use it. The purpose of the requirements is to reduce employees' risk of death or serious injury by ensuring that restraining devices used by them during the servicing of multi-piece rim wheels are in safe operating condition.

Certification of repair (paragraph (d)(3)(iv)) This paragraph requires that when restraining devices and barriers are removed from service because they are defective, they shall not be returned to service until they are repaired and reinspected. If the repair is structural, the manufacturer or a Registered Professional Engineer must certify that the strength requirements specified in (d)(3)(i) of the Standard have been met. This certification record is used to assure that equipment has been repaired properly. The certification record also provides the most efficient means for OSHA compliance officers to determine that an employer is complying with the Standard.

Marking or tagging of wheel components (paragraph (e)(2)) This paragraph requires that defective wheels and wheels components ''be marked or tagged unserviceable and removed from the service area.'' Under the requirement, OSHA is providing employers with sufficient information from which they can derive the wording to use in marking the object or constructing a tag. Therefore, this provision imposed no paperwork burden because if falls within the portion of 5 CFR 1320(c)(2) that states, ''The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition [of 'collection of information']''.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection of information (paperwork) requirements contained in the Standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of the collection of information requirements contained in the Standard.

Type of Review: Extension of currently approved information collection requirements.

Title: Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177).

OMB Number: 1218–0219.

Affected Public: Business or other for-profits; not-for-profit organizations; Federal government; State, local, or tribal government.

Number of Respondents: 8.

Frequency of Response: On occasion.

Number of Respondents: 8.

Average Time Per Response: 3 minutes (.05 hour) to maintain a certificate verifying proper repair of restraining device or barrier and to disclose to an OSHA Compliance Officer.

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submission]

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Webpage, Because of security-related problems, a significant delay may occur in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY) (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov*. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice, as well as other relevant documents, are available on OSHA's Webpage. Since all submissions become public, private information such as

social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et. seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on July 15, 2005.

Jonathan L. Snare.

Acting Assistant Secretary of Labor.

[FR Doc. 05–14544 Filed 7–21–05; 8:45 am]

BILLING CODE 4510–26–M

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 05–13]

Notice of the July 28, 2005 Millennium Challenge Corporation Board of Directors Meeting; Sunshine Act Meeting

AGENCY: Millennium Challenge Corporation.

TIME AND DATE: 2 p.m. to 4 p.m., Thursday, July 28, 2005.

PLACE: Department of State, 2201 C Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Joyce B. Lanham via e-mail at *Board@mcc.gov* or by telephone at (202) 521–3600.

STATUS: Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Board of Directors (the ''Board'') of the Millennium Challenge Corporation (''MCC'') will hold a meeting to initiate the FY 2006 country selection process by identifying countries that will be candidates for Millennium Challenge Account (''MCA'') assistance in FY 2006 based on the per capita income and other requirements of Section 606(a) of the Millennium Challenge Act of 2003 (Pub. L. 108–199 (Division D)) (the ''Act'') and to discuss other Compact development efforts with MCA-eligible countries, the MCC Threshold Program, and certain administrative matters, all which are expected to involve the consideration of classified information and will be closed to the public.

Dated: July 20, 2005.

Jon A. Dyck,

Vice President and General Counsel, Millennium Challenge Corporation.

[FR Doc. 05–14597 Filed 7–20–05; 12:40 pm]

BILLING CODE 9210–01–P

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 9 a.m., August 22, 2005.

PLACE: On board MISSISSIPPI V at City Front, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 23, 2005.

PLACE: On board MISSISSIPPI V at Mudd Island, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 24, 2005.

PLACE: On board MISSISSIPPI V at City Front, Greenville, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District and; (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 26, 2005.

PLACE: On board MISSISSIPPI V at Port Commission Dock, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Stephen Gambrell, telephone 601–634–5766.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05–14583 Filed 7–20–05; 11:24 am]

BILLING CODE 3710–GX–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (05–120)]

NASA Advisory Council, Financial Audit Committee, Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended, the National Aeronautics and Space Administration announce a forthcoming meeting of the NASA Advisory Council (NAC), Financial Audit Committee (NFAC).

DATES: Tuesday, August 9, 2005, 9 a.m. to 3 p.m.

ADDRESSES: National Aeronautics and Space Administration, Glenn Research Center, 21000 Brookpark Road, Bldg. 3, Room 215, Cleveland OH 44135. (216) 433–2374.

FOR FURTHER INFORMATION CONTACT: Ms. Ermerdene Lee, of the Chief Financial Officer's Office, National Aeronautics and Space Administration, Washington, DC 20546. (202) 358–4529, e-mail *elee1@hq.nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Overview of Glenn Research Center
—Glenn Research Center Office of the Chief Financial Officer Summary
—Property, Plant & Equipment—Contractor Held Property Attendees

will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. U.S. Citizens desiring to attend the NASA Financial Audit Committee meeting at the Glenn Research Center (GRC) must provide their full name, citizenship, company affiliation (if applicable), place of birth, and date of birth and Foreign nationals who desire to attend the meeting must provide their passport or naturalization papers to the GRC Security Office no less than 3 working days prior to the meeting. If the above information is not received by the noted date, attendees should expect a delay in entering the Glenn Research Center. All visitors to this meeting should go to the GRC Security Office, accessible from Brookpark Road, where they will be cleared, given an identification badge, and transported to the meeting location, if seating is available. Please provide the requested information, by the appropriate date, via FAX to (216) 433–2946, to the attention of Kathy Roser, noting at the top: ''PUBLIC ADMISSION TO THE FINANCIAL AUDIT COMMITTEE MEETING @ GRC.'' Faxes not addressed as required will not be processed.

For security questions, please contact Kathy Roser at (216) 433–2374. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

July 18, 2005.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 05–14449 Filed 7–21–05; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–336 and 50–423]

Dominion Nuclear Connecticut, Inc. (Dominion), Millstone Power Station, Units 2 And 3; Notice of Availability of the Final Supplement 22 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Regarding Millstone Power Station, Units 2 And 3

Notice is hereby given that the U.S. Nuclear Regulatory Commission (Commission) has published a final plant-specific supplement to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG–1437, regarding the renewal of operating licenses DPR–65 and NPF–49 for an additional 20 years of operation at Millstone Power Station, Units 2 and 3 (Millstone), respectively. Millstone is located in Waterford, Connecticut, on Millstone Point between the Niantic and Thames Rivers, approximately 40 miles to the southeast of Hartford, Connecticut. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. Section 9.3 of the final Supplement 22 states:

> Based on: (1) The analysis and findings in the GEIS (NRC 1996; 1999), (2) the ER [environmental report] submitted by Dominion (Dominion 2004b), (3) consultation with Federal, State, and local agencies, (4) the staff's own independent review, and (5) the staff's consideration of public comments, the recommendation of the staff is that the Commission determine that the adverse environmental impacts of license renewal for Millstone, are not so great that preserving the option of license renewal for energy planning decision makers would be unreasonable.

The final Supplement 22 to the GEIS is publicly available at the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible at *http://www.nrc.gov/reading-rm/adams.html;* a link is provided to access documents through the Web-based component of ADAMS. The accession number for the final Supplement 22 to the GEIS is ML051960293. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.* In addition, the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut, and the Three Rivers Community College, Thames River Campus Library, 574 New London Turnpike, Norwich, Connecticut, have agreed to make the final Supplement 22 to the GEIS available for public inspection.

For Further Information, Contact: Mr. Richard L. Emch, Jr., License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Emch may be contacted at 1–800–368–5642, extension 1590 or via e-mail at *RLE@nrc.gov.*

Dated at Rockville, Maryland, this 18th day of July, 2005.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. E5–3919 Filed 7–21–05; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 25, 2005:

A Closed Meeting will be held on Thursday, July 28, 2005 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), (9)(B), and (10) and 17 CFR 200.402(a) (3), (5), (7), (8), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matters of the Closed Meeting scheduled for Thursday, July 28, 2005, will be:

Regulatory matter regarding a financial institution; formal orders of investigations; institution and settlement of injunctive actions; institution and settlement of administrative proceedings of an enforcement nature; and adjudicatory matters.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: July 20, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–14647 Filed 7–20–05; 3:57 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52033; File No. SR–BSE–2005–20]

Self-Regulatory Organizations; Boston Stock Exchange; Notice of Filing of Proposed Rule Change Relating to Trade Shredding

July 14, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2005, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to trade shredding (''Units of Trading''). The text of the proposed rule change appears below. Additions are in italics.

* * * * *

Chapter II

Dealings on the Exchange

SEC. 4.

Units of Trading

The unit of trading in bonds shall be $1000 in par value thereof.

The unit of trading in stocks shall be 100 shares, except that the Exchange may fix a smaller number of shares in any particular instance.

Bids or offers for less than the unit of trading shall specify the par value of the bonds or number of shares of stock covered by the bid or offer.

A customer's order in the unit of trading, or multiples thereof, in any security traded on the Exchange, the primary market for which is on another Exchange, may not be split into odd-lots. *A member may not split any order into multiple smaller orders for any purpose other than seeking the best execution of the entire order.*

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–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, the BSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend a section of the Rules of the Board of Governors of the Boston Stock Exchange (''BSE Rules'') to prohibit trade shredding. The BSE is proposing to add language to its existing BSE Rules to prohibit BSE members from splitting large orders into multiple smaller orders for any purpose other than best execution.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and is not designed to permit unfair discrimination between customers, brokers, or dealers, or to regulate by virtue of any authority matters not related to the administration of the Exchange.

B.Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

C.Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on this proposal.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

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–BSE–2005–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–BSE–2005–20. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule 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 offices of BSE. 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–BSE–2005–20 and should be submitted on or before August 12, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3913 Filed 7–21–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52044; File No. SR–CBOE–2005–28]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to DPM Obligations for Maintaining Backup Autoquote Systems

July 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 April 1, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange submits this rule change filing, which proposes to amend CBOE rules to remove the requirement that Designated Primary Market-Makers maintain a back-up quoting system for Hybrid and non-Hybrid option classes.

The text of the proposed rule change is provided below. Additions are in *italics;* deletions are in [brackets].

* * * * *

CHAPTER VIII

Market-Makers, Trading Crowds and Modified Trading Systems (Rules 8.1–8.95)

* * * * *

Rule 8.1–8.84 No Change.

Rule 8.85. DPM Obligations

(a) Dealer Transactions. Each DPM shall fulfill all of the obligations of a Market-Maker under the Rules, and shall satisfy each of the following requirements in respect of each of the securities allocated to the DPM. To the extent that there is any inconsistency between the specific obligations of a DPM set forth in subparagraphs (a)(i) through (a)(xi) of this Rule and the general obligations of a Market Maker under the Rules, subparagraphs (a)(i) through (a)(xi) of this Rule shall govern. Each DPM shall:

(i)–(x) No Change.

[(xi) in the case of a DPM utilizing a proprietary autoquote system in a non-CBOE Hybrid System class, assure that the Exchange's AutoQuote system is maintained as a back-up at all times and ready for immediate use.

(xii) in the case of a DPM utilizing a proprietary autoquote system in a Hybrid System class, the DPM must have available for immediate use an alternative autoquote system that is entirely independent of the DPM's primary autoquote system.]

(b)–(e) No Change.

* * * * *

**** * * Interpretations and Policies:***

.01–.04 No Change.

* * * * *

Rule 17.50. Imposition of Fines for Minor Rule Violations

(a)–(f) No Change.

(g) The following is a list of the rule violations subject to, and the applicable fines that may be imposed by the Exchange pursuant to this Rule:

(1)–(9) No Change.

[(10) *Violations of DPM Obligation to Assure that a Back-Up Auto Quote System is Maintained at all Times. (Rules 8.85(a)(xi) and (xii))*

(a) A fine shall be imposed upon a DPM that fails to assure that disseminated market quotations are accurate for any given trading station because of a failure of the DPM's proprietary autoquote system during market hours coupled with the DPM's failure to maintain a back-up autoquote system.

Number of Violations in any Rolling Twelve-Month Period	Fine Amount
1st Offense	$100 to $2,500 or Referral to Business Conduct Committee
2nd–3rd Offense	$100 to $5,000 or Referral to Business Conduct Committee
Subsequent Offenses	Referral to Business Conduct Committee]

[(11)]*(10)* Communications to the Exchange or the Clearing Corporation (Rule 4.11)

No Change.

* * * * *

**** * * Interpretations and Policies:***

.01–.04 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rules 8.85(a)(xi) and (xii) both impose an obligation on DPMs to maintain independent backup autoquote systems that can be employed in the event that a DPM's proprietary autoquote system should fail or be otherwise unavailable. Rule 8.85(a)(xi) governs non-CBOE Hybrid System (''non-Hybrid'') classes and requires DPMs to maintain the Exchange's AutoQuote system as a backup for non-Hybrid classes. Because of compatibility restrictions, the Exchange's AutoQuote system cannot be used as a backup for Hybrid classes, so the Exchange adopted Rule 8.85(a)(xii), which requires DPMs to maintain an independent backup autoquote system that it may employ in the event its proprietary autoquote

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

system fails.[3] The Exchange believes that, under the current CBOE environment, these obligations are now both unnecessary and unduly burdensome on DPMs and, accordingly, should be repealed.

With regard to the non-Hybrid backup autoquote obligation, because the Exchange has converted all of its DPM option classes to the CBOE Hybrid System, there are no more non-Hybrid classes and, as such, CBOE Rule 8.85(a)(xi) no longer applies and should be deleted. Additionally, the Exchange believes that the recent adoption and implementation of the electronic DPM (''e-DPM'') program[4] on the Exchange provides a more appropriate and cost effective safeguard against a DPM's inability to generate quotes in option classes traded on the Exchange in Hybrid classes and, as such, the Hybrid backup autoquote obligation under Rule 8.85(a)(xii) is no longer necessary.[5] The deletion of the backup autoquote rules would not affect a DPM's separate obligation to provide continuous market quotations for each of its allocated classes and respective series.[6]

Finally, the Exchange also proposes removing violations of the non-Hybrid backup autoquote rule (Rule 8.85(a)(xi)) and the Hybrid backup autoquote rule (Rule 8.85(a)(xii)) from the Exchange's Minor Rule Plan.[7]

2. Statutory Basis

Because the proposed rule change will refine and enhance the Exchange's rules relating to quoting obligations to make them more efficient and effective, the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(5) and 6(b)(7) in particular,[9] in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest, and enhances the effectiveness and fairness of the Exchange's disciplinary procedures.

[3] CBOE Rule 8.85(a)(xii) requires that the Hybrid backup autoquote system be independent from the DPM's proprietary autoquote system.

[4] *See* Exchange Act Release Nos. 49577 (April 19, 2004), 69 FR 22576 (April 26, 2004) (order approving the process for approving e-DPMs on the Exchange); 50003 (July 12, 2004), 69 FR 25647 (July 19, 2004) (order approving e-DPM trading rules).

[5] Exchange rules now allow CBOE to allocate an option class that is already allocated to a DPM to one or more e-DPMs. *See supra* note 4. *See also* CBOE Rules 8.92 and 8.93.

[6] *See* CBOE Rule 8.85(a)(i).

[7] *See* CBOE Rule 17.50(g)(10).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5) and 78f(b)(7).

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2005–028 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–CBOE–2005–028. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2005–028 and should be submitted by August 12, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3916 Filed 7–21–05; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52049; File No. SR–NASD–2005–087]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change To Reflect Nasdaq's Separation From NASD Upon Nasdaq's Anticipated Approval as a National Securities Exchange

July 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 July 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 NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to: (1) Amend the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries (''Delegation Plan''), NASD By-Laws, NASD Regulation By-Laws, NASD Dispute Resolution By-Laws, and NASD rules to reflect the separation of The Nasdaq Stock Market, Inc. (''Nasdaq'') from NASD upon Nasdaq's anticipated approval as a national securities exchange;[3] (2) to make certain changes to the rules that govern quoting and trading through the NASD Alternative Display Facility (''ADF''); and (3) to establish rules for the trade reporting of transactions otherwise than on an exchange through the new Trade Reporting Facility.[4] The text of the proposed rule is available on the NASD Web Site (*http://www.nasd.com*), on the Commission's Web Site at (*http://www.sec.gov*), at the NASD Office of Secretary and at the Commission's Public Reference Room. In the proposed rule text, proposed new language is underlined; proposed deletions are in brackets.

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

The purpose of this proposed rule change is threefold: (1) To amend NASD rules to reflect the anticipated approval of Nasdaq as a national securities exchange[5] and its resultant separation from NASD; (2) to make certain clarifying and conforming changes to the rules governing quoting and trading through the ADF; and (3) to establish rules for the trade reporting of transactions otherwise than on an exchange through the Trade Reporting Facility.[6]

Proposed Changes Relating to the Separation of Nasdaq

In 2000, NASD began restructuring its relationship with Nasdaq, which operates as an independent, for-profit company. As the result of a two-phase private placement of Nasdaq shares, a public offering recently completed in January 2005 and other dispositions of NASD shares, NASD's common stock ownership interest in Nasdaq has been reduced to a minority interest. Before Nasdaq can fully separate from NASD, it must become registered as a national securities exchange with the Commission. Nasdaq has submitted drafts of proposed additional amendments to its Form 1 previously filed with the Commission requesting exchange registration. NASD continues to maintain greater than 50% of the voting control through its ownership of one outstanding share of Series B Preferred Stock until exchange registration is granted. Once Nasdaq obtains exchange registration, the share of Series B Preferred Stock would automatically lose its voting rights and would be redeemed by Nasdaq for $1.00.

Thus, upon Nasdaq's registration as a national securities exchange, Nasdaq and NASD would be unaffiliated corporate entities, and therefore each will need separate rules applicable to their respective members. To effectuate that change, NASD must modify existing NASD rules, effective upon Nasdaq's registration as an exchange, to reflect this separation of Nasdaq from NASD. These changes include removing references in the Delegation Plan to Nasdaq as a subsidiary and delegation of authority to Nasdaq; revising the NASD By-Laws, NASD Regulation, Inc. By-Laws and NASD Dispute Resolution, Inc. By-Laws to remove references to Nasdaq as a subsidiary of NASD; deleting Nasdaq-specific rules, such as listing and qualification requirements; replacing references to ''Nasdaq'' with ''NASD'' or ''exchange,'' as applicable; and renaming and renumbering certain rules.[7] Provided below are descriptions of the more significant proposed rule changes to reflect Nasdaq's separation from NASD.

Deleted NASD Rules

The following rules have been deleted by NASD in their entirety because they either relate exclusively to participation in, and operation of, the Nasdaq Stock Market or would no longer be applicable upon the separation of Nasdaq from NASD: NASD Rules 2852, 2854 and 2870 through 2885 related to Nasdaq Index Options; NASD Rules 5100 through 5113 and Rule 8212 related to the Nasdaq International Service; the NASD Rule 5200 Series related to Intermarket Trading System/Computer Assisted Execution System (ITS/CAES);[8] the NASD Rule 6300 Series related to the Consolidated Quotations Service (CQS);[9] the NASD Rule 6400 Series relating to reporting transactions in exchange-listed securities;[10] the NASD Rule 6800 Series related to the Mutual Fund Quotation Service; and NASD Rule 11890 related to Clearly Erroneous Transactions.

NASD Rule 2840 Series Related to Trading in Index Warrants

The proposed rule change would delete language in the NASD Rule 2840 Series related to index warrants listed on the Nasdaq Stock Market. The existing rule series was promulgated because Nasdaq intended to list such

[3] The Commission has not reached a decision on Nasdaq's exchange application. The Commission understands that Nasdaq will submit an amended Form 1 application. This amendment to Nasdaq's exchange application will be published for public comment before final action is taken.

[4] The facility has been named the ''Trade Reporting Facility'' for purposes of this proposed rule change. The official name of the entity, however, has not yet been determined.

[5] Securities Exchange Act Release No. 44396 (June 7, 2001), 66 FR 31952 (June 13, 2001) (File No. 10–131).

[6] On December 7, 2001, NASD filed with the Commission SR–NASD–2001–90, a proposed rule change to amend NASD rules to reflect Nasdaq's separation from NASD upon its approval as a national securities exchange and to establish rules governing trading otherwise than on an exchange, including transactions effected through the ADF. On July 24, 2002, the Commission approved SR–NASD–2002–97, which authorized NASD to operate the ADF on a pilot basis for nine months, pending the anticipated approval of SR–NASD–2001–90. *See* Securities Exchange Act Release No. 46249 (July 24, 2002), 67 FR 49822 (July 31, 2002) (SR–NASD–2002–97). NASD subsequently filed for immediate effectiveness proposed rule changes to extend the pilot until July 26, 2005. *See* Exchange Act Release Nos. 47633 (April 10, 2003), 68 FR 19043 (April 17, 2003) (SR–NASD–2003–67); 49131 (January 27, 2004), 69 FR 5229 (February 3, 2004) (SR–NASD–2004–12); and 50601 (October 28, 2004), 69 FR 64611 (November 5, 2004) (SR–NASD–2004–160). NASD intends to withdraw SR–NASD–2001–90, and this proposed rule change is intended to replace and update that rule filing.

[7] This proposed rule change also includes corrections of minor grammatical or typographical errors and other miscellaneous non-substantive changes.

[8] NASD is considering the appropriate quoting and trading structure and rules that would be applicable to exchange-listed securities other than Nasdaq securities. Its current intention is to permit quoting and trade reporting of these securities through the ADF and to permit trade reporting through the Trade Reporting Facility. Accordingly, proposed changes relating to quoting and trading in these securities will be addressed in a future submission with the Commission.

[9] *Id.*

[10] *Id.*

index warrants. The remainder of NASD Rule 2840 Series remains unchanged, as it has continued applicability to NASD members that are not also members of an exchange on which they trade index warrants.

NASD Rules 2850 Through 2885 Related to Position Limits and Options Trading

To reflect Nasdaq's separation from NASD, the proposed rule change deletes from NASD Rules 2850 through 2885 all language related to position limits and transactions in index warrants and options traded on Nasdaq. However, the rule change retains all provisions related to options trading in the listed and over-the-counter (''OTC'') markets.

NASD Rule 5300 Series Related to PORTAL Securities

The current NASD Rule 5300 Series provides qualification and transaction reporting requirements relating to PORTAL securities, which are foreign and domestic securities that are eligible for resale under Rule 144A under the Securities Act of 1933.[11] The proposed rule change deletes the PORTAL requirements relating to the qualification or designation of PORTAL securities, as that function would be performed by Nasdaq. Transactions in PORTAL securities, however, would be reported to NASD; therefore, the proposed rule change retains those rules and has relocated them to the NASD Rule 6700 Series.

NASD Rules 6500 Through 6700 Series Related to OTC Equity Securities

The proposed rule change would combine the existing NASD Rule 6600 and 6700 Series into a single NASD Rule 6600 Series that governs transactions in ''OTC equity securities,'' as that term is defined in the rules. The proposed combination is intended to eliminate redundancies in the existing rules, while maintaining all of the regulatory requirements for trading and reporting transactions in such securities.

The proposed rule change also includes separate definitions for a ''non-exchange listed security'' and ''OTC Equity Security,'' with the latter including certain exchange-listed securities that do not otherwise qualify for real-time reporting. NASD believes this is necessary given that the trade reporting obligations under the NASD Rule 6600 Series apply to certain exchange-listed securities that do not otherwise qualify for real-time trade reporting, while other NASD requirements, such as current NASD Rule 6740, do not apply to such securities. In addition, because NASD would continue to operate the OTC Bulletin Board, the proposed rule change retains the NASD Rule 6500 Series. Throughout these rules, references to Nasdaq and Nasdaq systems have been replaced with NASD, NASD systems or the OTC Reporting Facility[12] as appropriate.

NASD Rule 6900 Series Related to Direct Participation Programs (DPPs)

The NASD Rule 6900 Series governs trade reporting of secondary market transactions by members in DPP securities other than transactions executed on a national securities exchange. The proposed rule change amends the NASD Rule 6900 Series to reflect the fact that, upon the separation of Nasdaq and NASD, DPPs would no longer be reported to the Nasdaq Market Center, but would be reported to NASD.

NASD Rule 6950 Series Related to Order Audit Trail System (OATS) Requirements

Upon Nasdaq's registration as an exchange, orders routed by members to Nasdaq would be subject to the OATS order transmittal requirements in NASD Rule 6954(c)(6), relating to routes to non-members, including national securities exchanges. To ensure that NASD continues to receive from its members the same OATS data and linkage information that it receives today, the proposed rule change amends NASD Rule 6954(c)(6) to require that members record the routed order identifier or other unique identifier required by the non-member receiving the order, as applicable. As a result, it is our understanding that Nasdaq's exchange rules would require that orders transmitted to the Nasdaq Market Center continue to provide a routed order identifier. As such, the proposed rule change would require that members record that same routed order identifier in their transmittal reports, as they do today.

The proposed rule change also clarifies existing requirements related to routed order identifiers, specifically that members are permitted to use a routed order identifier that is different from the order identifier used for order origination purposes and that a member transmitting an order to another member must provide the routed order identifier to the member receiving the order.[13]

NASD Rule 9700 Series Related to Grievances Concerning Automated Systems

NASD is proposing to delete in its entirety the NASD Rule 9700 Series, which sets forth procedures to address unspecified general grievances related to any automated quotation, execution or communication system operated by NASD or Nasdaq. Several of the provisions relate to the authority of the Nasdaq Listing and Review Council, which no longer would be part of NASD upon Nasdaq exchange registration. Moreover, this rule series is very general in nature, as it ostensibly is a ''catch-all'' for all potential grievances not otherwise provided for in NASD rules, including the Code of Procedure (NASD Rule 9000 Series) and the Uniform Practice Code (NASD Rule 11000 Series). NASD believes that whatever residual application this rule series may have served at some point, it has since been superceded by additional rules that provide redress for specific grievances, such as denial of access to services under NASD Rule 9555 and denial of access complaints related to the ADF under NASD Rule 4400A.

Proposed Changes Related to the Alternative Display Facility

The ADF is a quotation collection, trade comparison, and trade reporting facility developed by NASD in accordance with the Commission's SuperMontage Approval Order[14] and in conjunction with Nasdaq's anticipated registration as a national securities exchange. The ADF, which currently is operating on a pilot basis, provides ADF market participants (market makers and ECNs) the ability to post quotations in Nasdaq securities and provides all members that participate in the ADF the ability to view quotations and report transactions in Nasdaq securities to the exclusive securities information processor (''SIP'') for Nasdaq-listed issues for consolidation and dissemination of data to vendors and ADF market participants. The facility provides for trade comparison through the Trade Reporting and Comparison Service (''TRACS'') and further provides for real-time data delivery to NASD for

[11] 17 CFR 230.144A.

[12] The service by which members can trade report OTC equity securities has been named the ''OTC Reporting Facility'' for purposes of this proposed rule change. The official name of that system, however, has not yet been determined.

[13] The Commission notes that NASD has also proposed to require members to identify the national securities exchange or registered securities association to which an order is transmitted. See proposed NASD Rule 6954(c)(6)(I). In its submission, NASD inadvertently neglected to underline the proposed rule text to indicate that it was new language. Telephone call between Stephanie Dumont, Vice President, Associate General Counsel, NASD and Kelly M. Riley, Assistant Director, Division of Market Regulation (''Division''), Commission on July 15, 2005.

[14] Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001) (SR–NASD–99–53).

regulatory purposes, including enforcement of firm quote and related rules.

NASD is proposing several clarifying and conforming changes to the ADF rules including: (1) Clarification that certain ADF requirements apply not only to Registered Reporting ADF market makers, but to Registered Reporting ADF ECNs as well; (2) amendments to the ADF trade reporting requirements to make them more consistent with current Nasdaq trade reporting rules, including requiring that execution time be included in all ADF trade reports; (3) clarification that all applicable trade modifiers must be included in ''as/of'' trades; (4) amendments to the trade halt rule to include halt authority if there is extraordinary market activity in a security; and (5) deletion of the provisions in the ADF rules relating to passive market making, since passive market making would not be available on the ADF.

Proposed Changes Related to the Trade Reporting Facility

Establishment of the Trade Reporting Facility

NASD is proposing to establish the Trade Reporting Facility, which would provide members another mechanism for reporting transactions effected otherwise than on an exchange. In this regard, Nasdaq and NASD propose to enter into a Limited Liability Company Agreement of The Trade Reporting Facility LLC between Nasdaq and NASD (''the LLC Agreement''), a copy of which is available on the NASD's Web Site (*http://www.nasd.com*) and the Commission's Web Site (*http://www.sec.gov*). The Trade Reporting Facility would be a facility of NASD and subject to NASD's registration as a national securities association. Trades by members in Nasdaq-listed and other exchange-listed securities [15] executed otherwise than on an exchange (''Non-System Trading'') may be reported to the Trade Reporting Facility. NASD would continue to have regulatory responsibility for the Non-System Trading reported to the Trade Reporting Facility, while Nasdaq agrees to pay the cost of regulation and would provide systems to enable broker-dealers to report trades to the Trade Reporting Facility. Nasdaq would be entitled to the economic interests derived from the Non-System Trading reported to the Trade Reporting Facility. This proposed structure would be in place for at least three years.

[15] *See supra* note 7.

Pursuant to the LLC Agreement, NASD, as the ''SRO Member'' of the Trade Reporting Facility, would have the sole regulatory responsibility for the activities of the Trade Reporting Facility. The SRO Member would perform SRO Responsibilities including, but not limited to:

(1) Adoption, amendment and interpretation of policies arising out of and regarding the operation of the facilities of the SRO, or regarding the meaning, administration, or enforcement of an existing rule of the SRO, including any generally applicable exemption from such a rule;

(2) Approval of rule filings of the SRO prior to filing with the Commission;

(3) Regulation of the Trade Reporting Facility's activities, including the right to review and approve the regulatory budget for the Trade Reporting Facility;

(4) Securities regulation and any other matter implicating SRO Responsibilities; and

(5) Real-time market surveillance (Nasdaq Marketwatch).

Nasdaq, as the ''Business Member,'' would be primarily responsible for the management of the Trade Reporting Facility's business affairs to the extent those activities are not inconsistent with the regulatory and oversight functions of NASD. Under Section 9(d) of the LLC Agreement, each Member agrees to comply with the Federal securities laws and the rules and regulations thereunder and to cooperate with the Commission pursuant to its regulatory authority.

The Trade Reporting Facility would be managed by or under the direction of a Board of Directors to be established by the parties. NASD would have the right to designate at least one Director, the SRO Member Director, who may be a member of NASD's Board of Governors or an officer or employee of NASD designated by the NASD Board of Governors. The SRO Member Director would have veto power over all major actions of the LLC Board. Major actions are defined in Section 10(e) of the LLC Agreement to include:

(1) Approving pricing decisions that are subject to the Commission filing process;

(2) Approving contracts between the Trade Reporting Facility and the Business Member, any of its affiliates, directors, officers or employees;

(3) Approving Director compensation;

(4) Selling, licensing, leasing or otherwise transferring material assets used in the operation of the Trade Reporting Facility's business outside of the ordinary course of business with an aggregate value in excess of $3 million;

(5) Approving or undertaking a merger, consolidation or reorganization of the Trade Reporting Facility with any other entity;

(6) Entering into any partnership, joint venture or other similar joint business undertaking;

(7) Making any fundamental change in the market structure of the Trade Reporting Facility from that contemplated by the Members as of the date of the LLC Agreement;

(8) To the fullest extent permitted by law, taking any action to effect the voluntary, or which would precipitate an involuntary, dissolution or winding up of the Company, other than as contemplated by Section 20 of the LLC Agreement;

(9) Conversion of the Trade Reporting Facility from a Delaware limited liability company into any other type of entity;

(10) Expansion of or modification to the business which results in the Trade Reporting Facility engaging in material business unrelated to the business of Non-System Trading;

(11) Changing the number of Directors on or composition of the Board; and

(12) Adopting or amending policies regarding access and credit matters affecting the Trade Reporting Facility.

In addition, each Director agrees to comply with the federal securities laws and the rules and regulations thereunder and to cooperate with the Commission and the SRO Member pursuant to their regulatory authority.

Either Member may dissolve the Trade Reporting Facility LLC by providing to the other Member prior written notice of at least one year. Neither Member may deliver such notice before the second anniversary of the effective date of the LLC Agreement. After notice, the Members must negotiate in good faith to (i) allow the Business Member to continue to operate the LLC under NASD's SRO registration, (ii) restructure the LLC to allow the Business Member to operate the facility under Nasdaq's SRO registration, or (iii) sell the LLC or the business of the LLC to the SRO Member based on an agreed valuation. If the parties cannot agree on any of (i), (ii) or (iii), the LLC Agreement provides in Section 20(b) a mechanism for an appraisal process.

Proposed Rules Relating to the Trade Reporting Facility

NASD also is proposing rules relating to the use and operation of the Trade Reporting Facility. Members now would have the option of trade reporting transactions executed otherwise than on an exchange either to the Trade

Reporting Facility or the ADF.[16] For purposes of these requirements, the proposed rule change would define the term ''otherwise than on an exchange'' to mean a trade effected by an NASD member in an exchange-listed security otherwise than on or through the facilities of a national securities exchange. The determination of what constitutes a trade ''on or through'' a national securities exchange would be left to the respective exchanges and applicable statutes, rules and regulations, as approved by the Commission.

The proposed rule change replaces the existing Nasdaq trade reporting rules in the Rule 4000 and 6100 Series in their entirety with rules applicable to the Trade Reporting Facility.[17] However, the proposed rules relating to the Trade Reporting Facility track, with certain limited exceptions, the requirements and general organization of the current Nasdaq trade reporting rules.

The proposed rule change combines the trade reporting requirements in the current NASD Rule 4630, 4640 and 4650 Series (Nasdaq National Market, Nasdaq SmallCap and Nasdaq Convertible Debt Securities, respectively) into one rule series (proposed NASD Rule 4630 Series), which then applies the proposed trade reporting requirements uniformly to all securities listed on Nasdaq. Because no quoting or issuer listing and qualifications activities would occur on or through the Trade Reporting Facility, all rules in the current NASD Rule 4000 Series pertaining to such activities have not been included. In addition, the current rule relating to customer confirmations for transactions in Nasdaq SmallCap securities (NASD Rule 4643) has not been included because it is duplicative of Rule 10b–10 under the Act.[18] Finally, the proposed rule change does not include rules relating to the risk management functionality currently provided through Nasdaq's ACT, as that service would not be provided through the Trade Reporting Facility.

As a result of these rule deletions, there are several gaps in the numbering of proposed rules (*e.g,* NASD Rule 4200 is followed by NASD Rule 4616). However, NASD believes it is preferable at this time to have these ''gaps in numbering'' to maintain consistency with the ADF trade reporting rules and to retain continuity with respect to prior guidance that has been disseminated relating to Nasdaq trade reporting rules. In this regard, NASD intends to interpret and apply the Trade Reporting Facility rules in the same manner in which the Nasdaq trade reporting rules currently are interpreted and applied.

In addition, NASD is proposing NASD Rule 4633, which would give NASD the authority to halt trading otherwise than on an exchange reported to the Trade Reporting Facility. The proposed trading halt rule would impose mandatory trade halts when a primary market halts for certain defined regulatory reasons and grants NASD discretion to halt when there is extraordinary market activity in a security or the primary market halts for operational reasons. The proposal also provides NASD the authority to halt trading in the event that the facility cannot transmit real-time trade reporting information to the SIP. NASD believes it must have this authority to ensure that necessary and reliable information would be disseminated from the Trade Reporting Facility to the marketplace. However, the proposal would not necessarily restrict, in the event of a halt due to operational problems limited only to the Trade Reporting Facility, continued trading otherwise than on an exchange outside of the Trade Reporting Facility, for example, through the ADF. This is similar in application to the ADF trading halt rule.[19]

NASD also is proposing a new NASD Rule 5000 Series relating to trading otherwise than on an exchange. In the new NASD Rule 5000 Series, NASD is proposing rules that would apply uniformly to trading in the ADF and the Trade Reporting Facility.[20] First, proposed NASD Rule 5000 provides that members are required to report transactions effected otherwise than on or through a national securities exchange to NASD through either the Trade Reporting Facility, pursuant to the NASD Rule 4000 and 6000 Series, or the ADF, pursuant to the NASD Rule 4000A and 6000A Series.

Second, NASD is proposing to renumber current NASD Rule 3350 (the ''Short Sale Rule'') as NASD Rule 5100 and apply its requirements to transactions reported to either the ADF or the Trade Reporting Facility. Similar to the current application of NASD Rule 3350 to trades reported to the ADF, the proposed rule change would require members to comply with the Short Sale Rule based on the national best bid for Nasdaq National Market Securities.[21] In all other respects, the Short Sale Rule would be consistent with the current short sale rule, including an exemption for registered market makers engaged in bona fide market making activity. The proposed rule change also clarifies that the term ''customer'' as used in the Short Sale Rule applies to non-member broker-dealers and makes other conforming changes in light of the Commission's adoption of Regulation SHO.

Finally, NASD is proposing NASD Rule 5200 that would prohibit members from executing a transaction otherwise than on an exchange in a security subject to an initial public offering until such security has first opened for trading on the national securities exchange listing the security, as indicated by the dissemination of an opening transaction in the security by the listing exchange. This is similar to the requirement currently in NASD Rule 6440(g), applicable to OTC transactions in exchange-listed securities.

Based on discussions with Commission staff, NASD also is noting that it intends to work with the appropriate parties to ensure that Trade Reporting Facility and ADF transactions are disseminated to the media with a modifier indicating the source of such transactions that would distinguish them from transactions executed on or through the Nasdaq Stock Market.

This rule proposal does not include any proposed fees or assessments specifically related to the Trade Reporting Facility. Fees or assessments with respect to the Trade Reporting Facility will be the subject of a future submission with the Commission.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[22] in general, and Section 15A(b)(6) of the Act,[23] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD

[16] NASD will have an integrated audit trail of Trade Reporting Facility and ADF transactions and will have integrated surveillance capabilities.

[17] The clearing and comparison requirements in the NASD Rule 6100 Series apply both to the Trade Reporting Facility and the NASD system that would be used for purposes of transaction reporting of OTC equity securities and DPPs.

[18] 17 CFR 240.10b–10.

[19] As such, under the proposal, NASD Rule 3340 would not prohibit a member from quoting or trading through another market if NASD closes trading pursuant to its authority under proposed NASD Rule 4633(a)(3) or NASD Rule 4120A(a)(3).

[20] Rules that previously resided in the NASD Rule 5000 Series, and have not otherwise been deleted, have been moved.

[21] Telephone call between Phil Shaikun, Associate General Counsel, NASD and Kelly M. Riley, Division, Commission on July 15, 2005.

[22] 15 U.S.C. 78o–3.

[23] 15 U.S.C. 78o–3(b)(6).

believes that the proposed rule change will provide an effective mechanism and regulatory framework for quoting and trading activities otherwise than on an exchange upon Nasdaq's separation from NASD.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on this proposed rule change 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 NASD 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–2005–087 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–2005–087. 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 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–2005–087 and should be submitted on or before August 12, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3912 Filed 7–21–05; 8:45 am]

BILLING CODE 8010–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52035; File No. SR–OCC–2002–16]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Unsegregation of Long Option Positions

July 14, 2005.

I. Introduction

On July 9, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–OCC–2002–16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On December 12, 2002, and January 11, 2005, OCC amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on March 14, 2005.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

OCC Rule 611 permits a clearing member to issue instructions to OCC to release from segregation a long position in options contracts carried in a customers' account or firm non-lien account provided that the clearing member is simultaneously carrying in such account for such customer a short position in option contracts and the margin requirement of the customer has been reduced as a result of carrying the long option position. The proposed rule change amends Rule 611(c) to permit a clearing member to issue such instructions where one leg of the spread is a long option position and the other is a long or short position in a security futures contract.

The proposed rule change was submitted in light of joint margin rules that were adopted by the Commission and by the Commodity Futures Trading Commission (''CFTC'') on August 1, 2002,[3] pursuant to Section 7(c)(2) of the Act and related provisions of the Commodity Exchange Act governing the setting of margin requirements for security futures. The proposed rule is drafted in such a way that its operation is dependent on the joint margin rules and the rules of the exchanges and security futures markets adopted thereunder. Only if a particular spread position involving a long option qualifies for reduced margin treatment under those rules could the option be unsegregated pursuant to Rule 611. With approval of this proposed rule change, consistency between the joint margin rules and Rule 611(c) will be assured.[4]

Section 7(c)(2)(B) of the Act requires that the margin requirements for security futures products be consistent with the margin requirements for comparable options contracts traded on any exchange registered pursuant to section 6(a) of the Act.[5] Clearing members are permittedunder the joint margin rules[6] and exchange and

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 51331, (March 8, 2005), 70 FR 12525.

[3] Securities Exchange Act Release No. 46292, 67 FR 53146 (August 14, 2002) [File No. S7–16–01].

[4] OCC has requested a no action position from the Commission's Division of Market Regulation that a clearing member that gives an instruction to unsegregate long option positions pursuant to this amended rule will not be deemed to be in violation of Rules 15c3–3, 8c–1, and 15c2–1 under the Act. *Supra,* note 12.

[5] 15 U.S.C. 78g(c)(2)(B)(iii)(I).

[6] *Supra,* note 3.

security futures market rules adopted thereunder[7] to reduce a customer's margin requirement when the customer has offsetting positions in security futures and options on the same underlying interest. Accordingly, OCC is amending its Rule 611(c) to also allow a clearing member to unsegregate long option positions in a customers' account or in a firm non-lien account when the customer holds an offsetting long or short security futures position and the clearing member has reduced the customer's margin requirement in recognition of the spread.[8]

Rule 15c3–3 under the Act requires broker-dealers to maintain physical possession or control of customer fully-paid and excess margin securities.[9] Rules 8c–1 and 15c2–1 under the Act, which govern hypothecation of customer securities, also place limitations on broker-dealers' rights to encumber customer securities.[10] In order to permit compliance by clearing members with Rule 15c3–3 and with the hypothecation rules, OCC's Rule 611(a) presently provides that long option positions in a customers' account established under Article VI, Section 3(e) of OCC's By-Laws are deemed to be segregated and therefore not subject to OCC's lien except to the extent that the clearing member gives contrary instructions to OCC in accordance with the rule.[11] Under Rule 611(c), a clearing member is entitled to give an instruction to unsegregate such a long position if the long position constitutes the long leg of a spread position, the short leg that constitutes the short leg of the spread position is held by the same customer, and the customer's margin requirement has been reduced to reflect the net risk of the spread position. OCC has requested and has been granted no action relief from the Commission's Division of Market Regulation regarding the proposed rule change with respect to Rules 8c–1, 15c2–1 and 15c3–3 of the Act.[12]

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the clearing agency's custody or control or for which it is responsible.[13] The purpose of OCC's Rule 611(c) is to provide consistency between the clearing level-margin requirement under OCC's rules and the customer-level margin requirement under applicable exchange rules. The joint margin rules and the customer margin rules adopted by the security exchanges and the security futures markets permit reduced customer margin levels for specific offsetting positions in options and security futures. By allowing clearing members to issue instructions to unsegregate long option positions in order to take advantage of the offsets allowed at the customer level, the proposed rule change eliminates a disparity in the customer-level and clearing-level margin requirements and thereby reduces the likelihood that clearing members will experience a financial ''squeeze'' resulting because the amount of clearing-level margin the member is required to deposit with OCC is greater than the amount of customer-level margin the member collects from its customers.[14]

As a consequence of the proposed rule change, OCC will collect less margin from its clearing members than it does under current Rule 611(c). However, this result is consistent with the joint margin rules and with the exchange and security futures market rules which were approved by the Commission. Furthermore, because the proposed rule change requires that anylong options position that is used to offset a security futures position will be unsegregated and therefore subject to OCC's lien, OCC and its members will be protected from financial loss in the event an OCC member fails to meet its obligations with respect to such short security futures position. Accordingly, because the proposed rule change is designed so that it provides consistent treatment between OCC's rules, the joint margin rules, and the margin rules of the exchanges and the security futures markets without jeopardizing the adequacy of collateral available to OCC, the proposed rule change should promote the prompt and accurate clearance and settlement of securities transactions and should help assure the safeguarding of securities and funds which are in OCC's custody or control or for which OCC is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2002–16) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3914 Filed 7–21–05; 8:45 am]

BILLING CODE 8010–01–P

[7] *See, e.g.,* Securities Exchange Act Release Nos. 47460 (March 6, 2003), 68 FR 12123 (March 13, 2003) [File No. SR–NYSE–2003–05], 47541 (March 20, 2003), 68 FR 14725 (March 26, 2003) [File No. SR–CBOE–2002–67], and 47550 (March 20, 2003), 68 FR 15015 (March 27, 2003) [File No. SR–NASD–2003–45 (Orders approving amendments to NYSE Rule 431, CBOE Rule 12.3, and NASD Rule 2520 relating to margin requirements for security futures contracts.)

[8] Under OCC Rule 611(a), all positions in security futures are deemed to be unsegregated because a futures contract, which represents a potential liability as well as a potential asset, is never deemed to be fully-paid or to represent excess margin securities. Accordingly, this rule filing addresses only the case where long put or call options are spread against long or short futures contracts.

[9] 17 CFR 240.15c3–3(b).

[10] 17 CFR 240.8c–1 and 15c2–1.

[11] The provisions of Rule 611 also apply to long option positions of certain ''non-customers'' carried in a ''firm non-lien account'' under Article VI, Section 3(a) of OCC's By-Laws. At present, no clearing member carries such an account.

[12] Letter from Bonnie Gauch, Attorney, Division of Market Regulation to William H. Navin, General Counsel, OCC (July 14, 2005). Specifically, the letter states that the Division will not recommend to the Commission that enforcement action be taken pursuant to Exchange Act Rules 8c–1, 15c2–1, and 15c3–3 if, in accordance with the amendments to Rule 611, a broker-dealer releases from segregation or permits to remain unsegregated, a customer long option position if (1) the broker-dealer is simultaneously carrying in that customer's account an offsetting security future contract, and (2) the margin required to be deposited by the customer with respect to the security future contract has been reduced as a result of the carrying of the long option position.

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] The Commission has previously approved similar amendments to Rule 611(c). *See, e.g.,* Securities Exchange Act Release No. 31626 (December 21, 1992), 57 FR 62588 (December 31, 1992) [File No. SR–OCC–92–14] (Order approving a proposed rule change that eliminated the requirement that spread positions be carried for the same customer and be on a contract-for-contract basis. The rule change gave clearing-level spread margin treatment to pairs of positions where the customer's margin requirement had been reduced in accordance with applicable exchange margin rules).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52030; File No. SR–OCC–2003–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to a New Customers' Lien Account

July 14, 2005.

I. Introduction

On July 21, 2003, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–OCC–2002–16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On December 20, 2004 OCC amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on March 14, 2005.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The proposed rule change provides for the introduction of a new ''customers' lien account'' that may be carried at OCC by a clearing member. The new account type will be used only for customers that are margined on a portfolio risk basis or that are margined pursuant to a cross-margining arrangement in accordance with exchange rules.

In conjunction with the Chicago Board Options Exchange (''CBOE''), American Stock Exchange, New York Stock Exchange (''NYSE''), Chicago Mercantile Exchange (''CME''), Chicago Board of Trade, and various member firms, OCC has established a program under which eligible customers may elect to establish accounts, limited to specified derivative products, that will be margined on a portfolio margining basis rather than under the ''strategy-based'' margining method currently set forth in the exchanges' margin rules.[3] The program will permit eligible customers to establish risk-based margin accounts that will be limited to specified derivative products subject to regulation by the Commission, and it will also provide for accounts in which derivative products regulated by the Commission may be cross-margined with related futures products regulated exclusively by the Commodity Futures Trading Commission (''CFTC''). Under the current proposal, a cross-margining account of an eligible customer will be treated as a securities account for regulatory purposes.[4] A single ''customers' lien account'' created under new paragraph (i) of Article VI (Clearance of Exchange Transactions), Section 3 (Maintenance of Accounts) of OCC's By-Laws will be used to clear all transactions of eligible customers under a portfolio margining program or cross-margining program so long as the products included in the account are all cleared by OCC.[5] OCC will have a lien on all positions and assets in a customers' lien account as security for the OCC clearing member's obligations to OCC relating to the account.[6] OCC will continue to require full premium payment from the clearing firm for all options purchased whether or not the firm extends credit to a customer for the purchase.

Where cross-margining accounts include products cleared by OCC as well as futures products cleared by CME or other derivatives clearing organizations other than OCC, OCC's clearing function will occur in a separate customers' lien account to be established for each cross-margining program. A corresponding account will be established at each participating derivatives clearing organization. Liquidation of these accounts would be subject to the cross-margining agreement between or among OCC and the participating derivatives clearing organization(s) just as liquidation under the cross-margining programs would occur today. Any new cross-margining agreements or any amendments to existing cross-margining agreements will be separately filed with the Commission for approval. It is anticipated that clearing members may establish a customers' lien account corresponding to a cross-margining agreement among OCC, CME, and the New York Clearing Corporation. Separate customers' lien accounts would correspond to cross-margining agreements between OCC and other futures clearing organizations.

As stated in the CBOE rule filing, the current program includes only the following eligible products: (i) Broad-based securities index options (including stock index warrants) listed on a national securities exchange; (ii) related marginable exchange-traded funds; and (iii) broad-based securities index futures contracts and futures options contracts to the extent they are cross-margined with listed index options.

OCC is making the following revisions to its By-Laws and Rules to provide for the introduction of customers' lien accounts.

First, OCC is adding a new defined term, ''customers' lien account,'' to Article I of its By-Laws. The definition simply cross-references the description of the account in Article VI, Section 3(i) of the By-Laws.

Second, Article VI of the By-Laws sets out the basic terms of option contracts and the general rules for the clearance of exchange transactions. Section 3 contains a description of each of the types of accounts that clearing members may establish and maintain with OCC. A new Section 3(i) is being added that contains a description of the proposed ''customers' lien account'' and provisions setting forth OCC's lien on all long positions, securities, margin, and other funds in these accounts and OCC's right to close out positions in these accounts. As provided in the amendment to Rule 611, which is described below, positions in customers' lien accounts will be deemed to be unsegregated. Section 3 is also being amended to correct the paragraph numbers of the Interpretations and Policies to Section 3.

Third, OCC is making a minor, conforming amendment to Section 4 of Article VI of the By-Laws.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 51330 (March 8, 2005), 70 FR 12527.

[3] For a detailed description of the program see Securities Exchange Act Release Nos. 51614 (April 26, 2005), 70 FR 22935 (May 3, 2005) [File No. SR–CBOE–2002–03] and 51615 (April 26, 2005), 70 FR 22953 (May 3, 2005) [File No. SR–NYSE–2002–19]. The Commission notes that OCC's proposed rule change is applicable to any exchange with Commission approved rules providing for such margining.

[4] CBOE has submitted a request to the CFTC for an exemption from the segregation requirements and from other provisions of the Commodity Exchange Act to the extent necessary to permit futures contracts to be carried in securities accounts subject to regulation by the Commission.

[5] OCC is registered as a derivatives clearing organization under the Commodity Exchange Act and is therefore able to clear CFTC-regulated derivative products as well as Commission-regulated derivative products.

[6] Under Commission Rules 8c–1, 15c2–1, and 15c3–3, fully paid for securities held for the account of a customer generally may not be subject to liens to secure obligations of the carrying broker-dealer. To facilitate compliance with these customer protection rules, OCC's rules require clearing members to carry fully paid for positions of public securities customers in a customers' account under which all long positions are considered ''segregated'' and therefore free of OCC's lien unless specifically designated as ''unsegregated.'' All long options positions in customers' lien accounts, however, would automatically be considered unsegregated for purposes of OCC's placing a lien on these positions. OCC has requested and received a no-action letter from the Commission's Division of Market Regulation with respect to OCC treating these positions as unsegregated notwithstanding these provisions of Rules 8c–1, 15c2–1 and 15c3–3. Letter from Bonnie Gauch, Attorney, Division of Market Regulation, to William H. Navin, General Counsel, OCC (July 14, 2005).

Fourth, OCC's Rule 611 treats all long option positions in the regular securities customers' account as ''segregated'' and therefore free of OCC's lien except to the extent that a clearing member is entitled to ''unsegregate'' long positions that are part of a customer spread. Rule 611 is being amended to provide that all positions in customers' lien accounts will be deemed to be ''unsegregated.''

Fifth, Chapter XI of OCC's Rules is being amended to provide for the liquidation of a clearing member's customers' lien account in the event that the clearing member is suspended. In essence, a customers' lien account will be treated in exactly the same manner as a combined market-maker account. Under these provisions, proceeds of long options or security futures in a customers' lien account will be applied only to satisfy obligations arising from that account.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.[7] The proposed rule change is designed to facilitate a new portfolio customer margining program that was the subject of proposed rule changes filed by NYSE and CBOE and was approved by the Commission.[8] In order to reduce the disparity between the customer-level margin requirement and the clearing-level margin requirement that would occur if portfolio margining were allowed at the customer level but not at the clearing member level, the member's portfolio of eligible transactions will be cleared and settled at OCC through a new customers' lien account and OCC will compute margin for such account using the same portfolio margining methodology (OCC's TIMS methodology) that is used to calculate margin at the customer level.

OCC's Rule 611(c) currently allows a clearing member to unsegregate a customer's long option position only if the position is offset by a short position being carried for the same customer and if the customer's margin requirement is reduced as a result of the offsetting positions. Under the customer portfolio margining methodology program, all long positions in the customers' lien account will be available as an offset to all short positions, regardless of the identity of the customer. This should provide for a greater diversification benefit to OCC's clearing members in the calculation of their margin. However, because all positions in the customers' lien account will be unsegregated and therefore will be subject to OCC's lien, the long positions in the account will be available to OCC in the event a clearing member fails to settle its obligations relating to a short position. Accordingly, because the proposed rule change is designed to ensure that transactions in securities which are eligible for the new portfolio margining program approved by the Commission will be cleared and settled by OCC in a manner that will not reduce the adequacy of collateral available to OCC, the proposed rule change should not adversely affect OCC's ability to assure the safeguarding of securities and funds which are in OCC's custody and control or for which OCC is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2003–04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3915 Filed 7–21–05; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] Securities Exchange Act Release No. XXXXX (July, 2005).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration No. 10137 and No. 10138]

Florida Disaster Number FL–00005

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–1595–DR), dated 7/10/2005.

Incident: Hurricane Dennis.

Incident Period: 7/10/2005 and continuing.

DATES: Effective Date: 7/13/2005.

Physical Loan Application Deadline Date: 9/08/2005.

EIDL Loan Application Deadline Date: 4/10/2006.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Florida, dated 7/10/2005, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Bay, Franklin, Gulf, Okaloosa, Wakulla, and Walton.

Contiguous Counties:

Florida: Calhoun, Holmes, Jackson, Jefferson, Leon, Liberty, and Washington.

Alabama: Covington and Geneva.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–14468 Filed 7–21–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration No. 10139 and No. 10140]

Florida Disaster Number FL–00004

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Florida dated 7/13/2005.

Incident: Severe Storms and Flooding.

Incident Period: 6/25/2005 through 7/07/2005.

EFFECTIVE DATE: 7/13/2005.

Physical Loan Application Deadline Date: 9/12/2005.

EIDL Loan Application Deadline Date: 4/13/2006.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration,

409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
Duval.

Contiguous Counties:
Florida: Baker, Clay, Nassau, and St. Johns.

The Interest Rates are:

	Percent
Homeowners with credit available elsewhere	5.750
Homeowners without credit available elsewhere	2.875
Businesses with credit available elsewhere	6.387
Businesses & small agricultural cooperatives without credit available elsewhere	4.000
Other (including non-profit organizations) with credit available elsewhere	4.750
Businesses and non-profit organizations without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 10139 6 and for economic injury is 10140 0.

The States which received an EIDL Declaration Number are Florida.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: July 13, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–14471 Filed 7–21–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration No. 10141]

Idaho Disaster Number ID–00002

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Idaho (FEMA–1592–DR), dated 7/06/2005.

Incident: Heavy Rains and Flooding.

Incident Period: 5/06/2005 through 5/20/2005.

DATES: Effective Date: 7/06/2005.

Physical Loan Application Deadline Date: 9/06/2005.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/06/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
Nez Perce and parts of the Nez Perce Reservation within Nez Perce County.

The Interest Rates are:

	Percent
Other (including non-profit organizations) with credit available elsewhere	4.750
Businesses and non-profit organizations without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 10141.

(Catalog of Federal Domestic Assistance Number 59008)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 05–14469 Filed 7–21–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration No. 10142]

Mississippi Disaster No. MS–00002

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–1594–DR), dated 7/10/2005.

Incident: Hurricane Dennis.

Incident Period: 7/10/2005.

DATES: Effective Date: 7/10/2005.

Physical Loan Application Deadline Date: 9/08/2005.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 7/10/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
Attala, Calhoun, Chickasaw, Choctaw, Clarke, Clay, Covington, Forrest, George, Greene, Hancock, Harrison, Itawamba, Jackson, Jasper, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Leake, Lee, Lowndes, Madison, Monroe, Neshoba, Newton, Noxubee, Oktibbeha, Perry, Pontotoc, Rankin, Scott, Smith, Stone, Wayne, Webster, and Winston.

The Interest Rates are:

	Percent
Other (including non-profit organizations) with credit available elsewhere	4.750
Businesses and non-profit organizations without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 10142.

(Catalog of Federal Domestic Assistance Number 59008)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 05–14470 Filed 7–21–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: South Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent (revised).

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared with a revised terminus for the proposed Interstate 73 (I–73) highway project in eastern South Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Tyndall, Environmental Program Manager, Federal Highway Administration, 1835 Assembly Street, Suite 1270, Columbia, South Carolina 29201, telephone: (803) 765–5411, e-mail: *Patrick.tyndall@fhwa.dot.gov*.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the South Carolina Department of Transportation (SCDOT), previously published a Notice of Intent in the **Federal Register** (August 9, 2004; 69 FR 48271) to prepare a Tier 1 EIS from the South Carolina/North Carolina state line to the vicinity of I–95, a distance of approximately 35 miles. This revised notice provides for an EIS, not tiered, from the vicinity of Hamlet, North Carolina (southeast of Rockingham) to I–95 in South Carolina, a distance of approximately 40 miles.

Improvements to the corridor are considered necessary to improve national and regional connectivity to the Conway/Myrtle Beach area of South Carolina by providing a direct link from North Carolina. This link will enhance economic opportunities and tourism in South Carolina. The proposed project would fulfill congressional intent, as originally proposed in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 (Pub. L. 102–240; 105 Stat. 1914) and confirmed in the Transportation Equity Act (TEA–21) of 1998 (Pub. L. 105–178; 112 Stat. 107). Alternatives to be evaluated include the no action alternative, the upgrade of existing roads, construction on new alignment, and combinations of upgrades and new alignments.

The FHWA and SCDOT are seeking input as a part of the scoping process to assist in identifying issues relative to this project. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. An interagency coordination process will begin soon, with the invitations to Cooperating Agencies and a formal scoping meeting to occur in Fall 2005. A public involvement plan is being developed for this project and will include a variety of opportunities for interested parties to be involved in the project. Two public interest group/public scoping meetings will be held in late summer 2005 at one location in northeastern South Carolina and one in Southern North Carolina. These meetings will be well publicized in advance, giving the location and time for each meeting. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: July 18, 2005.

Patrick L. Tyndall,

Acting Division Administrator, FHWA, Columbia, South Carolina.

[FR Doc. 05–14486 Filed 7–21–05; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34726]

Union Pacific Railroad Company—Trackage Rights Exemption—BNSF Railway Company

Pursuant to a written trackage rights agreement dated April 26, 2005, BNSF Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over a line of railroad extending from BNSF milepost 345.8 (Tower 55) near Fort Worth, TX, to BNSF milepost 213.2 (South Junction) near Wichita, KS, a distance of approximately 375.10 miles.[1]

The transaction was scheduled to be consummated on July 13, 2005.

The purpose of the trackage rights is to allow UP to use BNSF trackage for overhead movement of UP trains between Tower 55 in Fort Worth, TX, and Wichita, KS.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). 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. 34726, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert T. Opal, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: July 15, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–14490 Filed 7–21–05; 8:45 am]

BILLING CODE 4915–01–P

[1] The trackage rights involve BNSF segments with non-contiguous mileposts. Therefore, total mileage does not correspond to the milepost designations of the endpoints.

DEPARTMENT OF THE TREASURY

Departmental Offices: Proposed Collections: Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Forms CQ–1 and CQ–2, Financial and Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

DATES: Written comments should be received on or before September 20, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), Fax

(202–622–1207) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Web page for forms, *http://www.treas.gov/tic/forms.html.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form CQ–1, Financial Liabilities to, and Claims on, Foreigners; and Treasury International Capital Form CQ–2, Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

OMB Number: 1505–0024.

Abstract: Forms CQ–1 and CQ–2 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; EO 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Forms CQ–1 and CQ–2 are quarterly reports filed by nonbanking and non-securities broker and dealer enterprises in the U.S. to report their international portfolio transactions with unaffiliated foreigners. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: (a) In Form CQ–1, eliminate section B, which captures foreign affiliate positions of insurance underwriting subsidiaries and financial intermediaries; (b) For Form CQ–2, shorten the submission date for filing from 45 days to no later than 30 calendar days following the report as-of date. This action is necessary to make that information timely enough for use with all other quarterly TIC data; (c) The list for reporting the location of foreign counterparties on all TIC reporting forms will be increased to a total of roughly 245 countries and other areas. This longer list is essentially the same as the lists used for years in the TIC benchmark and annual reports, and thus will establish a uniform list of countries/areas consistent across all TIC reporting forms. Comments from TIC respondents indicate that their modern computerized database systems can easily produce all TIC reports for this longer list of countries/areas. This change will apply to the monthly and quarterly B-forms, C-forms, Form D and Form S and will allow the semiannual B-forms to be eliminated (see action b below). This action is expected to result in an overall reduction in burden for TIC respondents as a whole, as well as satisfying Treasury's need for more timely information on a larger number of countries. Comments from TIC respondents indicate that the combination of the longer uniform country list and the virtual elimination of rows for ''other countries'' will reduce significantly the total burden from all TIC reports, including the burdens of cross-checking information, responding to inquiries from data compilers, and making revisions to data reports; and (d) these changes will be effective beginning with the reports as of June 30, 2006.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Forms CQ–1 and CQ–2 (1505–0024).

Estimated Number of Respondents: 400.

Estimated Average Time per Respondent: Four and one/quarter (4.25) hours per respondent per filing. This average time varies from 4.5 hours for the approximately 190 CQ–1 respondents to 4.0 hours for the approximately 210 CQ–2 respondents.

Estimated Total Annual Burden Hours: 6,800 hours, based on 4 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Forms CQ–1 and CQ–2 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 05–14462 Filed 7–21–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital (TIC) Form BQ–3, Report of Maturities of Selected Liabilities of Depository Institutions, Brokers and Dealers to Foreigners.

DATES: Written comments should be received on or before September 20, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), FAX (202–622–1207) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treas.gov/tic/forms.html.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BQ–3, Report of Maturities of Selected Liabilities of Depository Institutions, Brokers and Dealers to Foreigners.

OMB Control Number: 1505–0189.

Abstract: Form BQ–3 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. Form BQ–3 is a quarterly report designed to capture, by instrument and on an aggregate basis, remaining maturities of all U.S. dollar and foreign currency liabilities (excluding securities) of U.S. resident banks, other depository institutions, brokers and dealers vis-a-vis foreign residents. This information is necessary for meeting international data reporting

standards and for formulating U.S. international financial and monetary policies.

Current Actions: (a) The list for reporting the location of foreign counterparties on all TIC reporting forms will be increased to a total of roughly 245 countries and other areas. This longer list is essentially the same as the lists used for years in the TIC benchmark and annual reports, and thus will establish a uniform list of countries/areas consistent across all TIC reporting forms. Comments from TIC respondents indicate that their modern computerized database systems can easily produce all TIC reports for this longer list of countries/areas. This change will apply to the monthly and quarterly B-forms, C-forms, Form D and Form S and will allow the semiannual B-forms to be eliminated (see action b below). This action is expected to result in an overall reduction in burden for TIC respondents as a whole, as well as satisfying Treasury's need for more timely information on a larger number of countries. Comments from TIC respondents indicate that the combination of the longer uniform country list and the virtual elimination of rows for ''other countries'' will reduce significantly the total burden from all TIC reports, including the burdens of cross-checking information, responding to inquiries from data compilers, and making revisions to data reports; (b) the semiannual reports BC(SA), BL–1(SA) and BL–2(SA) will be eliminated. These reports for about 130 countries/areas will be made unnecessary by action (a) above; and (c) these changes will be effective beginning with the reports as of June 30, 2006.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BQ–3 (1505–0189)

Estimated Number of Respondents: 55.

Estimated Average Time per Respondent: Four (4) hours per respondent per filing.

Estimated Total Annual Burden Hours: 880 hours, based on 4 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BQ–3 is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 05–14463 Filed 7–21–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form BQ–2, Part 1: Report of Foreign Currency Liabilities to, and Claims on, Foreigners of Depository Institutions, Brokers, Dealers, and Their Domestic Customers; Part 2: Report of Customers' Foreign Currency Liabilities to Foreigners.

DATES: Written comments should be received on or before September 20, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), FAX (202–622–1207) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treas.gov/tic/forms.html*. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BQ–2, Part 1: Report of Foreign Currency Liabilities to, and Claims on, Foreigners of Depository Institutions, Brokers, Dealers, and Their Domestic Customers; Part 2: Report of Customers' Foreign Currency Liabilities to Foreigners.

OMB Control Number: 1505–0020.

Abstract: Form BQ–2 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. Form BQ–2 is a quarterly report that covers the liabilities to and claims on foreigners of banks, other depository institutions, brokers and dealers, and their customers' claims and liabilities with foreigners, where all claims and liabilities are denominated in foreign currencies. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: (a) The list for reporting the location of foreign counterparties on all TIC reporting forms will be increased to a total of roughly 245 countries and other areas. This longer list is essentially the same as the lists used for years in the TIC benchmark and annual reports, and thus will establish a uniform list of countries/areas consistent across all TIC reporting forms. Comments from TIC respondents indicate that their modern computerized database systems can easily produce all TIC reports for this longer list of countries/areas. This change will apply to the monthly and quarterly B-forms, C-forms, Form D and Form S and will allow the semiannual B-forms to be eliminated (see action b below). This action is expected to result in an overall reduction in burden for TIC respondents as a whole, as well as satisfying Treasury's need for more timely information on a larger number of countries. Comments from TIC respondents indicate that the combination of the longer uniform country list and the virtual elimination of rows for ''other countries'' will reduce significantly the total burden from all TIC reports, including the burdens of cross-checking information, responding to inquiries from data compilers, and making revisions to data reports; (b) The semiannual reports BC(SA), BL–1(SA) and BL–2(SA) will be eliminated. These reports for about 130 countries/areas will be made unnecessary by action (a) above; and (c) these changes will be effective

beginning with the reports as of June 30, 2006.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BQ–2 (1505–0020)

Estimated Number of Respondents: 120.

Estimated Average Time per Respondent: Six and one/quarter (6.25) hours per respondent per filing. This average time varies from 10 hours for the approximately 30 major reporters to 5 hours for the other reporters.

Estimated Total Annual Burden Hours: 3,000 hours, based on four reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BQ–2 is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 05–14464 Filed 7–21–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form BQ–1, Report by Depository Institutions, Brokers and Dealers of Customers' U.S. Dollar Claims on Foreigners.

DATES: Written comments should be received on or before September 20, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), FAX (202–622–1207) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury?s TIC Forms Web page, *http://www.treas.gov/tic/forms.html.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form BQ–1. Report by Depository Institutions, Brokers and Dealers of Customers' U.S. Dollar Claims on Foreigners.

OMB Control Number: 1505–0016.

Abstract: Form BQ–1 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. This quarterly report filed by depository institutions, brokers and dealers covers their U.S. customers? dollar claims vis-à-vis foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: (a) The list for reporting the location of foreign counterparties on all TIC reporting forms will be increased to a total of roughly 245 countries and other areas. This longer list is essentially the same as the lists used for years in the TIC benchmark and annual reports, and thus will establish a uniform list of countries/areas consistent across all TIC reporting forms. Comments from TIC respondents indicate that their modern computerized database systems can easily produce all TIC reports for this longer list of countries/areas. This change will apply to the monthly and quarterly B-forms, C-forms, Form D and Form S and will allow the semiannual B-forms to be eliminated (see action b below). This action is expected to result in an overall reduction in burden for TIC respondents as a whole, as well as satisfying Treasury's need for more timely information on a larger number of countries. Comments from TIC respondents indicate that the combination of the longer uniform country list and the virtual elimination of rows for ''other countries'' will reduce significantly the total burden from all TIC reports, including the burdens of cross-checking information, responding to inquiries from data compilers, and making revisions to data reports; (b) The semiannual reports BC(SA), BL–1(SA) and BL–2(SA) will be eliminated. These reports for about 130 countries/areas will be made unnecessary by action (a) above; and (c) these changes will be effective beginning with the reports as of June 30, 2006.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BQ–1 (1505–0016).

Estimated Number of Respondents: 310.

Estimated Average Time per Respondent: Two and two/tenths (2.2) hours per respondent per filing. This average time varies from 4 hours for the approximately 30 major reporters to 2 hours for the other reporters.

Estimated Total Annual Burden Hours: 2,720 hours, based on four reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BQ–1 is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 05–14465 Filed 7–21–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital (TIC) Form BL–2/BL–2(SA), Report by Depository Institutions, Brokers and Dealers of Customers' U.S. Dollar Liabilities to Foreigners.

DATES: Written comments should be received on or before September 20, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), FAX (202–622–1207) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treas.gov/tic/forms.html*. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION: *Titles:* Treasury International Capital Form BL–2/BL–2(SA), Report by Depository Institutions, Brokers and Dealers of Customers' U.S. Dollar Liabilities to Foreigners.

OMB Control Number: 1505–0018.

Abstract: Form BL–2/BL–2(SA) is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. Form BL–2 is a monthly report (with a semiannual supplement) filed by banks, other depository institutions, brokers and dealers that covers their U.S. customers/dollar liabilities vis-à-vis foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies. Current Actions: (a) The list for reporting the location of foreign counterparties on all TIC reporting forms will be increased to a total of roughly 245 countries and other areas. This longer list is essentially the same as the lists used for years in the TIC benchmark and annual reports, and thus will establish a uniform list of countries/areas consistent across all TIC reporting forms. Comments from TIC respondents indicate that their modern computerized database systems can easily produce all TIC reports for this longer list of countries/areas. This change will apply to the monthly and quarterly B-forms, C-forms, Form D and Form S and will allow the semiannual B-forms to be eliminated (see action b below). This action is expected to result in an overall reduction in burden for TIC respondents as a whole, as well as satisfying Treasury's need for more timely information on a larger number of countries. Comments from TIC respondents indicate that the combination of the longer uniform country list and the virtual elimination of rows for ''other countries'' will reduce significantly the total burden from all TIC reports, including the burdens of cross-checking information, responding to inquiries from data compilers, and making revisions to data reports; (b) The semiannual reports BC(SA), BL–1(SA) and BL–2(SA) will be eliminated. These reports for about 130 countries/areas will be made unnecessary by action (a) above; and (c) these changes will be effective beginning with the reports as of June 30, 2006.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BL–2/BL–2(SA) (1505–0018)

Estimated Number of Respondents: 90 (semiannual 35)

Estimated Average Time per Respondent: Seven and one/half (7.5) hours per respondent per filing. This average time varies from 11 hours for the approximately 30 major reporters to 5.5 hours for the other reporters.

Estimated Total Annual Burden Hours: 8,635 hours, based on twelve reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BL–2/BL–2(SA) is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 05–14466 Filed 7–21–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of two information collections that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital (TIC) Form BC/BC(SA), Report of U.S. Dollar Claims of Depository Institutions, Brokers, and Dealers on Foreigners; and Treasury International Capital (TIC) Form BL–1/BL–1(SA), Report of U.S. Dollar Liabilities of Depository Institutions, Brokers, and Dealers to Foreigners.

DATES: Written comments should be received on or before September 20, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue, NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), fax (202) 622–1207 or telephone (202) 622–1276.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treas.gov/tic/forms.html.*

Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BC/BC(SA), Report of U.S. Dollar Claims of Depository Institutions, Brokers, and Dealers on Foreigners; and Treasury Capital Form BL–1/BL–1(SA), Report of U.S. Dollar Liabilities of Depository Institutions, Brokers, and Dealers to Foreigners.

OMB Control Numbers: 1505–0017 and 1505–0019.

Abstracts: Forms BC/BC(SA) and BL–1/BL–1(SA) are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. Form BC is a monthly report (with a semiannual supplement) that covers own U.S. dollar claims of banks, other depository institutions, brokers and dealers vis-á-vis foreign residents. Form BL–1 is a monthly report (with a semiannual supplement) that covers own U.S. dollar liabilities of banks, other depository institutions, brokers and dealers vis-ávis foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: (a) The list for reporting the location of foreign counterparties on all TIC reporting forms will be increased to a total of roughly 245 countries and other areas. This longer list is essentially the same as the lists used for years in the TIC benchmark and annual reports, and thus will establish a uniform list of countries/areas consistent across all TIC reporting forms. Comments from TIC respondents indicate that their modern computerized database systems can easily produce all TIC reports for this longer list of countries/areas. This change will apply to the monthly and quarterly B-forms, C-forms, Form D and Form S and will allow the semiannual B-forms to be eliminated (*see* action b below). This action is expected to result in an overall reduction in burden for TIC respondents as a whole, as well as satisfying Treasury's need for more timely information on a larger number of countries. Comments from TIC respondents indicate that the combination of the longer uniform country list and the virtual elimination of rows for ''other countries'' will reduce significantly the total burden from all TIC reports, including the burdens of cross-checking information, responding to inquiries from data compilers, and making revisions to data reports; (b) The semiannual reports BC(SA), BL–1(SA) and BL–2(SA) will be eliminated. These reports for about 130 countries/areas will be made unnecessary by action (a) above; and (c) these changes will be effective beginning with the reports as of June 30, 2006.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BC/BC(SA) (1505–0017).

Estimated Number of Respondents: 325.

Estimated Average Time per Respondent: Nine and three/tenths (9.3) hours per respondent per filing. This average time varies from 17 hours for the approximately 30 major reporters to 8.5 hours for the other reporters.

Estimated Total Annual Burden Hours: 36,210 hours, based on 12 reporting periods per year.

Form BL–1/BL–1(SA) (1505–0019).

Estimated Number of Respondents: 405.

Estimated Average Time per Respondent: Six and four/tenths (6.4) hours per respondent per filing. This average time varies from 12 hours for the approximately 30 major reporters to 6 hours for the other reporters.

Estimated Total Annual Burden Hours: 31,320 hours, based on 12 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Forms BC/BC(SA) and BL–1/BL– 1(SA) are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 05–14467 Filed 7–21–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Agency Information Collection Activities Under OMB Review

AGENCY: Board of Veterans' Appeal, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Board of Veterans' Appeal (BVA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 22, 2005.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, Fax (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0085.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0085'' in any correspondence.

SUPPLEMENTARY INFORMATION: *Titles:*

a. Appeal to Board of Veterans' Appeals, VA Form 9.

b. Withdrawal of Services by a Representative.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements.

d. Motion for Review of Representative's Charges for Expenses.

e. Request for Changes in Hearing Date.

f. Motion for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Extension of a currently approved collection.

Abstract:

a. Appeal to Board of Veterans' Appeals, VA Form 9, may be used by appellants to complete their appeal to the Board of Veterans' Appeals (BVA) from a denial of VA benefits. The information is used by BVA to identify the issues in dispute and prepare a decision responsive to the appellant's

contentions and the legal and factual issues raised.

b. Withdrawal of Services by a Representative: When the appellant's representative withdraws from a case, both the appellant and the BVA must be informed so that the appellant's rights may be adequately protected and so that the BVA may meet its statutory obligations to provide notice to the current representative.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements: Agreements for fees charged by individuals or organizations for representing claimants and appellants before VA are filed with, and reviewed by, the Board of Veterans' Appeals. The information is used to determine whether such fees are excessive or unreasonable.

d. Motion for Review of Representative's Charges for Expenses: Expense reimbursements claimed by individuals and organizations for representing claimants and appellants before VA have been monitored for fairness for many years. The information is used to review changes by claimants' representatives for expenses to afford protection to such claimants from overreaching by unscrupulous representatives and is useful in monitoring fees charged by representatives and to ensure that fee limitations are not avoided by mischaracterizing fees as expenses.

e. Request for Changes in Hearing Date: VA provides hearings to appellants and their representatives, as required by basic Constitutional due-process and by Title 38 U.S.C. 7107(b). From time to time, hearing dates and/or times are changed, hearing requests withdrawn and new hearings requested after failure to appear at a scheduled hearing. The information is used to comply with the appellants' or their representatives' requests.

f. Motion for Reconsideration: Decisions by BVA are final unless the Chairman orders reconsideration of the decision either on the Chairman's initiative, or upon motion of a claimant. The Board Chairman, or his designee, uses the information provided in deciding whether reconsideration of a Board decision should be granted.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 18, 2005 at pages 13235–13236.

Affected Public: Individuals or households, Business or other for profit, and Not for profit institutions.

Estimated Total Annual Burden:

a. Appeal to Board of Veterans' Appeals, VA Form 9—49,700 hours.

b. Withdrawal of Services by a Representative—183 hours.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements—207 hours.

d. Motion for Review of Representative's Charges for Expenses—4 hours.

e. Request for Changes in Hearing Date—946 hours.

f. Motion for Reconsideration—859 hours.

Estimated Average Burden Per Respondent:

a. Appeal to Board of Veterans' Appeals, VA Form 9—1 hour.

b. Withdrawal of Services by a Representative—20 minutes.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements—10 minutes (basic filing), 1 hour (contract modifications),—2 hours (filing motion or response).

d. Motion for Review of Representative's Charges for Expenses—4 hours (2 hours for motion and 2 hours for response to motion).

e. Request for Changes in Hearing Date—15 minutes (hearing date change), 15 minutes (request to withdraw a hearing),—1 hour (requests change a motion).

f. Motion for Reconsideration—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents:

a. Appeal to Board of Veterans' Appeals, VA Form 9—49,700.

b. Withdrawal of Services by a Representative—550.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements—937.

d. Motion for Review of Representative's Charges for Expenses—2.

e. Request for Changes in Hearing Date—1,716.

f. Motion for Reconsideration—859.

Dated: July 13, 2005.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. 05–14543 Filed 7–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs, Office of Research and Development.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant to CellCyte Genetics, Inc., PO Box 493, Kirkland, WA 98083 USA an exclusive license to practice the following patent applications: U.S. Provisional Patent Application Serial No. 60/364,498 filed March 15, 2002, entitled ''Methods and Compositions for Directing Cells to Target Organs''; U.S. Patent Application Serial No. 10/388,964 filed March 14, 2003, entitled ''Methods and Compositions for Directing Cells to Target Organs''; International Patent Application Serial No. PCT/US03/07834 filed March 13, 2003, entitled ''Methods and Compositions for Directing Cells to Target Organs''; International Patent Application Serial No. PCT/US03/07934 filed March 13, 2003, entitled ''Methods and Compositions Using Cellular Asialodeterminants and Glycoconjugates for Targeting Cells to Tissues and Organs''; International Patent Application Serial No. PCT/US03/32602 filed October 10, 2003 entitled ''Detection/Localization and Staging of Tumors Using Labeled Activated Lymphocytes Directed to a Tumor Specific Epitope'' and International Patent Application Serial No. PCT/US03/07836 filed March 14, 2003, entitled ''Methods and Compositions for Directing Cells to Target Organs''.

DATES: Comments must be received within fifteen (15) days from the date of this published Notice.

ADDRESSES: Send comments to Saleem J. Sheredos, Acting Director of Technology Transfer, Department of Veterans Affairs; Office of Research and Development, Attn: 12TT; 103 South Gay Street, Baltimore, MD 21202. Telephone: (410) 962–1800 ext 267; Facsimile: (410) 962–2141; e-mail: *saleem@vard.org.*

FOR FURTHER INFORMATION CONTACT: Copies of the published patent applications may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

SUPPLEMENTARY INFORMATION: It is in the public interest to so license these inventions as CellCyte, Inc., 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 fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs Office of Research and Development 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.

Approved: July 13, 2005.

Gordon H. Mansfield,

Deputy Secretary, Department of Veterans Affairs.

[FR Doc. 05–14542 Filed 7–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs, Office of Research and Development.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant Global Therapy Monitoring LLC, 6931 Arlington Road, Bethesda, MD 20814 USA an exclusive license to practice the following patent applications: U.S. Provisional Patent Application Serial No. 60/547,052 filed February 25, 2004, entitled ''Methods for Diagnosing and Treating Bladder Cancer''; U.S. Provisional Patent Application Serial No. 60/532,889 filed December 30, 2003, entitled ''Macrophage Migration Inhibitory Factor (MIF) as a Marker for Urological Inflammatory Disease''; U.S. Patent Application Serial No. 10/644,797 filed on August 21, 2003, and International Patent Application Serial No. PCT/US04/05288 filed on February 24, 2004, entitled ''Serum Macrophage Migration Inhibitory Factor (MIF) as a Marker for Prostate Cancer.''

DATES: Comments must be received within fifteen (15) days from the date of this published Notice.

ADDRESSES: Send comments to Saleem J. Sheredos, Acting Director of Technology Transfer, Department of Veterans Affairs; Office of Research and Development, Attn: 12TT; 103 South Gay Street, Baltimore, MD 21202. Telephone: (410) 962–1800 ext 267; Facsimile: (410) 962–2141; e-mail: *saleem@vard.org.*

FOR FURTHER INFORMATION CONTACT: Copies of the published patent applications may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

SUPPLEMENTARY INFORMATION: It is in the public interest to so license these inventions as Global Therapy Monitoring LLC 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 fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs Office of Research and Development 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.

Approved: July 13, 2005.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. 05–14541 Filed 7–21–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

VA Fleet Alternative Fuel Vehicle (AFV) Program Report

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In accordance with the Energy Policy Act of 1992 (EPAct) (42 U.S.C. 13211–13219) as amended by the Energy Conservation Reauthorization Act of 1998 (Pub. L. 105–388), the Department of Veterans Affairs' annual alternative fuel reports are available on the following Department of Veterans Affairs Web site: *http://www.va.gov/afv.*

FOR FURTHER INFORMATION CONTACT: Elaine Jackson, (202) 273–5859.

Approved: July 13, 2005.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. 05–14540 Filed 7–21–05; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
July 22, 2005

Part II

Central Intelligence Agency

Privacy Act of 1974; Systems of Records and Routine Users; Notice

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974; System of Records and Routine Uses

AGENCY: Central Intelligence Agency.

ACTION: Notice of final statement of general routine uses and Privacy Act systems of records notices of the Central Intelligence Agency.

SUMMARY: The Central Intelligence Agency has undertaken and completed an Agency-wide review of its Privacy Act systems of records. As a result of this review, in the May 24 2005 issue of the **Federal Register**, the Agency solicited public comments on the complete set of proposed revised Privacy Act systems of records notices, the proposed modification of one of its existing routine uses, and the proposed addition of seven new routine uses to its ''Statement of General Routine Uses'' for information subject to the Privacy Act. As required by the Privacy Act, the Agency provided an opportunity for interested persons to submit comments on these notices and routine uses. The Agency did not receive any comments.

DATES: July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Scott A. Koch, Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505 or by telephone, 703–613–1287.

SUPPLEMENTARY INFORMATION: The Central Intelligence Agency completed a zero-based, Agency-wide review of its Privacy Act systems of records. As a result of this review, the Agency determined that its Privacy Act notices required extensive modifications to more accurately describe the records systems currently maintained by the Agency. Rather than making numerous, piecemeal revisions, the Agency decided to draft and republish updated notices for all of its Privacy Act systems of records. The modified notices reflected several factors: The consolidation of records systems resulting from advances in information technology; the elimination of records systems no longer in use; the combination of previously separate records systems that serve a common purpose and are under common control; the addition of notices for records systems not previously identified as being subject to the Privacy Act; and the addition of notices for newly-created records systems. The proposed revised notices were published in the May 24, 2005 issue of the **Federal Register**. The Agency provided an opportunity for interested persons to submit comments. Because the Agency did not receive comments, no changes have been made to the notices, as proposed. The systems notices took effect on July 5, 2005.

In addition, the Agency had proposed a modification to one of its existing routine uses and the addition of seven new routine uses to its ''Statement of General Routine Uses,'' in order to clarify and increase the public's knowledge of the circumstances in which the Central Intelligence Agency may disclose information from Privacy Act systems of records and to enhance the Agency's ability to share information essential to the conduct of its national security mission. With the exception of the proposed modification to Routine Use 4 and the proposed addition of Routine Uses 8 through 14, no other changes to the provisions of the Agency's published ''Statement of General Routine Uses'' were proposed. The proposed modification and addition to ''Statement of General routine Uses'' were published in the May 24, 2005 issue of the **Federal Register**. The Agency provided an opportunity for interested persons to submit comments. Because the Agency did not receive comments, no changes have been made to the routine uses, as proposed. The modified and additional routine uses took effect on July 5, 2005.

Nothing in the revised systems notices or modified or new routine uses indicates any change in the Central Intelligence Agency's authorities or practices regarding the collection and maintenance of information about citizens and lawful permanent residents of the United States, nor do the changes impact any individual's rights to access or to amend their records pursuant to the Privacy Act.

Dated: July 8, 2005.

Edmund Cohen,

Chief of Information Management Services.

Statement of General Routine Uses for the Central Intelligence Agency

The following routine uses apply to, and are incorporated by reference into, each system of records maintained by the CIA:

1. In the event that a system of records maintained by the Central Intelligence Agency to carry out its functions indicates, or relates to, a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be disclosed, as a routine use, to the appropriate agency whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation, or charged with the responsibility to take appropriate administrative action, or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Central Intelligence Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance or special access, or the performance of the Agency's acquisition functions.

3. A record from this system of records may be disclosed, as a routine use, to a federal, state, or local agency, or other appropriate entities, or individuals, in connection with the hiring or retention of an employee, the issuance of a security clearance or special access, the reporting or an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the entity's decision on the matter.

4. A record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, in the course of presenting information or evidence to a court, magistrate, special master, administrative law judge, or administrative board or panel, including disclosures made pursuant to statutes or regulations governing the conduct of such proceedings.

5. A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation, as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in the Circular.

6. A record from a system of records may be disclosed, as a routine use, to NARA (GSA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

7. A record from this system of records may be disclosed, as a routine use, to a federal, state, or local agency, other appropriate entities or individuals, or, through established liaison channels, to selected foreign governments, provided such disclosure is compatible with the purpose for which the record was collected and is undertaken to enable the Central Intelligence Agency to carry out its responsibilities under the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, Executive

Order 12333 or any successor order, national security directives applicable to the Agency and classified implementing procedures approved by the Attorney General promulgated pursuant to such Orders and directives, as well as statutes, Executive orders and directives of general applicability. This routine use is not intended to supplant the other routine uses published by the Central Intelligence Agency.

8. A record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, to a Member of Congress or Congressional staffer in response to an inquiry from that Member of Congress or Congressional staffer made at the written request of the constituent who is the subject of the record.

9. A record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, to the public or to the media for release to the public, to enable the Agency to respond to charges of illegal or improper activity, professional misconduct, or incompetence when such allegations have become publicly known, and the General Counsel determines that such disclosures are necessary to preserve public confidence in the Agency and the integrity of its processes, or to demonstrate the accountability of the Agency and its employees.

10. A record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, to any Federal agency when documents or other information obtained from that agency are used in compiling the record, and the record is relevant to the official responsibilities of that agency.

11. A record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, to representatives of the Department of Justice or of any other entity responsible for representing the interests of the Central Intelligence Agency in connection with judicial, administrative or other proceedings. Records may also be disclosed to representatives of the Department of Justice and other U.S. Government entities, to the extent necessary to obtain their advice on any matter within their official responsibilities. Records may also be disclosed to representatives of private entities designated by the Central Intelligence Agency to represent Agency interests, to the extent necessary for the Central Intelligence Agency to obtain advice on any matter.

12. A record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, to individual Members or staff of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence in connection with the exercise of the Committees' intelligence oversight and legislative functions, when such disclosures are necessary to a lawful activity of the United States, and the General Counsel of the Central Intelligence Agency determines that such disclosures are otherwise lawful.

13. A record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, to the President's Foreign Intelligence Advisory Board, the Intelligence Oversight Board, any successor organizations, and any intelligence oversight entities established by the President, when the head of the Central Intelligence Agency determines that disclosure will assist these entities in the performance of their oversight functions.

14. In the event that none of the routine uses listed above is applicable, a record from a system of records maintained by the Central Intelligence Agency may be disclosed, as a routine use, to other appropriate recipients, if such dissemination is necessary to a lawful activity of the United States, and the General Counsel of the Central Intelligence Agency, in consultation with the Department of Justice, determines that such dissemination is lawful.

PRIVACY ACT SYSTEMS OF RECORDS NOTICES

CIA–1

SYSTEM NAME:

Financial Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA staff and contract employees, and military and civilian personnel detailed to CIA; and personal services independent contractors, industrial contractors, commercial vendors, and consultants to the CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains financial accounts and records concerning CIA expenditures. This includes: records relating to financial transactions associated with commercial vendors and contracts; official travel orders, records of funds advanced and transportation furnished, copies of travel claims and accountings, visas, and passports; records concerning, claims submitted for financial review, including all financial documentation accumulated in the collection and settlement of amounts due the agency from employees and former employees; records tracking general accounting data, including the status of funds advanced to individuals for official purposes and the procurement of materials and services; records on certifying officers, contracting officers, cash custodians and credit card holders, including authorizing letters and signature cards; and records for the processing of personal property claims and related activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 *et seq.*).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; provide accounting data to track items such as budget and expenses to allow the CIA to acquire goods and services and provide an accounting infrastructure; travel services; and financial management expertise for fiscal resource utilization and control; and determine whether the commitment and expenditure of CIA funds is authorized, approved, and certified by officials to whom such authority has been delegated.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities used in the normal course of business. Under applicable law and regulations, all searchers of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured area within the CIA accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief Financial Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals to whom records in this system pertain, and other CIA employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–2

SYSTEM NAME:

Training Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA staff and staff and contract employees, other federal employees, CIA personal services independent contractors and industrial contractors to CIA who have completed internal and CIA-sponsored external training courses or programs; and instructors and potential instructors for the CIA off-campus education program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Transcripts of CIA-sponsored training; student and instructor biographic data; course information; and names of CIA employees responsible for approving CIA-sponsored training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; manage training activities for individuals assigned to the CIA; process requests for internal and external training for CIA staff and contract employees, personal services independent contractors, industrial contractors and military and civilian personnel detailed to CIA; update and provide reference for CIA employee training records; and facilitate the process for selecting instructors for the CIA off-campus education program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name and employee number. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, Training Development Office, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for

appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; students and instructors in CIA internal and CIA-sponsored external training; and training facilities and other educational institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–3

SYSTEM NAME:

Language Program Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA staff and contract employees, and other individuals who have participated in CIA-managed or CIA-sponsored language training and testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data; test scores; training reports from instructors; training requests from sponsoring office(s); and attendance reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; provide information concerning language proficiency of CIA and non-CIA personnel who have taken internal or CIA-sponsored external language training or testing; monitor student performance; and conduct research and compile statistics on a variety of matters related to language learning and testing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name or social security number. Information may be retrieved from this system of records by automated or hand search on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in several areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, Training Development Office, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13) Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Students and instructors internal or CIA-sponsored external language training courses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–4

SYSTEM NAME:

CIA Declassifications Center (CDC) External Liaison Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to CONFIDENTIAL.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals at U.S. government agencies who serve as points of contact for dealings with the CDC External Referral & Liaison Branch.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information including name, social security number, position, title/rank, and expertise; locator information including telephone numbers, fax numbers, and address (primary, e-mail and pouch); and information related to security clearances and access approvals, including clearances held, current status

of clearances, and period of certification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949; as amended (50 U.S.C. 403a *et seq.*); the Executive Order 12958 (76 FR 19825).

PURPOSES(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and maintain a current list of points of contact at U.S. government agencies on EO 12958 declassification issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE OF CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in secure file servers located within the CIA.

RETRIEVABILITY:

By name, social security number, and agency. Information may be retrieved from this system of records by automated search based on capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Access is restricted to individuals who are certified on an access control list. Additional software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with records control schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, External Referral & Liaison Branch/CIA Declassification Center, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.1–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system, and points of contact provided by U.S. government agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–5

SYSTEM NAME:

Center for the Study of Intelligence (CSI) Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA staff and contract employees, personal services independent contractors to CIA, and current and former employees detailed to the CIA who have participated in an ''oral history'' program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, biographic data and the content of information provided by individuals who have participated in CSI's ''oral history'' program, or worked with CSI.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and record experiences of current and former CIA associates for use in CSI projects.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records and stored in secure file-servers located within CIA.

RETRIEVABILITY:

By name. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secure areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director, Center for the Study of Intelligence, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; and CIA records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–6

SYSTEM NAME:

Manuscript Review Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA employees; other authors obligated to submit writings or oral presentations for pre-publication review; and individuals otherwise involved in pre-publication review matters with CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manuscripts and other writings submitted for pre-publication review; Publication Review Board meeting minutes, official memoranda, bibliographic files and related documents; and Publication Review Board Reference Center documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 12958 (76 FR 19825); Executive Order 12968 (60 FR 40245); *Snepp v. United States*, 444 U.S. 507 (1980).

PURPOSE(S):

Records in this system are used by authorized personnel: To ensure process integrity; to enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; as references for manuscripts, meeting minutes, official memoranda, bibliographic files and related documents which have been submitted for review in compliance with applicable regulations; and to facilitate review of new manuscript submissions of proposed publications or speeches authored or given by present or former employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chair, Publications Review Board, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Current and former CIA employees and other obligated authors; Publication Review Boards members and staff; and other CIA personnel involved in the publications review process.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy

Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(l), (k), and (d)(5).

CIA–7

SYSTEM NAME:

Security Access Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA employees and other individuals authorized to access CIA buildings and facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identification information; building and entrance information; entry or exit data and codes; and credential information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; verify individuals' authorization to access CIA buildings and facilities; create a record of individuals' access to CIA buildings and facilities; facilitate the issuance and retrieval of visitor and temporary badges; and provide statistical data on building and facility access patterns for resource planning purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director of Security, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA badge system; after-hours building and facility logs; visitor-no-escort badge record cards; and permits and identification sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(l), (k), and (d)(5).

CIA–8

SYSTEM NAME:

Security Operations Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including CIA employees, who have contacted or been referred to the CIA's Security Operations Center; individuals, including CIA employees, who have been responsible for or suspected of security incidents, or have witnessed, reported, or investigated security incidents involving CIA information, and/or CIA-controlled property or facilities; individuals who have had restrictions imposed upon their entrance to CIA-controlled property or facilities; and individuals involved in traffic violations on CIA-controlled property or facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identification and event information that includes: Biographic information, including name, social security number, and CIA-controlled property or facilities, including date and place of incidents, subject matter or incident description, arrests and violation information, including court disposition and vehicular information where appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; track events, individuals, and groups of individuals that may pose a threat to the CIA; assist CIA security officials in identifying

present and future threats to CIA-controlled property of facilities and CIA personnel; track traffic violations, security incidents, and access control issues; serve as a statistical and management reporting tool; and facilitate court cases or other legal proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reports regarding accidents and traffic violations may be provided to the individuals involved and their insurance companies to facilitate the resolution of claims. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name or other personal identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director of Security, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system of records; members of the general public; CIA employees; and employees of other federal agencies and state and local governments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–9

SYSTEM NAME:

Industrial Security Clearance Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial contractors and commercial vendors; and persons in the private sector associated with the CIA who hold industrial security clearances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data, including name, address, position, and social security number; and security clearance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 10450 (5 U.S.C. 7311 note); Executive Order 12958 (78 FR 19825); and Executive Order 12968 (60 FR 40245).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; document security clearance(s) held by industrial contractors, commercial vendors, and persons in the private sector associated with the CIA; and provide a reference to answer inquiries on security clearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records of this system are used to certify clearances of individuals covered by the system. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILILTY:

By individual or company name, and social security number. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Procurement Executive, Office of the Chief Financial Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who hold or have held security clearances and the organizations with which they are employed or otherwise associated; and certification of clearance from the Center for CIA Security.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–10

SYSTEM NAME:

Parking Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to CONFIDENTIAL.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA employees and any other individuals requiring parking permits at CIA-controlled facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, office location, grade, badge number, vehicle license number, personal identifying information and relevant medical information of individuals covered in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended Central Intelligence Agency Act of 1949, (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and document the allocation and control of parking spaces at CIA-controlled facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, and vehicle license number. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief of Global Support, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA employees and other individuals requiring parking permits at CIA-controlled facilities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–11

SYSTEM NAME:

Accountable Property Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA staff and contract employees; personal services independent contractors; industrial contractors; military and civilian personnel detailed to CIA; and other individuals who possess CIA accountable property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, signature and office location of individuals covered by this system; and description of accountable property charged to individuals covered by this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59914).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; document accountability for CIA nonexpendable property; and track, inventory, audit, and report on accountable property.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searchers of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief of Global Support, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals concerned with accountable property, and accountable property officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–12

SYSTEM NAME:

Vehicle Operator Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA staff and contract employees, personal services independent contractors, or industrial contractors who have licenses to drive buses, trucks, and other specialty vehicles as part of their official CIA employment duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data on employees; medical qualification forms; drier test data; registers of permits issued; and accident report records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; document CIA staff and contract employees who are qualified to drive buses, trucks, and other specialty vehicles in the course of their CIA employment duties; and issue official U.S. Government driver's licenses and renewals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured area within the CIA. Electronic records are stored in secure file servers located within the CIA.

RETRIEVABILITY:

By name or driver's permit number. Information may be retrieved from this system of records by automated or hand search based on extant indices and

automated capabilities used in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, Transportation Support, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA staff and contract employees, personal services independent contractors, and industrial contractors; and federal, state and local law enforcement agencies as their records relate to competency testing and accident reporting.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–13

SYSTEM NAME:

Component Human Resources Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA staff and contract employees; military and civilian personnel detailed or assigned to the CIA; applicants for employment with the CIA; current and former employees of industrial contractors; and current and former independent contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memoranda, correspondence and other documents, including personnel soft files and supervisors' working files maintained by Agency offices and components, concerning individuals covered by this system on matters involving: Performance appraisals; travel, financial, retirement and claims information; time and attendance, including leave information; performance, conduct, and suitability; education, certification, training, and testing; special qualifications or restrictions; dependency and residence; emergency notifications; medical information, including disabilities and job-related injuries; biographic data; skills assessment data; locator information; cables and dispatches of administrative and operational significance; employee grievances, including equal employment opportunity complaints; employee evaluation panel files; and employee awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 *et seq.*).

PURPOSE(S):

Records are created, maintained and used by human resource management officials, supervisory personnel, and other authorized personnel at all levels of the organization on a need-to-know basis. These records, including supervisors' working files, EEO and grievance files, and suitability files, are used to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; supplement official personnel folders (''soft files''); facilitate and expedite processing or procedural requirements related to employee transactions; provide reference to monitor, record, and perform personnel management functions including employee counseling, employee evaluation, assignment, promotion, authorization of training, awards and leave; and provide management with statistical reporting.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in a secured area located in premises controlled by the head of the CIA. Electronic records are stored in secure file-servers located in premises controlled by the head of the CIA.

RETRIEVABILITY:

By name, social security number, CIA employee number, or other personal identifiers. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Component	Manager
Office of the Executive Director	Executive Director
Directorate of Intelligence	DI Information Management Officer
Directorate of Operations	Chief, DO Human Resources Staff
Directorate of Science & Technology	Chief, DS&T Administrative Resources
Office of the Chief Financial Officer	Chief Financial Officer
Office of the Chief Information Officer	Chief Information Officer
Office of Global Support	Chief of Global Support
Office of Human Resources	Chief Human Resources Officer
Office of Security	Director of Security
National Intelligence Council	Chairman, National Intelligence Council
Office of Congressional Affairs	Director of Congressional Affairs
Office of the DDCI for Community Management	Executive Director for IC Affairs
Office of General Counsel	General Counsel
Office of Inspector General	Inspector General
Office of Public Affairs	Director of Public Affairs
Additional DCI Area Components	DCI Information Management Officer

Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with the rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by the system; educational institutions and private organizations; CIA employees; and other federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–14

SYSTEM NAME:

Information Release Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who make information release requests to CIA under provisions of the Freedom of Information Act (FOIA), Privacy Act (PA), and Executive Order 12958 (EO); individuals who make special search requests and other related individuals; and individuals who are the subject of FOIA/PA/EO and special search requests and other related individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

FOIA/PA/EO requests and processing files including correspondence and supporting documents; documents responsive to FOIA/PA/EO and special search requests; duplicate files maintained by Directorate Information Review Officers (IROs) and component focal points; weekly reports of FOIA/PA/EO case activity and status; and indices related to special searches.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive order 12333 (46 FR 59941); Executive Order 12958 (76 FR 19825); the Freedom of Information Act (5 U.S.C. 552); the Privacy Act (5 U.S.C. 552a); the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note); the Nazi War Crimes Disclosure act (5 U.S.C. 552 note); the Japanese Imperial Government Records Disclosure act (5 U.S.C. 552 note).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; support the review, redaction, and release of CIA records pursuant to federal statutes and Executive Orders; formulate responses to FOIA/PA/EO and special search requests; provide reference in processing cases under administrative appeal and civil litigation; provide documentation for referral to other federal agencies for their review pursuant to Executive Order 12958, and the third agency rule; and generate external reports as required by federal statutes and internal reports for use by CIA officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, case number, and full text search. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief of Information Management Services, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 FR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who make FOIA/PA/EO and special search requests, and related individuals; and CIA components that provide information in response to FOIA/PA/EO and special search requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–15

SYSTEM NAME:

Guest Speaker Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals under consideration for guest speaker engagements, training courses and other presentations; such individuals may include members of the academic and business world as well as present and former senior CIA and other government officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data including academic credentials; publicly available information, including publications authored by the potential speaker; correspondence; and administrative records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel: To ensure process integrity; to enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and for curriculum development and selection of speakers for training courses and special presentations. Biographic data may be used as part of the official file for personal services contracts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORT AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file servers located within the CIA.

RETRIEVABILITY:

By name. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of record will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only be authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief Information Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requires are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations

for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determined by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; CIA employees; academic institutions and private organizations; libraries and commercial databases; and federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(l), (k), and (d)(5).

CIA–16

SYSTEM NAME:

Employee Clinical and Psychiatric Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA staff and contract employees and their dependents; military and civilian employees detailed to CIA and their dependents; retired or separated CIA employees and their dependents; and physicians who provide services to any of the categories of individuals listed above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical examination; laboratory data; X-rays; private physician reports; reports of on-the-job injuries and illnesses; results of psychiatric screening and testing; reports of psychiatric interviews; records of immunizations; records on individuals covered by this system receiving Agency counseling; other medical material relating to environmental health, safety training, and preventative medicine; and biographic information on physicians covered by this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel: To ensure process integrity; to enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; to maintain a complete and accurate medical record of all CIA employees, their dependents, military and civilian employees detailed to CIA, and retired or separated employees; to respond to requirements relating to safety and environmental issues and to CIA safety and environmental compliance training; to evaluate suitability for assignment, travel, fitness-for-duty, health maintenance and in reviewing applications for medical disability retirement; to track the safety and health status of CIA employees, components, sites, and operations; and to refer individuals for specialty medical assistance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from this system of records may be disclosed, as a routine use, to the Office of Personnel Management in the case of an employee who applies for medical disability, and to the Department of Labor in the case of an employee applies for medical disability, and to the Department of Labor in the case of an employee who applies for Worker's Compensation benefits. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, chart number, or other identifying information. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, Medical Services Office, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals supply their medical history; physicians supply their biographic information; and additional sources may include routine medical processing and reports from private

physicians or medical facilities when written permission is granted by the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–17

SYSTEM NAME:

Applicant Clinical and Psychiatric Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical examinations and related medical material; laboratory data; results of psychiatric screening and testing; and reports of psychiatric interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel: To ensure process integrity; to enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; to maintain a complete and accurate medical file on all individuals applying for CIA employment; to evaluate the medical suitability of applicants; to serve as a basis for the Employee Clinical and Psychiatric Record once an applicant is hired by the CIA; and to generate statistical reports on applicants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, chart number, or other identifying information. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, Medical Services Office, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Centeral Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an intial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Applicants who supply their medical history; additional sources may include routine medical processing and reports from private physicians or medical facilities when written permission is granted by the applicant.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–18

SYSTEM NAME:

Psychological Testing Data Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with the CIA; CIA staff or contract employees and their dependents; military and civilian personnel detailed to the CIA; and retired or separated CIA staff or contract employees and their dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Psychological testing records and assessment reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel: To ensure process integrity; to enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; to track individual test results which aid CIA management and advisory personnel, who have a need-to-know, in decision making; to produce research reports of aggregate data for appropriate officials and components of the CIA; and to examine the relationship between test scores and other variables of interest such as job performance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, or other identifying information. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, Medical Services Office, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning theses matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who have completed a variety of psychological tests and interview sessions with CIA medical officers; and individuals involved in the assessment of test data.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–19

SYSTEM NAME:

Agency Human Resources Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA staff and contract employees; military and civilian personnel detailed to the CIA; personal services independent contractors; applicants in process for CIA employment; candidates for CIA awards; participants, and beneficiaries designated by deceased CIA employees who were participants, in the CIA's authorized retirement systems and retirement savings programs; and certain OSS veterans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data including records on education, military service data, insurance, medical and retirement status and locator information on individuals covered by this system; employment information including records on applicant tracking, job matching, seasonal and cooperative employment programs, and information on those separating from CIA employment; personnel information including records on employment history, leave, time and attendance, fitness and performance appraisal reports, awards, travel, training, job injury, worker's compensation records and security clearance information; CIA personnel information including records on position and job title information, qualifications and skills assessments, authorized personnel staffing data, levels, and patterns; financial information relating to payroll and authorized retirement and retirement savings accounts, including authorized or required payroll deductions or contributions for federal, state and local taxes, other tax documentation, and retirement, insurance and leave entitlements; banking instructions for dissemination of salary paychecks; contracts relating to contract employees and independent contractors; and financial disclosure forms submitted pursuant to the Ethics in Government Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEMS:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 *et seq.*).

PURPOSE(S):

To serve as the central human resources management system for the CIA. Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; perform centralized personnel functions such as employment, separation of employment, payroll, position and personnel staffing, and general employee transactions; support the general administration of systems dependent on personnel data such as insurance, medical and health care, and retirement and retirement savings; compute salary, attendance, leave, benefits and entitlements for payroll and its dependent systems including insurance, medical and health care, and authorized retirement and retirement savings systems; track applicant and employee biographic and demographic data for use in employee location tracking, and statistical reports; compile statistical reports for CIA management on strength, distribution and utilization of staffing, average grades and salaries, minorities, projected retirements, profiles of CIA skills and qualifications, comparative rates on promotions, separations, new

employees, reasons for separations; provide information and statistics for heads of Career Services to assist them in administering their career development and evaluation programs, including promotion rates and headroom, performance appraisal report ratings, qualifications, changes in their Career Services; assess staffing patterns, grade and salary data for office heads required for staffing and budget projections; provide information and statistics for components responsible for administering recruitment, hospitalization, insurance, and authorized retirement and retirement savings programs; and provide records of employee transactions to responsible CIA officials and to the employees themselves.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system concerning CIA retirees is routinely disseminated to the Office of Personnel Management. Information concerning work-related injuries of CIA employees is routinely provided to the Department of Labor in connection with Worker's Compensation claims. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, CIA employee number, or other personal identifiers. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulation, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief Human Resources Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.45)

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendment to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; education institutions; physician and medical practitioners; CIA employees; and other federal agents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this year of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k) and (d)(5).

CIA–20

SYSTEM NAME:

Official Personnel Files.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA staff and contract employees; and military and civilian personnel detailed to the CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and employment history statements; employment contracts; personnel actions; performance appraisal reports; awards and commendations; biographic profiles and data; retirement status and exit processing information, training and travel records; correspondence; and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 *et seq.*)

PURPOSE(S):

Records in this system are used by human resource management personnel and other authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; administer routine personnel transactions including: personnel assignments; performance evaluations; promotions; adverse actions; counseling; retirement determinations of qualifications; separations; medical or insurance claims; and statistical reports; decides on the rights, benefits, entitlements and utilization of CIA employees; provide a data source for production of summary descriptive statistics and analytical studies related to human resource management issues; support resource metrics; locate specific individuals for personnel research or other personnel management functions; and verify employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system of records may be transmitted to another U.S. Government agency relative to employment considerations by that agency, and to the Office of Personnel Management (OPM) relative to OPM's administration of retirement benefits for individuals covered by this system. Information on additional routine uses is set forth in the ''CIA Statement of

General Routine Uses'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured area(s) within the CIA. Electronic records are stored in secure file-servers located with the CIA.

RETRIEVABILITY:

By name, social security number, or other personal identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized person. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief Human Resources Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; educational institutions and private organizations; physicians and medical practitioners; CIA employees; and other federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(l), (k), and (d)(5).

CIA–21

SYSTEM NAME:

Applicant Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with the CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning the applicant, including: Biographic data; medical and employment history statements; educational transcripts; and personal references, and records relating to employment processing, including: interview reports; test results; correspondence; review comments; and general processing records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records are used by CIA human resources management officials and other authorized personnel: To ensure process integrity; to enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; to review an applicant's qualifications; for security background investigations; for suitability determinations; for medical screening; and to determine whether employment with the CIA will be offered.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other personal identifiers. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, Recruitment Center, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individual seeking to learn if this system of records contains information about them should direct inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA applicants; applicant references; educational institutions and private organizations; physicians and medical practitioners; CIA employees; and other federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–22

SYSTEM NAME:

Personnel Security Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former applicants for CIA employment; CIA staff and contract employees; personal services independent contractors and industrial contractors; military and civilian personnel detailed to the CIA; individuals of security interest to CIA; persons of, or contemplated for, substantive affiliation with, or service to, the CIA; persons on whom the CIA has conducted or is conducting an investigation; and federal, civilian, and military personnel with whom the CIA conducts liaison.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data (including name, sex, date and place of birth, social security number, and completed security questionnaires); authorizations for the release of financial, travel, employment, housing, educational, and other information; summaries or reports of information obtained from other CIA records such as personnel, medical, or counterintelligence records; financial disclosure forms submitted by CIA personnel; travel data on individuals covered by this system; correspondence pertaining to an individual's suitability for CIA assignment or affiliation, and the individual's security eligibility for access to classified information, projects, or facilities; investigative reports, investigative information, and data pertaining to actual or purported compromise of classified or otherwise protected information; appraisals that summarize investigative results and provide the decision or rationale for determining whether an individual should receive access to classified information, projects, or facilities, or is suitable for CIA affiliation or assignment; documentation of, or relating to, interim or final actions relating to issues of security, discipline, or the grant, denial, suspension, or revocation of a CIA security clearance, access approval, or security approval; and secrecy agreements executed by individuals covered by this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 10450 (5 U.S.C. 7311 note); Executive Order 12958 (76 FR 19825); and Executive Order 12968 (60 FR 40245).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; to document personnel security and suitability decisions; assist with security eligibility determinations and employment or assignment suitability decisions in accordance with applicable statutes, Executive Orders, Director of Central Intelligence Directives, CIA regulations, and other applicable law; record information regarding security eligibility determinations and employment or assignment suitability decisions concerning individuals who are under consideration for affiliation or continued affiliation with the CIA, or access or continued access to classified or otherwise protected CIA information, projects, or facilities; verify individual security clearances or access approvals; and record information relevant to investigations into possible violations of CIA rules and regulations, including the possible loss or compromise of classified or protected CIA information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system are used to provide information, including biographic information and records of security breaches, to other federal agencies involved in national security matters in the following circumstances: To respond to national agency checks; to certify security clearances and access approvals; and to provide information relevant to espionage investigations. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are safeguarded by combination lock security containers, or are stored within a vaulted area. Access is restricted to individuals who are certified on an ''Access List.'' The Access List is validated at least annually and circulated to responsible Agency officials so that they can ensure that records are accessed only for official purposes.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director of Security, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system of records; personal and business references provided by the individual or developed during the course of an investigation; educational institutions and private organizations; federal, state, and local government entities; public sources such as newspapers and periodicals, consumer reporting agencies, financial, travel, educational, employment-related, and other commercial sources; and classified and unclassified reporting on investigations and investigative materials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–23

SYSTEM NAME:

Intelligence Community Security Clearance and Access Approval Repository.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. government employees, military personnel, personal services independent contractors and industrial contractors to U.S. government programs who possess security clearances and security access approvals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data (including name, date and place of birth, social security number, and employer); and information relating to security clearances and security access approvals, including clearances and access approvals held, current status of clearances and access approvals, and date of background investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 10450 (5 U.S.C. 7311 note); Executive Order 12958 (76 FR 19825); and Executive Order 12968 (60 FR 40245).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and to verify individual security clearances or security access approvals throughout the Intelligence Community in order to control access to classified and compartmented materials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system are provided to Intelligence Community agencies and relevant government contractors to certify individuals' security clearances and access approvals. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas controlled by the head of the CIA. Electronic records are stored in secure file-servers located in premises controlled by the head of the CIA.

RETRIEVABILITY:

By name or social security number. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business.

SAFEGUARDS:

Records and servers are stored within a vaulted area. Access is restricted to individuals with appropriate clearances and a ''need to know,'' as certified by an Access Control List.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director of Security, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 FR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system of records; U.S. government agencies; and current and former employers of individuals covered by this system of records, including both government and private sector organization.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–24

SYSTEM NAME:

Polygraph Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former applicants for CIA employment; CIA staff and contract employees; personal services independent contractors and industrial contractors; military and civilian personnel detailed to the CIA; individuals of security interest to CIA; persons of, or contemplated for, substantive affiliation with, or service to, the CIA; and persons on whom the CIA has conducted or is conducting an investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Polygraph reports; polygraph charts; polygraph tapes; and notes from polygraph interviews or activities related to polygraph interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 10450 (5 U.S.C. 7311 note); Executive Order 12958 (76 FR 19825); Executive Order 12968 (60 FR 40245);

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; document polygraph results; assist with security eligibility determinations and employment or assignment suitability decisions in accordance with applicable statutes, Executive Orders, Director of Central Intelligence Directives, CIA regulations, and other applicable law; and to assist with investigations into possible violations of CIA rules and regulations, including the possible loss or compromise of classified or protected CIA information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director of Security, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system of records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–25

SYSTEM NAME:

Office of the Director Action Center Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who send correspondence to, or receive correspondence from, the Office of the Director; and individuals who are the subject of correspondence to or from the Office of the Director.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and documents addressed to, received by, or originated in the Office of the Director concerning: matters of policy, operations, and security within the purview of the head of the CIA; Congressional inquiries; and inquiries from the members of the general public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order (46 FR 59941).

PURPOSES(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; documents the activities and policy decisions of the head of the CIA; and serve as reference material for business areas within the purview of the Office of the Director.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Correspondence contained in this system of records may be provided to the U.S. Government agencies, other than the CIA, when it is determined that such other agencies can more appropriately handle the matters addressed in the correspondence. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedule approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, DAC, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individuals records for for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

U.S. Government records; publicly available information from the media, libraries, and commercial databases; and Executive branch and Congressional officials and staff members of the general public who send correspondence to, or receive correspondence from, the Office of the Director of Central Intelligence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–26

SYSTEM NAME:

Office of General Counsel Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from unclassified to top secret.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA staff and contract employees, personal services independent contractors, employees of industrial contractors, military and civilian personnel detailed or assigned to the CIA; applicants for employment with the CIA; current and former employees and contractors of U.S. Government agencies; individuals in contact with the CIA, including individuals whose inquiries concerning the CIA or the Intelligence Community (IC) are forwarded to the Office of General Counsel for response; attorneys in private practice who hold CIA security clearances or access approvals; individuals in government, academia, the business community, or other elements of the private sector with expertise on matters of interest to the Office of General Counsel; and individuals who may be involved in matters which implicate the CIA's and/or the IC's legal authorities, responsibilities, and obligations, including but not limited to administrative claimants, grievants, parties in litigation, witnesses, targets or potential targets of investigations or intelligence collection, and individuals who are interviewed by, or provide information to the CIA or the IC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal documents, including but not limited to pleadings, subpoenas, motions, affidavits, declarations, briefs, litigation reports, and legal opinions; biographic information for private attorneys, including Social Security Number, date and place of birth, education, law firm (if any), office addresses, fax and telephone numbers, bar memberships, legal specialties and/or areas of practice, names of CIA-affiliated clients, and date and type of security clearance and/or access

approval pending or granted; crimes reports filed with the U.S. Department of Justice or other appropriate law enforcement agencies concerning individuals covered by this system of records;public and confidential Financial Disclosure Reports required by the Office of Government Ethics; internal CIA documents and cables concerning individuals covered by this system of records; and correspondence with members of the public, members of the U.S. Congress, Congressional staff, and federal, state, local international and foreign agencies, courts and administrative tribunals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; provide legal advice and representation to the Central Intelligence Agency and the Director of Central Intelligence; provide factual information necessary for the preparation of legal documents, including pleadings, subpoenas, motions, affidavits, declarations, briefs, legal opinions, litigation reports prepared for the Department of Justice, and reports to law enforcement agencies; provide a historical record of all private attorneys who have received security clearances and/or access approvals to receive and discuss U.S. Government information necessary to their representation of CPA-affiliated clients, and record the nature, scope and duration of private attorneys' legal representations of CIA-affiliated clients; and maintain a record of federal, state, local, international or foreign litigation, administrative claims, and other legal matters in which CIA is a party or has an interest.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name or other personal identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

General Counsel, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification seciton above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification seciton above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; publicly available information; CIA records; and federal, state and local government agencies and courts.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–27

SYSTEM NAME:

Office of Equal Employment Opportunity (OEEO) Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CIA staff and contract employees, personal services independent contractors, industrial contractors, and military and civilian personnel detailed to the CIA; and applicants for employment with the CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to EEO complaints, including: Data collected by an EEO Investigator which bears on charges of discrimination brought by a complainant; ;sworn affidavits from the complainant, the alleged discriminating officer(s), and other individuals as appropriate; other documents or statistical evidence considered pertinent to the case which assists the CIA in making a decision; requests made by individuals or offices for reasonable accommodations, and the products or services provided in response to such requests; and information regarding individuals who apply for retirement on the basis of medical disabilities, and other individuals with medical disabilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941);

Executive Order 11478, as amended by Executive Order 13097 (63 FR 30097) and Executive Order 13152 (65 FR 26115); Equal Employment Opportunity Act of 1972 (42 U.S.C. 2000e *et seq.*); Age Discrimination in Employment Act (29 U.S.C. 633a); the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 *et seq.*).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; process EEO complaints; provide information for review by the Equal Employment Opportunity Commission; provide information for federal court review; track requests and provide reasonable accommodations through the provision of products and services to individuals who make requests for such accommodations; and track applications for retirement on the basis of medical disabilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured ares accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director, Office of Equal Employment Opportunity, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; applicants for employment with the CIA; individuals who provide information during the investigation of EEO complaints; and medical and psychiatric personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–28

SYSTEM NAME:

Congressional Liaison Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former members of the U.S. Congress and Congressional staff; individuals whose inquiries relating to CIA matters are forwarded by members of the U.S. Congress or Congressional staff to CIA for response, and CIA employees wishing to contact members of Congress of Congressional staff on official matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and other documents between CIA's Office of Congressional Affairs, members of Congress, Congressional staff, constituents, and other CIA offices and/or U.S. Government entities regarding inquiries made by constituents and sent to the CIA for response; and memoranda, correspondence, position papers and other documents used to support CIA's liaison with members of Congress, staff, and their offices and committees, including memoranda documenting substantive briefings and debriefings, as well as reports provided to the CIA by Congressional personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; document constituent or other inquiries forwarded by members of Congress and staff to CIA and CIA's responses to those inquiries; coordinate and prepare memoranda and position papers reflecting CIA's views on proposed legislation; facilitate Congressional briefings by maintaining a record of CIA's positions on issues of interest to particular members of Congress and staff; and provide guidance to employees on Congressional matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system may be disclosed to Congress. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director of Congressional Affairs, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Current and former members of the U.S. Congress and their staffs; CIA employees; individuals whose inquiries relating to CIA matters are forwarded by members or staff of the U.S. Congress to the CIA for response.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–29

SYSTEM NAME:

Public Affairs Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the general public who have written to the CIA to inquire about CIA activities; CIA personnel who have reported media contacts; and media representatives.

Categories of records in the system: Media coverage, including newspaper and magazine articles, which mentions the CIA correspondence between media representatives and the Office of Public Affairs; memoranda of conversations between the Office of Public Affairs and media representatives; correspondence from the general public regarding CIA, and CIA responses; internal CIA memoranda concerning the subject matter of this records system; and names of CIA personnel who have reported contacts with media representatives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; provide a record of significant media coverage of the CIA; provide a record of contact with media representatives by the Office of Public Affairs; maintain a record of correspondence between members of the general public who raise questions about CIA activities; and maintain a record of CIA personnel media contacts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file servers located within the CIA.

RETRIEVABILITY:

By name. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director of Public Affairs, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA

rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Publicly available informtion from the media, libraries and commercial databases; CIA records concerning CIA activities and the subject matter of media contacts; and individuals covered by this system of records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within the system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–30

SYSTEM NAME:

Inspector General Research Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA personnel; and other individuals whose names appear in documents assembled primarily from other CIA records systems by the Inspector General in relation to Executive branch commission and Congressional committee reviews conducted between 1972 and 1976 concerning Agency activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

CIA documents that are pertinent to Executive branch commission and Congressional committee reviews of CIA activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and for reference use in connection with Executive branch and Congressional committee reviews of CIA activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Inspector General, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the noticiation section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901–.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA employees; CIA records; and records of Executive branch commissions and Congressional committees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within the system of records may be exempted from certain provisions of the Privacy (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–31

SYSTEM NAME:

Inspector General Investigation and Interview Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CIA staff and contract employees, personal services independent contractors, industrial contractors, persons with other contractual relationships, or other relationships with the CIA, persons who are

interviewed by or provide information to the Office of the Inspector General, persons involved with or knowledgeable about matters being investigated by the Office of Inspector General, and persons who have filed grievances with the Officer of Inspector General or CIA components.

CATEGORIES OR RECORDS IN THE SYSTEM:

Reports of interviews, signed statements, correspondence, reports of investigations, forms, cables, internal CIA memoranda, prior criminal records of individuals covered by the system, and other materials relating to employee grievances and other matters of interest to or inspected by the Office of Inspector General.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 503a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and maintain a detailed record of the investigative activities of the CIA Office of Inspector General, including investigations of grievances, allegations of misconduct by CIA personnel; and to provide information to CIA management regarding personnel matters and to assist in the evaluation of current and proposed programs, policies and activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. Records in this system are used and disclosed as necessary by members of the Office of Inspector General in the investigation of matters of interest or concern to be head of the CIA, Inspector General, and senior Agency officials, including grievances and allegations of misconduct by Agency employees, and to provide information to Agency management regarding personnel matters, and for evaluating current and proposed programs, policies and activities, selected assignments, and requests for awards or promotions.

b. Records in this system that indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program, or by rule, regulation or order pursuant thereto, or that indicate a violation or potential violation of a contractual obligation, may be disclosed to the appropriate agency, whether federal, state, local, foreign, or international, charged with the responsibility for investigating or prosecuting such violation, enforcing or implementing such statute, rule, regulation, or order, or with enforcing such contract.

c. Records in the system may be disclosed to a federal, state, local, foreign, or international agency, or to an individual or organization, when necessary to elicit information relevant to an Office of Inspector General investigation, inquiry, decision, or recommendation.

d. Records in the system may be disclosed to a federal, state, local, foreign, or international agency when requested in connection with the assignment, hiring, or retention of an individual, the issuance or revocation of a security clearance, letting of a contract, or any authorized inquiry or investigation to the extent that the information is relevant to the requesting agency's decision on the matter.

e. Records in the system may be disclosed to any federal agency when documents, witness statements, or other information obtained from that agency are used in compiling the system record, or when the record is relevant to the official responsibilities of that agency.

f. Unclassified records in the system, or unclassified portions thereof, including information identifying individuals covered by the system, may be disclosed to the public when the matter under investigation has become public knowledge or the Inspector General determines that such disclosure is necessary to preserve confidence in the integrity of the Inspector General process, or is necessary to demonstrate the accountability of CIA employees, officers, or individuals covered by the system, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

g. Records in the system pertaining to an employee grievance may be disclosed to any party to that grievance except for records that disclose the identity of a non-party who requested confidentiality and provided a statement during the grievance process.

h. Records in the system may be disclosed in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures in the course of settlement negotiations, or pursuant to statutes or regulations governing the conduct of such proceedings.

i. Records in the system may be disclosed to representatives of the Department of Justice or of any other agency that is responsible for representing Agency interests in connection with judicial, administrative or other proceedings. Records may also be disclosed to the Department of Justice to the extent necessary to obtain its advice on any matter relevant to an Office of Inspector General investigation.

j. Records in the system may be disclosed to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, or other congressional committees, or the staffs thereof, in connection with the oversight and legislative functions.

k. Records in the system may be disclosed to the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight Board, and any successor organizations, when requested by those entities, or when the Inspector General determines that disclosure will assist in the performance of their oversight functions. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in secured areas within CIA facilities. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices, and by automated means utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Inspector General, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA records; CIA staff and contract employees, personal services independent contractors, industrial contractors, and military and civilian detailees to CIA; federal, state, and local officials; foreign governments; private citizens, including U.S. citizens and foreign nationals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–32

SYSTEM NAME:

Office of the Deputy Director of Central Intelligence (DDCI) for Community Management Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who visit, contact, have employment, contractual, or other relationships with, or otherwise participate in the activities of, the Office of the DDCI for Community Management or the Intelligence Community; individuals who are of foreign intelligence, counterintelligence, or security interest to the Intelligence Community, including individuals identified as being involved in activities related to intelligence matters; and individuals in government academia, the business community, or other elements of the private sector with expertise on matters of intelligence interest to the Office of the DDCI for Community Management, or other elements of the Intelligence Community.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include: Information relating to the management and oversight of intelligence requirements, analysis, reporting and operations, including acquisitions; biographic and other information about individuals of intelligence interests; information on individuals and events of interest to the Intelligence Community; information identifying source documents and their recipients; and biographic and other information, including security clearances, access approvals, and employment and training records, about individuals who visit, contact, have employment, contractual or other relationships with, or otherwise participate in, the activities of the Office of the DDCI for Community Management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 12958 (76 FR 19825).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the Director of Central Intelligence to carry out their lawful and authorized responsibilities; provide classified and unclassified information to the Director of Central Intelligence, CIA and other appropriate Intelligence Community and U.S. Government officers, employees, detailees, or contractors for the conduct of authorized activities; and assist the Director of Central Intelligence with his Intelligence Community responsibilities, including resources management, program assessment and evaluation, policy formulation, and collection requirements management, and the protection of intelligence sources and methods.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed to U.S. Government organizations, personnel and contractors: in order to facilitate security, employment, or contractual decisions; and as necessary for the protection of intelligence sources and methods, intelligence oversight and management, and in support of intelligence operations, analysis and reporting. Additionally, records from this system are used to prepare periodic statistical reports for U.S. Government officials related to the control and dissemination of classified information. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in a secured area located in premises controlled by the Director of Central Intelligence (DCI). Electronic records are stored in secure file-serves located in premises controlled by the DCI.

RETRIEVABILITY:

By name, social security number, or other identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director for Intelligence Community Affairs, Office of the DDCI for Community Management, c/o Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURES:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1910.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access the records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend record should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; U.S. Government officers, employees, agencies, organizations and contractors; publicly available information from the media, libraries and commercial databases; unclassified reporting; classified intelligence reporting and source documents; investigative reports; and correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–33

SYSTEM NAME:

National Intelligence Council (NIC) Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have employment, detailee, liaison, or contractual relationships with the National Intelligence Council (NIC) or Intelligence Community agencies, including personal services independent contractors and industrial contractors; individuals in academia and the private sector with expertise on matters of intelligence interest to the NIC; and individuals who are of foreign intelligence, counterintelligence, or security interest to the NIC, including individuals identified as being involved in activities related to intelligence matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include administrative and contact information; document relating to intelligence requirements, analysis, reporting and operations; National Intelligence Council operational records; biographic information about individuals of intelligence interest; publicly-available information on individuals and events of interest to the NIC; other policy and operational data based on foreign intelligence, counterintelligence and security reporting.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 12958 (76 FR 19825).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the Director of Central Intelligence to carry out their lawful and authorized responsibilities; provide classified and unclassified information within the CIA and to appropriate Intelligence Community and U.S. Government officials for the conduct of authorized activities; and assist the Director of Central Intelligence and the Intelligence Community by evaluating the adequacy of intelligence support to U.S. policymakers and other senior intelligence consumers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed to other U.S. Government organization in order to facilitate any security, employment, or contractual decisions. Records also may be disclosed to other U.S. Government organizations as necessary for the protection of intelligence sources and methods and in support of intelligence operations, analysis and reporting. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in a secured area located in premises controlled by the Director of Central Intelligence (DCI). Electronic records are stored in secure file-servers located in premises controlled by the DCI.

RETRIEVABILITY:

By Name, social security number, or other identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, National Intelligence Council, c/o Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the

notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals covered by this system; U.S. Government employees, agencies and organizations; publicly-available information from the media, libraries and commercial databases; classified reporting and intelligence source documents; and correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–34

SYSTEM NAME:

Arms Control Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have employment, detailee, liaison, or contractual relationships with the Center for Weapons Intelligence, Nonproliferation and Arms Control (WINPAC), including personal services independent contractors and industrial contractors; individuals who visit, contact, or otherwise participate in the activities of WINPAC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include administrative, biographic and contact information; publicly available information on events of interest to the arms control community; classified reporting on events of interest to the arms control community; documents identifying classified source documents and their recipients.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941); Executive Order 12958 (76 FR 19825).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity, enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; and provide classified and unclassified information to appropriate CIA and Intelligence Community officials for the conduct of authorized activities, including support to the negotiation and assessment of arms control agreements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed to other U.S. Government organizations in order to facilitate any security, employment, or contractual decisions by those organizations. Records also may be disclosed to other U.S. Government organizations as necessary for the protection of intelligence sources and methods and in support of intelligence operations, analysis and reporting. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within premises controlled by the head of the CIA. Electronic records are stored in secure file-servers within premises controlled by the head of the CIA.

RETRIEVABILITY:

By name, social security number, or other identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business.

SAFEGUARDS:

Records are stored in a secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director, WINPAC, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing in initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed an indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who are the subject of records in this system; U.S. Government employees, agencies and organizations; publicly available information obtained from the media, libraries and commercial databases; unclassified and classified reporting and intelligence source documents; and correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–35

SYSTEM NAME:

Directorate of Science & Technology (DS&T) Private Sector Contact Information.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals in the private sector who work or have worked on CIA personal services or industrial contracts; individuals about which there is publicly-available information identifying a scientific, technical or related expertise of interest to CIA; and CIA staff and contract employees, and other individuals affiliated with CIA who work on CIA projects with private sector experts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information, including areas of expertise.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 123333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; provide reference information; and facilitate communication by CIA with private sector experts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director, DS&T Administrative Resources Center, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who are the subject of records in the system; and publicly available information obtained from the media, libraries and commercial databases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–36

SYSTEM NAME:

Alumni Communications Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former CIA employees who voluntarily contact the Alumni Communications Port to offer comments, insights or suggestions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data (including name, contact information such as address or phone number, and Social Security Number or CIA identifier); and correspondence and memoranda regarding the content of conversations with former employees and any resulting actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; verify the identities of individuals contacting the Port; continue communications with individuals who contact the Port; and record a summary of the conversations and any resulting actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in a secured area within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Director, DS&T Investment Program Office, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURES:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Indentification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individuals records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who voluntarily contact the Alumni Communications Port; and CIA employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–37

SYSTEM NAME:

Directorate of Operations Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are of foreign intelligence or foreign counterintelligence interest to the CIA, either because of their actual, apparent, or potential association with foreign intelligence or foreign counterintelligence activities, or because they are of actual or potential use to the CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents recording the operational activities of the Directorate of Operations (DO) of the Central Intelligence Agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSES(S):

Records in this system are used by authorized personnel to: Ensure process integrity, enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities, and maintain a record of the operational activities of the Directorate of Operations of the Central Intelligence Agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be provied to selected federal agencies, including the Federal Bureau of Investigation, military departments and, through established liaison channels, to selected foreign government agencies, as necessary for the conduct of foreign intelligence and counterintelligence operations by the CIA and other U.S. Government entities authorized to conduct such operations. Information on additional routine uses is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other identifier. Information may be retrieved from this system of records by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Chief, DO Information Management Staff, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator,

Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 190.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Foreign intelligence and counterintelligence sources; U.S. Government agencies; CIA predecessor organizations; publicly available information; and state and local agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–38

SYSTEM NAME:

Academic and Business Contact Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the academic community, members of scientific and other professional organizations, U.S. Government officials, employees of private sector organizations, and other individuals who have expertise in, or access to information on, subjects of intelligence interest; and individuals who have serves as, or are considered potential advisers, consultants, or personal services independent contractors to the CIA on matters of intelligence interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information including names, contact information, professional credentials and areas of interest of expertise of individuals covered under this system of records; history of CIA association, if any, of individuals covered under this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403 *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity, enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities, and maintain a record of persons inside and outside the U.S. Government of current or potential utility as advisors or consultants to the CIA in performing its mission to produce intelligence analyses on matters of national security concern.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand searches based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Directorate of Intelligence Information Management Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification procedures section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who are the subject of records in this system; U.S. Government employees, publicly available information obtained from the media, libraries and commercial databases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–39

SYSTEM NAME:

Customer Relations Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former intelligence customers including U.S. policymakers, U.S. Government personnel, and other authorized recipients of CIA intelligence products.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information including names, addresses, contact information, security clearances and access approvals, and subjects of intelligence interest to individuals covered by this system of records; documents containing comments and feedback from individuals covered by this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities, maintain dissemination lists for CIA finished intelligence products, in order to ensure proper dissemination of classified and unclassified products; maintain a record of disseminations; maintain a list of topics of interest to particular intelligence customers; and document customer feedback on particular products.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand searches based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Directorate of Intelligence Information Management Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURES:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Indentification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURES:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

Individuals who are the subjects of records in this system; CIA personnel; other U.S. Government personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–40

SYSTEM NAME:

Research System Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals of foreign intelligence or counterintelligence interest to the CIA, including individuals associated with international terrorism, international organized crime, or international narcotics trafficking activities; and individuals who have written on the general topic of intelligence.

CATEGORIES OF RECORDS IN THE SYSTEM:

Classified intelligence reporting, including reports from other U.S. Government agencies and foreign government information; and publicly available information from the media, libraries and commerical databases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity; enable the CIA and the head of the CIA to carry out their lawful and authorized responsibilities; provide a repository of classified and unclassified information on topics of foreign intelligence and counterintelligence interest to the CIA; assist the CIA's Directorate of Intelligence to fulfill its mission of providing timely, accurate, and objective intelligence analysis on the full range of national security threats and foreign policy issues facing the United States; and provide a reference file for publicly available publications pertaining to intelligence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other CIA identifier. Information may be retrieved from this system of records by automated or hand searches based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Directorate of Intelligence Information Management Officer, Central Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquires to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA staff and contract employees, personal services independent contractors, and industrial contractors; U.S. Government agencies; publicly available information from the media, libraries and commercial databases; and foreign intelligence and counterintelligence sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

CIA–41

SYSTEM NAME:

Intelligence Analysis Records.

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals of foreign intelligence or counterintelligence interest to the CIA, including individuals associated with international terrorism, international organized crime, or international narcotics trafficking activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Intelligence reports and other information that supports the analytic mission of the CIA's Directorate of Intelligence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 403 *et seq.*); the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a *et seq.*); Executive Order 12333 (46 FR 59941).

PURPOSE(S):

Records in this system are used by authorized personnel to: Ensure process integrity, enable the CIA and the head of the CIA to carry our their lawful and authorized responsibilities; and assist the CIA's Directorate of Intelligence to fulfill its mission of providing timely, accurate, and objective intelligence analysis on the full range of national security threats and foreign policy issues facing the United States, including key foreign countries, regional conflicts, and issues that transcend national boundaries such as terrorism, weapons proliferation, and narcotics trafficking.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information is set forth in the ''CIA Statement of General Routine Uses,'' which is incorporated herein by reference.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and other hard-copy records are stored in secured areas within the CIA. Electronic records are stored in secure file-servers located within the CIA.

RETRIEVABILITY:

By name, social security number, or other identifier. Information may be retrieved from this system of records by automated or hand searches based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

SAFEGUARDS:

Records are stored in secured areas accessed only by authorized persons. Software access controls are also in place.

RETENTION AND DISPOSAL:

All records are maintained and disposed of in accordance with Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS (THIS INCORPORATES BY REFERENCE ANY CIA SUCCESSOR IN FUNCTION TO THE SYSTEM MANAGER(S) SET FORTH HEREIN):

Directorate of Intelligence Information Management Officer, Central

Intelligence Agency, Washington, DC 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the **Federal Register** (32 CFR 1901.11–45).

CONTESTING RECORD PROCEDURE:

Requests from individuals to correct or amend records should be addressed as indicated in the notification section above. CIA's regulations regarding requests for amendments to, or disputing the contents of individual records or for appealing an initial determination by CIA concerning these matters are published in the **Federal Register** (32 CFR 1901.21–23, 32 CFR 1901.42).

RECORD SOURCE CATEGORIES:

CIA staff and contract employees, personal services independent contractors, and industrial contractors; U.S. Government agencies; publicly available information from the media, libraries and commercial databases; and foreign intelligence and counterintelligence sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j)(1), (k), and (d)(5).

[FR Doc. 05–13889 Filed 7–21–05; 8:45 am]

BILLING CODE 6310–02–M

Federal Register

Friday,
July 22, 2005

Part III

Securities and Exchange Commission

17 CFR Parts 232, 240, and 249

Removal From Listing and Registration of Securities Pursuant to Section 12(d) of the Securities Exchange Act of 1934; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 240, and 249

[Release No. 34–52029; File No. S7–25–04]

RIN 3235–AJ04

Removal From Listing and Registration of Securities Pursuant to Section 12(d) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is adopting amendments to its rules and Form 25 to streamline the procedures for removing from listing, and withdrawing from registration, securities under Section 12(b) of the Securities Exchange Act of 1934 (''Exchange Act''). The final rules require all issuers and national securities exchanges seeking to delist and/or deregister a security in accordance with the rules of an exchange and the Commission to file the amended Form 25 in an electronic format with the Commission on the EDGAR database. The final rules also provide that the Form 25 serves as an exchange's notice to the Commission under Section 19(d) of the Exchange Act. Finally, the final rules exempt, on a permanent basis, standardized options and security futures products traded on a national securities exchange from Section 12(d) of the Exchange Act. The amendments serve to reduce regulatory burdens on the exchanges and issuers, and to make the delisting and deregistration process more transparent and efficient in the interest of investors and the public.

DATES: *Effective date:* August 22, 2005. *Compliance date:* April 24, 2006.

FOR FURTHER INFORMATION CONTACT: Sharon Lawson, Senior Special Counsel, at (202) 551–5605, Susie Cho, Special Counsel, at (202) 551–5639, Steve Kuan, Special Counsel, at (202) 551–5624, Division of Market Regulation; and Robert Plesnarski, Deputy Chief Counsel, at (202) 551–3832, Division of Corporation Finance; at the Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to Rule 101 of Regulation S–T, 17 CFR 232.101; and Rule 12d2–2, 17 CFR 240.12d2–2, Form 25, 17 CFR 249.25, and Rule 19d–1, 17 CFR 240.19d–1 under the Exchange Act.

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I. Introduction

On June 15, 2004, the Commission issued a release proposing to amend Rule 12d2–2, Rule 19d–1, and Form 25 under the Exchange Act and Rule 101 of Regulation S–T, to streamline the procedures for delisting a security traded on a national securities exchange and/or deregistering the security under Section 12(b) of the Exchange Act.[1] Under the proposal, issuers and national securities exchanges would electronically file a Form 25 with the Commission to delist and/or deregister securities. The Commission received three comments in response to the proposal. After careful consideration of the comments as discussed below, the Commission today is adopting the amendments substantially as proposed. To give time for national securities exchanges to adopt rules to comply with the new requirements in Rule 12d2–2, the amendments will not be operative until April 24, 2006.

II. Background

A. Statutory Provisions and Exchange Act Rule 12d2–2

Section 12(a) of the Exchange Act[2] makes it unlawful for any member, broker, or dealer to effect any transaction in any security (other than an exempted security) on a national securities exchange unless the security is registered on that exchange in accordance with the provisions of the Exchange Act and the rules thereunder. Section 12(d) of the Exchange Act[3] provides that a security registered with a national securities exchange may be withdrawn or stricken from listing and registration on an exchange in accordance with the rules of the exchange, and upon such terms as the Commission may deem necessary, upon application by the issuer or the exchange to the Commission.[4] Rule 12d2–2[5] and Form 25[6] under the Exchange Act set forth the conditions and procedures under which a security may be delisted from a national securities exchange and withdrawn from registration under Section 12(b) of the Exchange Act.

Rule 12d2–2 governs the delisting and deregistration process for both exchange-initiated and issuer-initiated applications. Under the current Rule, the exchange files a Form 25 with the Commission to remove from listing and registration securities where the entire class is matured, redeemed, retired, or extinguished by operation of law.[7] The Form is effective at a date specified by the exchange that is at least ten days from the date the Form 25 is filed with the Commission. An exchange may also file a written application with the Commission to remove a security from listing and registration when the securities have fallen below the exchange's listing standards.[8] The

[1] *See* Securities Exchange Act Release No. 49858, 69 FR 34860 (June 22, 2004) (''Proposed Release'').

[2] 15 U.S.C. 78*l*(a).

[3] 15 U.S.C. 78*l*(d).

[4] The Commission views a security's withdrawal to be the same as a security's termination of registration.

[5] 17 CFR 240.12d2–2. *See* Securities Exchange Act Release No. 98 (February 12, 1935) (adopting Rule JD2, the predecessor to Rule 12d2–2). Rule 12d2–2 was most recently amended in 1963. *See* Securities Exchange Act Release No. 7011 (February 5, 1963).

[6] 17 CFR 249.25. *See* Securities Exchange Act Release No. 4706 (April 16, 1952).

[7] 17 CFR 240.12d2–2(a).

[8] 17 CFR 240.12d2–2(c). Under Rule 12d2–2(b), an exchange may also strike a security from listing and registration under Rule 12d2–2, if: (1) Trading in such security has been terminated pursuant to a rule of such exchange requiring such termination whenever the security is admitted to trading on another exchange; and (2) listing and registration of

Commission will issue an order granting the application, unless the Commission, by written notice to the exchange, postpones the effective date for a period of not more than 60 days.[9] The Commission may also order a hearing on the application to determine whether the exchange's application is in accordance with the exchange's rules or what terms the Commission should impose for the protection of investors.[10]

Rule 12d2–2 also provides that an issuer may initiate the delisting of its securities by filing a written application with the Commission to withdraw its security from listing and registration on an exchange in accordance with the rules of such exchange.[11] After publication of the notice of the issuer's application and expiration of a comment period, the Commission generally issues an order based on the application and any comments received.[12] The Commission may, however, order a hearing on the matter and can impose such terms as necessary for the protection of investors.[13]

Finally, Rule 12d2–2 provides that an issuer may request within 30 days after the publication of any rule or regulation which substantially alters or adds to the obligations, or detracts from the rights, of an issuer of securities registered pursuant to application under Section 12(b) or (c) of the Exchange Act that such registration shall expire.[14]

B. Summary of Proposed Rules

On June 15, 2004, the Commission issued a proposing release to streamline the procedures for removing from listing and/or withdrawing from registration, securities registered under Section 12(b) of the Exchange Act.[15] Specifically, to lessen paperwork burdens on exchanges and issuers, proposed amendments to Rule 12d2–2 would require that all exchange-initiated and issuer-initiated delisting applications be filed with the Commission electronically on the Form 25. The Commission would no longer issue orders to effectuate the delisting and deregistration of securities. Rather, the delisting would occur 10 days after the Form 25 is filed with the Commission while the deregistration under Section 12(b) would occur 90 days after the filing of the Form 25, unless the Commission postpones the deregistration pursuant to Rule 12d2–2(d)(3), as discussed below.[16]

To centralize information on the registration and deregistration of a security in one database, proposed amendments to Form 25 and Rule 101 of Regulation S–T would require that the Form 25 be filed electronically via the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system.[17] To avoid additional paperwork burdens, Rule 19d–1 and Form 25 would also be amended to require that the Form 25 serve as notice to the Commission of a denial of access to services of the Exchange as a result of an exchange-initiated delisting as required by Section 19(d)(1) and Rule 19d–(1) under the Exchange Act.

Finally, the proposed rule amendments would exempt standardized options and security futures from the delisting and deregistration procedures set forth in Section 12(d) of the Exchange Act, and Rule 12d2–2.[18]

C. Overview of the Comments Received

The Commission received three comment letters on the proposed amendments.[19] While all the commenters were very supportive of the Commission's proposal, the commenters also requested that the Commission provide further clarification on certain aspects of the proposed changes to Rule 12d2–2.

Specifically, two commenters requested that the Commission clarify the scope and purpose of the proposed requirement that exchanges provide public notice, at least 10 days before a delisting becomes effective, of the exchange's determination to delist a security.[20] In addition, the Amex Letter requested that the Commission clarify what information is to be included in a final delisting determination that is attached to the Form 25 as notice of a final action by an exchange, pursuant to Section 19(d) of the Exchange Act.[21] The NYSE Letter recommended that the Commission permit withdrawals of the Form 25 at any time prior to the effective date, and allow the exchange to determine the effective date of the Form 25, so long as the date chosen is at least ten days after the filing of the Form 25.

The NYSE also suggested that, for issuer-initiated delistings, the issuer should be the first to inform investors of its intent to delist and/or deregister from an exchange prior to public notification by the exchange of such delisting. The NYSE also believes, in response to a question raised in the Commission's release, that the issuer notification requirement should come from Commission rules rather than exchange rules because the Commission is in the best position to enforce this requirement.[22]

In addition, the Amex Letter recommended that there be a clearly defined mechanism by which the issuer and exchange are notified of a Commission action to delay effectiveness of a delisting, and that the

such security has become effective on such other exchange. 17 CFR 240.12d2–2(b).

[9] 17 CFR 240.12d2–2(c).

[10] *Id.*

[11] 17 CFR 240.12d2–2(d). The Commission publishes the issuer's application in the **Federal Register** for comment, and any interested person may submit to the Commission in writing all facts bearing upon whether the application to withdraw the security from listing and registration has been made in accordance with the rules of the exchange and what terms should be imposed by the Commission for the protection of investors.

[12] *Id.* The Commission seldom receives comments on delisting applications. Moreover, when the Commission has received comments, it has not, in recent years, imposed any conditions on the delisting or withdrawal from registration. For example, thus far in 2005, the Commission has received 16 delisting applications from issuers and comments on 2 of them. *See* Securities Exchange Act Release No. 51496 (April 6, 2005) (order granting the application of Carmel Container Systems Ltd. to withdraw its ordinary shares from listing and registration on the Amex); Securities Exchange Act Release No. 51212 (February 15, 2005) (order granting the application of Premier Farnell plc to withdraw its ordinary shares, preference shares, and American Depositary Shares from listing and registration on the NYSE). In 2004, the Commission received comments on the delisting applications of GB Holdings, Inc. and The Ohio Art Company (''Ohio Art''). *See* Securities Exchange Act Release No. 49553 (April 12, 2004) (order granting the application of GB Holdings, Inc. to withdraw its notes from listing and registration on the Amex); Securities Exchange Act Release No. 49336 (February 27, 2004) (notice of application of The Ohio Art Company to withdraw its common stock from listing and registration on the Amex). In 2003, the Commission received one comment on a delisting application. *See* Securities Exchange Act Release No. 47248 (January 24, 2003) (order granting the application of HSBC Bank, PLC to withdraw its notes from listing on the NYSE).

[13] *Id.*

[14] 17 CFR 240.12d2–2(f).

[15] *See supra* note 1.

[16] *See infra* notes 60–64.

[17] Under the amendments adopted by the Commission today, Form 25 will be filed by both exchanges and issuers. To assist exchanges and issuers in filing and permit the EDGAR system to differentiate between Forms 25 filed by exchanges and Forms 25 filed by issuers, Forms 25 filed by exchanges would have the EDGAR submission type of 25–NSE and Forms 25 filed by issuers would have the EDGAR submission type of 25.

[18] In conjunction with proposed Rule 12d2–2(e), the Commission issued an order to temporarily exempt standardized options and security futures from Rule 12d2–2 under the Exchange Act. Securities Exchange Act Release No. 49859 (June 15, 2004), 69 FR 34409 (June 21, 2004).

[19] *See* letters to Jonathan G. Katz, Secretary, Commission, from Claudia Crowley, Vice President & Deputy Chief Regulatory Officer, American Stock Exchange LLC, (''Amex'') dated July 22, 2004 (''Amex Letter''); Sullivan & Cromwell LLP, dated July 22, 2004 (''Sullivan Letter''); and Darla C. Stuckey, Corporate Secretary, New York Stock Exchange, Inc. (''NYSE''), dated August 27, 2004 (''NYSE Letter'').

[20] *See* Amex Letter and NYSE Letter, *supra* note 19.

[21] *See* Amex Letter, *supra* note 19.

[22] *See* NYSE Letter, *supra* note 19.

Form 25 be amended to reflect such delay.[23]

Both exchange commenters, Amex and NYSE, asked the Commission to verify that the final delisting rules will not impact their current rules on suspending the trading of listed securities pursuant to Rule 12d2–1. Both of these commenters note the importance of an exchange's ability to suspend trading under its rules prior to a delisting going effective.[24] The Amex Letter and NYSE Letter also both state that exchange rules should not provide a comment period for delistings. In this regard, the Amex letter notes that, for exchange delistings, it already provides issuers with an appeal process.

Finally, the Sullivan Letter questioned the impact of the proposed 90-day effective date of deregistration on an issuer that has been acquired in a merger or similar business combination and no longer has any public shareholders. The Sullivan Letter recommended that the proposed rules be modified to provide that, if at the time a Form 25 is filed, an issuer has only one holder of record of equity securities registered under Section 12(b), then the proposed 90-day delay in the deregistration going effective should be automatically accelerated to make the deregistration effective the 10th day after the Form is filed.[25]

After carefully considering the comments received, the Commission has decided to adopt the proposed rule amendments substantially as proposed. The Commission believes that the final rule amendments fulfill the statutory requirements and promote efficiency and transparency in the delisting and deregistration procedures for exchanges and issuers. In response to the views and concerns expressed by commenters, the Commission has, however, made certain minor modifications and provided clarification to certain aspects of the final rules, as discussed below.

III. Discussion of the Final Rule Amendments

A. Final Amendments to Rule 12d2–2

1. Exchange-Initiated Delisting and/or Withdrawal From Section 12(b) Registration

The Commission is adopting the amendments to Rule 12d2–2 regarding exchange-initiated delistings substantially as proposed.[26] Specifically, the Commission is amending paragraph (b) of Rule 12d2–2 to provide that a national securities exchange may strike a class of securities from listing and/or withdraw the registration of such securities under Section 12(b) by filing an application on Form 25.[27] The delisting of the security will be effective 10 days after Form 25 is filed with the Commission.[28] The withdrawal from Section 12(b) registration will take effect 90 days after the filing of the Form, or such shorter period as the Commission may determine.[29] However, an issuer's duty to file any reports under Section 13(a) of the Exchange Act and the rules and regulations thereunder, solely because of such security's registration under Section 12(b), generally would be suspended upon the effective date of the delisting.[30]

In addition, the rules of the exchange must, at a minimum,[31] provide the following: (1) Notice to the issuer of the exchange's decision to delist its securities; (2) an opportunity for appeal to the national securities exchange's board of directors, or to a committee designated by the board; and (3) public notice, no fewer than 10 days before the delisting becomes effective, of the exchange's final determination to delist the security via a press release and posting on the exchange's Web site.[32] This public notice must remain posted on an exchange's Web site until the delisting is effective. As noted in the proposing release, to the extent that an exchange's rules do not currently comply with these requirements, the exchange must amend its rules.[33] Finally, as in current Rule 12d2–2, the exchange must promptly deliver a copy of the application to the issuer.[34]

The Commission received one comment in response to its question regarding whether the Commission should require exchanges, pursuant to exchange rules, to provide an additional opportunity for the public to comment on an anticipated delisting and/or deregistration before the Form 25 becomes effective. The Amex strongly opposed adopting exchange rules to provide additional opportunities for comment on exchange-initiated delistings, stating that such opportunity would open exchange-initiated delistings to a plethora of comments from investors seeking to stop the delisting and/or deregistration of an issuer's security.[35] The Amex stated that, pursuant to its rules, issuers are entitled to two levels of appeal for delisting decisions, and thus believed that permitting an additional public appeal or challenge process could potentially create confusion and uncertainty regarding delistings, thus undermining the goals of the Commission's proposal. In addition, the Amex and NYSE suggested that the Commission clarify the purpose of the required 10-day notice period.[36] Amex, in particular, asked whether the notice period is intended to provide investors and other interested parties a way to

[23] *See* Amex Letter, *supra* note 19. *See infra* notes 60–64 and accompanying text.

[24] *See* Amex Letter and NYSE Letter, *supra* note 19.

[25] *See* Sullivan Letter, *supra* note 19. The Sullivan Letter further requests that the Commission adopt a similar requirement with respect to Exchange Act Rule 12g–4 and Form 15 for securities being withdrawn from registration under Section 12(g) of the Exchange Act. The Commission notes that because the Rule adopted today only applies to Section 12(b) registration, it is not addressing the comments on Section 12(g) registration requirements, including deregistration for foreign private issuers.

[26] The Commission is making minor modifications to paragraph (d) of Rule 12d2–2 from that proposed. *See infra* notes 60–64 and accompanying text.

[27] Rule 12d2–2(b).

[28] *See* Rule 12d2–2(d)(1). But see also Rule 12d2–2(d)(3) (regarding the Commission's authority to delay the effectiveness of the Form 25). *See also* Rule 12d2–2(d)(5)–(7).

[29] *See* Rule 12d2–2(d)(2). *But see also* Rule 12d2–2(d)(3) (regarding the Commission's authority to delay the effectiveness of the Form 25). *See also* Rule 12d2–2(d)(5)–(7).

[30] *See* Rule 12d2–2(d)(5). There are certain situations where the duty to file reports under Section 13(a) may continue. *See* 12d2–d)(5)–(7).

[31] Rule 12d2–2(d)(2). Section 6(b)(7) of the Exchange Act, 15 U.S.C. 78f(b)(7), requires that the rules of an exchange provide, among other things, a fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange. *See also* Section 6(d)(2) of the Exchange Act, 15 U.S.C. 78f(d)(2), which requires exchanges to notify the issuer of, and give the issuer an opportunity to be heard upon, the specific grounds for delisting and withdrawal from registration and keep a record.

[32] Rule 12d2–2(b)(i). The Commission also notes that Rule 17a–1(b) under the Exchange Act requires the exchange to keep a copy of all documents made or received by it in the course of its business and in the conduct of its self-regulatory activity for a period of not less than five years. This includes retention of material in the course of a delisting. 17 CFR 240.17a–1.

[33] Exchanges must submit, by October 24, 2005, any proposed rule changes, pursuant to Section 19(b) of the Exchange Act, 15 U.S.C. 78s(b), necessary to conform their delisting procedures to Rule 12d2–2, as amended. The Commission believes that three months would afford sufficient time for exchanges to review their rules and file any proposed rule changes necessary to comply with amended Rule 12d2–2. The compliance date of the amended Rule 12d2–2 has been delayed until April 24, 2006 to give time for such proposed rule changes to be filed and considered by the Commission under Section 19(b) of the Exchange Act.

[34] Rule 12d2–2(b)(2). The Commission notes generally that it would expect the exchange to notify the issuer at the same time as filing the Form 25.

[35] *See* Amex Letter, *supra* note 19.

[36] *See* Amex Letter and NYSE Letter, *supra* note 19.

delay or prevent a delisting and/or deregistration.[37]

The Commission agrees with the Amex that it is not necessary that exchange rules provide for an opportunity for the public to comment on a delisting and/or deregistration. The Commission strongly believes that listed companies that no longer satisfy exchange listing standards should be delisted quickly in accordance with exchange rules and the Exchange Act. Such expedient action by exchanges serves to protect the public from being mislead into believing that these companies retain the imprimatur of an exchange listing. The requirement that an exchange provide public notice that a security will be delisted at least 10 days prior to the effectiveness of such delisting is consistent with the current procedures under Rule 12d2–2 for exchange-initiated delistings, and the Commission believes that such notice will better inform investors and the public of an exchange delisting, and give investors and the public sufficient time to take any action permitted under state and federal law. The Commission further notes that a person aggrieved by an exchange's final delisting determination is able to petition the Commission for review of such decision,[38] and then appeal the Commission's decision to the U.S. Court of Appeals.[39]

The Commission believes that the 10-day public notice requirement, as with the current delay in issuing an exchange delisting order, is sufficient time for interested parties to submit to the Commission any comments they have on the anticipated delisting and/or deregistration, to sell their securities, or to take any other action as permitted under state and federal law. The Commission believes that the 10-day public notice requirement is consistent with current procedure as well as with the Act, and will provide an opportunity for the Commission to impose such terms for the protection of investors in accordance with Section 12(d) of the Exchange Act or delay the delisting and/or deregistration in accordance with the Rule.[40]

The NYSE requested clarification on whether the proposed requirement that an exchange provide 10-day advance notice to the public of a delisting can coincide with the filing of the Form 25.[41] Rule 12d2–2(b)(3) requires an exchange to issue public notice no fewer than 10 days before the delisting on Form 25 becomes effective and, under Rule 12d2–2(d)(1) a delisting will become effective 10 days after a Form 25 is filed with the Commission. Accordingly, the Commission confirms that an exchange may issue public notice of its final determination to delist and/or deregister a security on the same day that the Form 25 is filed on Edgar with the Commission. The Commission notes, however, that, the 10-day notification requirement is a minimum period and that an exchange may give public notice of its delisting determination prior to the filing of the Form 25 with the Commission.

Finally, the Commission is retaining the requirement in current Rule 12d2–2(e)(ii) that an exchange must promptly deliver a copy of the delisting application to the issuer.[42] In the Proposing Release the Commission asked for comment on whether it should eliminate the recently added requirement that an issuer disclose the delisting of a class of its securities from an exchange[43] by filing a Form 8–K if the Commission were to adopt the Form 25 amendments. The Commission is not now eliminating the Form 8–K disclosure requirement regarding exchange-initiated delistings. Thus, an issuer continues to be required to file a Form 8–K if it receives notice from the exchange that maintains the principal listing for any class of its common equity, as defined in Exchange Act Rule 12b–2, that the exchange has submitted an application to delist a class of the issuer's securities. To provide certainty to issuers as to when their Form 8–K filing requirements are triggered, the Commission has determined to retain the requirement that an exchange deliver a copy of the delisting application to the issuer.

2. Issuer-Initiated Withdrawal From Listing and Section 12(b) Registration

The Commission is adopting the amendments to Rule 12d2–2 regarding issuer-initiated delistings substantially as proposed.[44] Specifically, the final amendments to Rule 12d2–2 permit an issuer of a class of securities to withdraw such securities from listing on a national securities exchange by filing an application on Form 25 with the Commission.[45] The delisting of the security will be effective 10 days after Form 25 is filed with the Commission.[46] The withdrawal from registration under Section 12(b) will take effect 90 days after the filing of the Form, or such shorter period as the Commission may determine.[47]

In addition, Rule 12d2–2(c) requires an issuer filing Form 25 to satisfy the following requirements: (1) Comply with the applicable exchange's rules for delisting and applicable state laws; (2) Submit a written notification to the exchange no fewer than 10 days before the issuer files a Form 25 of its intent to withdraw its security from listing and/or registration on such exchange[48]; and (3) Contemporaneous with providing written notice to the exchange, issue public notice of its intent to delist, and/or withdraw its security from Section 12(b) registration, via a press release and, if it has a publicly accessible Web site, post such notice on that Web site.[49]

The Commission has changed the time period in which an issuer is required to publish notice of its intent to delist its securities from an exchange from that proposed. Specifically, the final rule amendments require this notice to be published contemporaneous with providing written notice to the exchange of the issuer's intent to delist,[50] whereas, under the proposal, an issuer would have been required to publish notice of its intent to delist no fewer than 10 days before the issuer's delisting became effective. Because the Commission proposed that a delisting would become effective 10 days after the filing of a Form 25, an issuer could have waited to issue public notice until it filed the Form 25. The Commission received a comment from the NYSE expressing concern that, because the proposal would require the exchange to publish notice on its Web site of an issuer's intent to delist upon notification of such intent by the issuer, the exchange would be required to

[37] *See* Amex Letter, *supra* note 19.

[38] *See* 15 U.S.C. 78s(d).

[39] *See* 15 U.S.C. 78y.

[40] 15 U.S.C. 78l(d). *See also* Rule 12d2–2(d)(3).

[41] *See* NYSE Letter, *supra* note 19.

[42] Rule 12d2–2(b)(2).

[43] *See* Exchange Act Form 8–K, Item 3.01; Securities Act Release No. 8400 (Mar. 16, 2004), 69 FR 15594 (Mar. 25, 2004).

[44] The modifications to paragraph (c) of Rule 12d2–2 are discussed *infra* at notes 50–55 and accompanying text. In addition, the Commission is making minor modifications to paragraph (d) of Rule 12d2–2 from that proposed. *See infra* notes 60–64 and accompanying text.

[45] Rule 12d2–2(c).

[46] Rule 12d2–2(d)(1).

[47] Rule 12d2–2(d)(2). *See also* 12d2–2(d)(5)–(7) and *supra* note 30 and accompanying text.

[48] The written notice to the exchange must include a description of the security involved together with a statement of all material facts relating to the reasons for filing such application for withdrawal or striking from listing and registration. As noted in the Proposing Release, *supra* note 1, the Commission believes that notification to an exchange by an issuer at least 20 days prior to its delisting becoming effective will allow sufficient time for exchanges to make any system changes in preparation for removing the security from being quoted.

[49] The issuer would also be required to represent on Form 25 that these requirements have been met.

[50] Rule 12d2–2(c)(2)(iii).

notify the public at least 10 days before the issuer would be required to provide such notice. The NYSE believes that it is inappropriate for the exchange to be required, under Commission rules, to notify investors prior to the time the public receives such an announcement from the issuer.

In response to this comment, the final rule amendments require an issuer to notify the public at the same time it notifies the exchange of its intent to delist and/or withdraw its registration, which must be at least 10 days prior to filing a Form 25. The Commission is also adopting, as proposed, final rule amendments requiring the exchange, upon notification by an issuer, to post on its Web site the issuer's intent to withdraw its securities from listing and registration by the next business day.[51] Consequently, the issuer is required to notify the public at the same time it notifies the exchange, which will be at least 20 days prior to the delisting becoming effective.[52] Moreover, the exchange is required to notify the public by the next business day after the issuer notifies the exchange of its intent to delist.[53] The notices by an issuer and exchange on their Web sites must remain posted until the delisting becomes effective.[54]

The Commission received two comments on whether exchange rules should allow interested parties an additional opportunity to comment on the delisting before it becomes effective 10 days after filing the Form 25, and the elimination of a formal comment process. The NYSE noted that it has changed its rules in recent years to allow issuers to delist without preconditions, other than approval by the issuer's board of directors. As a result, while the NYSE has no objection concerning a Commission imposed comment period under Commission rules, it believes that there is no benefit in requiring that exchange rules provide an additional comment period. The Amex states that, while it may be appropriate to provide the public an opportunity to comment, the comment process should not be mandated or administered by the exchange. The Amex notes that an exchange cannot require an issuer to remain listed and whether or not an issuer is eligible to deregister its securities under the Exchange Act is outside the authority of the exchange.

The Commission agrees with these commenters and believes that the public notice requirements under the revised Rule provide adequate notification to investors and the public of an anticipated issuer delisting. As with exchange-initiated delistings, the Commission believes that the requirement that issuers provide public notice at least 10 days prior to filing a Form 25 provides sufficient time for any interested parties to submit to the Commission any comments it has on the delisting and/or deregistration, to sell their securities, or to take any other action as permitted under state and Federal law. The Commission also has the authority, pursuant to Section 12(d) of the Exchange Act, to impose any terms as the Commission may deem necessary for the protection of investors.[55]

3. Effectiveness of Delisting and Withdrawal of Registration Under Section 12(b) of the Exchange Act

The Commission is adopting amendments to Rule 12d2–2(d) that provide that the effective date for delisting of a class of securities is different from the effective date for the withdrawal from registration of such a class of securities under Section 12(b) of the Exchange Act. In particular, Rule 12d2–2(d)(1) provides that a class of securities will no longer be considered listed on a national securities exchange 10 days after the filing of Form 25 with the Commission. With respect to deregistration, however, Rule 12d2–2(d)(2) provides that the withdrawal of a security's registration under Section 12(b) is effective 90 days, or such shorter period as the Commission may determine, after filing the Form 25 with the Commission. As noted in the Proposing Release, the 90-day delay for deregistering a class of securities is substantially similar to the process for withdrawing a security from Section 12(g) registration.[56]

The Commission received three comments regarding the effectiveness of delisting and withdrawal from registration of a class of securities.[57] The NYSE recommended that the Commission continue to permit an exchange to choose the effective date of an exchange-initiated delisting, so long as the date is at least 10 days after the filing of an application, noting that there may be occasional circumstances in which an exchange may wish to delay a delisting beyond the 10 days. In this regard, current Form 25 allows an exchange to designate a date at least 10 days from the time the form is submitted to the Commission on which the involuntary delisting of an issuer's securities is to be effective. Form 25, however, may only be used by an exchange to remove from listing and registration securities where the entire class is matured, redeemed, retired, or extinguished by operation of law. Under the current Rule, the majority of Form 25s request a date that is 10 days from the date the Form is submitted. For exchange involuntary delistings, which under the former rules could not utilize the Form 25, it had been the Commission's policy to generally issue an approval order on the 10th day after an exchange's application to delist a security is filed with the Commission. Although an exchange occasionally does request a later effective date in its application, the majority of applications are approved by Commission order 10 days after they are submitted. Accordingly, we do not believe that by mandating that the Form becomes effective 10 days from the date submitted will change, in practice, the effectiveness of the majority of exchange delistings.

The amended Rule will remove the flexibility that exchanges currently have to request that a Form 25 or an application for delisting be made effective more than 10 days after filing. The Commission reminds exchanges that they have control as to when to file the Form 25 and, therefore, retain the ability to determine when a delisting becomes effective. The commenter did not describe any circumstance that necessitates an effective date for a delisting of more than 10 days. Moreover, the Commission believes it is important for the effective date of a delisting to be unequivocal. Investors and market participants should be able to discern with certainty the effective date of delisting based upon the date of filing of Form 25. For these reasons, the Commission is adopting the rule that Forms 25 will become effective 10 days after filing.

A second commenter requested that the effective date for withdrawal from registration under Section 12(b) of the Exchange Act coincide with the effective date of the delisting for an

[51] Rule 12d2–2(c)(3). The public notice requirements for the issuer and exchange replace the current requirement that the Commission publish notice of an issuer's proposed delisting.

[52] *See* Rule 12d2–2(c)(2)(iii).

[53] *See* Rule 12d2–2(c)(2)(iii) and (c)(3).

[54] *Id.*

[55] In addition, Rule 12d2–2(d)(3) states that the Commission can postpone the effectiveness of a deregistration to determine whether the application on Form 25 has been made in accordance with the rules of the exchange, or whether terms should be imposed for the protection of investors.

[56] *See* 15 U.S.C. 78*l*(g)(4) (''Registration of any class of security pursuant to this subsection shall be terminated in ninety days, or such shorter period as the Commission may determine * * *.'').

[57] *See* Amex Letter, *supra* note 19, at 2; NYSE Letter, *supra* note 19, at 3; and Sullivan Letter, *supra* note 19, at 3–5.

''acquired company'' [58] that no longer has any public shareholders. The commenter stated that, under the proposed amendments, an acquired company would be obligated to continue certain reporting requirements following a business combination during a 90-day period before a deregistration under Section 12(b) of the Exchange Act takes effect. The commenter believes that such disclosures do not provide any benefit if the company, with equity securities registered under Section 12(b), has been acquired in a merger or similar business combination and has no public shareholders remaining. The commenter notes that the former stockholders of the acquired company do not benefit from any additional disclosure and to the extent they received solely cash in the transaction they no longer need the protection under the Exchange Act with respect to the acquired company. The commenter recommended that the Commission instead provide that, if at the time the Form 25 is filed an issuer has one holder of record of equity securities registered pursuant to Section 12(b), then the 90-day period for the effectiveness of deregistration will be automatically accelerated to the tenth day after the Form is filed.[59]

The Commission has determined not to change the Rule as suggested by the commenter. If a business combination or merger former shareholders of the acquired company no longer need the protection of additional disclosure that may be triggered by its continued registration under Section 12(b), the Commission has the ability to accelerate the deregistration. The Commission believes that the appropriateness of accelerating the deregistration is better assessed on a case-by-case basis.

The third commenter, the Amex, states that it is important that there be a clearly defined mechanism by which the issuer and exchange are notified of the Commission action to delay effectiveness of a delisting, and that the Form 25 is amended to reflect such delay.[60] Under Rule 12d2–2(d)(3) as proposed, the Commission provided that it may, by written notice to the exchange or issuer, postpone effectiveness of a deregistration to determine whether the Form 25 to deregister the class of securities has been made in accordance with the rules of the exchange, and whether any terms or conditions should be imposed by the Commission for the protection of investors.[61]

The Commission believes that the mechanism for notification by the Commission of a delay in effectiveness of a delisting and/or deregistration would be by written notice. After considering Amex's comments, the Commission is modifying the Rule to clarify that any such written notice would be given to both the exchange and the issuer.[62] The Commission is also changing the Rule to clarify that the Commission will send written notice to both the exchange and issuer if it postpones effectiveness of a delisting or deregistration.[63] Regarding the commenter's suggestion of amending the Form 25, the Commission does not believe that postponement of a delisting and/or deregistration warrants amendment of the Form 25.[64] Rather, the Commission would expect that the Commission would provide notice of the delay to the public through the Commission's Web site or by a press release.

Under new Rule 12d2–2(d)(5), upon the filing of Form 25, an issuer's duty to file reports under Section 13(a) of the Exchange Act, which arises from the registration of a class of securities under Section 12(b), will be suspended upon the effective date of a delisting, even though the Section 12(b) withdrawal from registration is effective at a later time. The Commission notes that an issuer will, however, have to comply with all other Exchange Act requirements that arise from Section 12(b) registration until its withdrawal from registration is effective.[65]

Rule 12d2–2(d)(4) requires that, if an action under Section 12 of the Exchange Act to suspend the effective date of, or revoke, the registration of a class of securities, commences against an issuer at any time while the securities are registered under Section 12(b), the securities would remain registered under Section 12 until the final determination of such proceeding, or until the Commission otherwise determines to suspend the effective date of, or revoke, the registration of a class of securities.[66] This provision preserves the Commission's ability to commence a proceeding pursuant to Section 12 of the Exchange Act, and is designed to ensure that issuers will not be able to circumvent pending Commission action simply by filing a Form 25 to deregister.

To preclude an issuer from using the 90-day delay period to circumvent its reporting obligations under Section 13(a) of the Exchange Act [67] and the rules and regulations thereunder, Rule 12d2–2(d)(5) requires that, if, following the effective date for delisting a security, the Commission, an exchange, or an issuer delays the Form 25's effective date for the security's withdrawal from registration under Section 12(b), the issuer, within 60 days of such delay, will be required to file with the Commission any reports that would have been required under Section 13(a) had the Form 25 not been filed.[68] The issuer will also be required to timely file any subsequent reports required under Section 13(a) for the duration of the delay. As discussed in the Proposing Release, the Commission believes that the 60-day reporting requirement will help prevent issuers from using the filing of the Form 25 to inappropriately suspend their reporting obligations for a temporary period of time. The Commission believes that the 60-day reporting requirement also would be beneficial to investors and the public in that, during the time that a security's withdrawal from registration is delayed, investors and the public would be able to continue to track an issuer's financial status without missing a fiscal quarter of reporting information.[69]

Under Rule 12d2–2(d)(6), an issuer will therefore be required to file any reports that an issuer with such a class of securities registered under Section 12 of the Exchange Act would be required to file under Section 13(a) if such class of securities: (1) Is registered under Section 12(g) of the Exchange Act; or (2) would be registered, or would be required to be registered, under Section

[58] The commenter defines an ''acquired company'' to mean a company with equity securities registered under Section 12(b) of the Exchange Act that has been acquired in a merger or similar business combination. *See* Sullivan Letter, *supra* note 19, at 2.

[59] *See* Sullivan Letter, *supra* note 19, at 5.

[60] *See* Amex Letter, *supra* note 19, at 2.

[61] The Commission also has authority under Section 12(d) of the Exchange Act to impose terms on the withdrawal from listing and registration of a security as it deems necessary for the protection of investors.

[62] *See* Rule 12d2–2(d)(3).

[63] *See id.*

[64] Exchanges and issuers will be permitted to amend the Form 25 in certain instances, such as correcting a technical error to the Form. *See* Section III.B. regarding the general instructions to Form 25.

[65] These continuing requirements include, for example, Sections 13(e), 14(a) and 14(d) of the Exchange Act (proxy and tender offer rules). 15 U.S.C. 78m(e), 78n(a), and 78n(d).

[66] For example, under Section 12(j) of the Exchange Act, the Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title, or the rules and regulations thereunder. 15 U.S.C. 78*l*(j).

[67] 15 U.S.C. 78m(a).

[68] *See* Rule 12d2–2(d)(6).

[69] The 60-day time period is similar to the time period provided in Rule 12g–4(b) regarding the deregistration of a class of equity securities under Section 12(g) of the Exchange Act.

12(g) but for the exemption from registration under Section 12(g) of the Exchange Act by Section 12(g)(2)(A)[70] of the Exchange Act.

Similarly, under Rule 12d2–2(d)(7), an issuer whose reporting responsibilities under Section 13(a) of the Exchange Act are suspended will, nevertheless, be required to file any reports that would be required under Section 15(d) of the Exchange Act but for the fact that the reporting obligations are: (1) Suspended for a class of securities under Rule 12d2–2(d)(5); and (2) suspended, terminated, or otherwise absent under Section 12(g) of the Exchange Act. The reporting responsibilities of an issuer under Section 15(d) of the Exchange Act shall continue until the issuer is required to file reports under Section 13(a) or the issuer's reporting responsibilities under Section 15(d) are otherwise suspended. The Commission believes that these provisions will help ensure that an issuer with reporting obligations under Section 13(a) of the Exchange Act that are suspended under the Rule because they have filed the Form 25 would continue to file any reports under Section 13(a) or 15(d) that would be required if the class of delisted securities was no longer registered under Section 12(b) of the Exchange Act. The Commission has not received any comments on these provisions and is adopting Rule 12d2–2(d)(4) through (d)(7) as proposed.

4. Delisting and/or Withdrawal From Section 12(b) Registration Pursuant to Certain Corporate Actions

The Commission proposed to retain the current requirement in Rule 12d2–2(a)(1)–(4) that an exchange file Form 25 to strike a security from listing and registration following certain corporate actions, such as circumstances where the entire security class is matured, redeemed, retired, or extinguished by operation of law. The Commission has received no comments on this part of the proposal and is adopting it as proposed.[71]

The Commission also received no comments on its proposed amendments to paragraph (d)(8) of Rule 12d2–2 and is adopting it as proposed. Rule 12d2–2(d)(8) clarifies that if a security is delisted pursuant to paragraph (a)(3) of amended Rule 12d2–2 and a national securities exchange intends to admit a successor security to trading, in accordance with Rule 12a–5 under the Exchange Act, the effective date of delisting, as set forth in amended Rule 12d2–2(d)(1), shall not be earlier than the date the successor security is removed from its exempt status.[72] The Commission notes that this is consistent with the current treatment of successor securities, in which the Form 25 for delisting and deregistering the original security can only be made effective after the successor security has been removed from its exempt status.[73]

5. Deletions of Certain Provisions in Current Rule 12d2–2

Paragraph (b) of Rule 12d2–2 currently provides that an exchange may strike a security from listing and registration if: (1) Trading in such security has been terminated pursuant to a rule of such exchange requiring such termination whenever the security is admitted to trading on another exchange; and (2) listing and registration of such security has become effective on such other exchange. The Commission believes that the provision may raise competitive concerns, as it could be construed as a limitation on an issuer's right to list its securities on multiple exchanges. The Commission did not receive any comments on its proposal to eliminate this provision from Rule 12d2–2 and is adopting the amendment as proposed.

In addition, paragraph (f) of Rule 12d2–2 currently provides that, within 30 days of the publication of any rule or regulation which substantially alters or adds to the obligations, or detracts from the rights, of an issuer of a security registered under Section 12(b) or (c) of the Exchange Act, or of its officers, directors, or security holders, or of persons soliciting or giving any proxy or consent or authorization with respect to such security, an issuer may file with the Commission a request that its registration expire. Such registration shall expire immediately upon receipt of such request or immediately before such rule or regulation becomes effective, whichever date is later.[74] The Commission proposed to eliminate this paragraph, as it is an obscure provision that has rarely been utilized.[75] Furthermore, the elimination of this provision would ensure that issuers have to follow exchange rules to delist and/or deregister their securities.[76] The Commission received no comments on its proposal to eliminate this provision, and is adopting the amendment as proposed.

B. Changes to Form 25

Currently, Form 25 is only filed by an exchange as notification to the Commission of the removal of a security from listing and registration where the entire class of the security has been matured, redeemed, retired, or its rights extinguished by operation of law.[77] Exchanges may file Form 25 on EDGAR or may submit paper copies of the Form to the Commission.[78] In addition, exchange and issuer delisting applications filed with the Commission, pursuant to Rule 12d2–2(c) and (d), are currently submitted in paper only and cannot be filed on EDGAR. Form 25 currently becomes effective at the opening of business on such date as specified by the exchange, which must be no fewer than 10 days following the date on which Form 25 is filed with the Commission.

To simplify the delisting and deregistration process, the Commission is amending Form 25 to be used for all delistings initiated by either the issuer or an exchange. The Commission received no comments on its proposal to amend Form 25. Accordingly, Form 25 replaces the paper application currently filed by exchanges and issuers to delist and deregister securities under current

[70] *See* Section 12(g)(2)(A) of the Exchange Act, which states that the provisions of Exchange Act Section 12(g)(1) shall not apply to ''any security listed and registered on a national securities exchange.'' 15 U.S.C. 78l(g)(2)(A). During the Section 13(a) reporting suspension contemplated by proposed Rule 12d2–2(d)(5), an issuer's class of securities would not be listed on a national securities exchange for purposes of Section 12 of the Exchange Act. The class of securities would, however, continue to be registered under Section 12(b) of the Exchange Act for the duration of the Section 13(a) reporting suspension or until the Commission otherwise determines.

[71] *See* Rule 12d2–2(a).

[72] *See* Rule 12d2–2(d)(8).

[73] Currently, exchanges generally do not file the Form 25 until the successor security has actually been removed from its exempt status.

[74] 17 CFR 240.12d2–2(f).

[75] The Options Clearing Corporation used the provision to deregister securities in response to the Commission adopting new exemptions for standardized options under the Securities Act of 1933 and the Exchange Act. *See* Securities Exchange Act Release No. 47082 (December 23, 2002), 68 FR 188 (January 2, 2003). Form 25 was unavailable because it discusses delisting and deregistration. The OCC, however, only wished to deregister the options. The Commission is amending Form 25 to cover delisting and deregistration to avoid this problem in the future.

[76] Issuers should note that Section 12(a) of the Exchange Act requires the effective registration of a class of securities (other than an exempted security) on an exchange as a prerequisite to trading on such exchange.

[77] *See supra* note 7 and accompanying text.

[78] The proposal to permit the voluntary filing of Form 25 through EDGAR was adopted by the Commission as part of amendments to rules under the Exchange Act and the Securities Act of 1933 to require foreign private issuers and foreign governments to file most of their securities documents through EDGAR; to clarify when a filer may submit an English summary instead of an English translation of a foreign language document; and to eliminate the requirement that any first-time EDGAR filer, domestic or foreign, submit a paper copy of its electronic filing to the Commission. *See* Securities Exchange Act Release No. 45922 (May 14, 2002), 67 FR 36678 (May 24, 2002).

Rule 12d2–2(c) and (d) of the Exchange Act.

Rule 12d2–2, as amended, requires exchanges and issuers to follow the rules of the exchange regarding the delisting and deregistration of securities, after which the exchange or issuer will file the amended Form 25 to notify the Commission of the delisting and/or deregistration of a security under Section 12(d). The Commission is amending Form 25 to require the exchange or issuer to provide the Commission with the name of the issuer of the security, the name of the exchange where such security is listed and registered, the address of the issuer, and a description of the security. In addition, on Form 25, the exchange or issuer is required to check a box to designate the provision under Rule 12d2–2 relied upon to strike the security from listing and/or registration under Section 12(d) of the Exchange Act.

The instructions to Form 25 provide that the Form must be filed on EDGAR.[79] The Commission believes that requiring exchange and issuers to file one form, the revised Form 25, on EDGAR will substantially reduce paperwork burdens for exchanges and issuers. Further, mandatory filing on EDGAR is designed to ensure that all current information on the registration status of an issuer is available on EDGAR. Because exchanges and issuers have access to EDGAR, the Commission believes it will not be burdensome for them to file electronically. Moreover, this change will be beneficial to the public by providing a complete representation of the issuer's registration status, which, as noted above, is not currently available on the EDGAR system.

To effectuate mandatory electronic filing of the revised Form 25, the Commission is amending Regulation S–T.[80] Currently, Rule 101(b)(9) of Regulation S–T [81] permits, but does not require, electronic filing of Form 25 on EDGAR. The Commission is eliminating this provision, because it is proposing mandatory electronic filing of Form 25. In addition, the Commission is amending Regulation S–T to add new paragraph (a)(1)(ix) to Rule 101 make the filing of Form 25 on EDGAR mandatory.[82]

Currently, Form 25 does not include general instructions as to its use and effectiveness. Therefore, the Commission is adopting new general instructions to Form 25 to provide further guidance to the exchanges and issuers on the use and effectiveness of the Form. The general instructions reiterate many of the regulatory requirements adopted in this proposal, including mandatory electronic filing on EDGAR, delayed effectiveness of a security's withdrawal of registration under Section 12(b), and suspension of duty to file reports under Section 13(a) immediately upon the filing of the Form 25. The instructions to Form 25 also direct issuers to determine whether they have additional reporting requirements under Section 12(g) and reporting obligations pursuant to Section 15(d) of the Exchange Act upon filing of the Form.

The general instructions also state that with respect to the filing of any amendment to Form 25, the removal of the class of securities from listing on the exchange shall be effective 10 days after filing the amended Form 25. The withdrawal of registration of a class of securities registered under Section 12(b) shall take effect in 90 days, or such shorter period as the Commission may determine, after the exchange or issuer files the amended Form 25.

On March 16, 2004, the Commission adopted amendments to Form 8–K, including, among other items, a new Form 8–K item that would require an issuer to disclose the delisting of a class of its securities from an exchange.[83] In the Proposing Release, the Commission solicited comment on whether it should eliminate the Form 8–K disclosure requirement regarding exchange-initiated delistings if it adopted those proposals.[84] The Commission noted that if it adopts the Form 25 amendments, the delisting of a company's securities from an exchange would trigger both a Form 25 filing requirement and Form 8–K filing requirement. The Commission did not receive any comments on this issue. The Commission believes that it would not be prudent at this time to adopt additional amendments to Form 8–K, particularly since the new Form 8–K disclosure requirements have only recently been adopted and become effective. In addition, Form 8–K requires disclosure that would not be presented in the Form 25, including the actions that the company intends to take as a result of the delisting.[85] If necessary in the future, the Commission will consider amending Form 8–K to eliminate the Form 8–K disclosure requirement regarding exchange-initiated delistings.

C. Filing of Form 25 to Serve as Notice Pursuant to Section 19(d)

Rule 19d–1 under the Exchange Act [86] provides that an exchange shall file with the Commission a notice of, among other things, any final disciplinary actions, denials, bars, or limitations respecting membership, association, participation, or access to services.[87] Currently, exchanges do not file Section 19(d) notices when they delist a security, because the actual delisting of the security does not occur until ordered by the Commission. Therefore, the Commission, not the exchange, takes the final action of delisting the security.

Under Rule 12d2–2 as amended today, the Commission will no longer issue orders approving exchanges' delisting applications. Therefore, the exchanges are required to file notices under Rule 19d–1 of any final delisting decisions of the exchange as denials of access to exchange services. To avoid imposing additional paperwork burdens on the exchanges, however, the Commission proposed to amend Rule 19d–1 to provide that the filing of a Form 25 would serve as notice to the Commission under Section 19(d) of the Exchange Act. The Commission received no comments on this proposal and is adopting the amendments to Rule 19d–1 as proposed.[88]

The Commission also proposed to amend Rule 19d–1 to require the exchange to attach a copy of its delisting determination to Form 25 and file Form 25 with the attachment on EDGAR. The

[79] The Commission notes that an issuer that wishes to delist and/or deregister its class of security from more than one exchange must file a separate Form 25 for each exchange. An exchange or issuer is permitted to delist and/or deregister more than one class of security on the same Form 25. These procedures are consistent with current practice.

[80] 17 CFR 232.10 through 232.601. Regulation S–T is the general regulation governing EDGAR filing. In addition to Regulation S–T, filers must submit electronic documents in accordance with the EDGAR filing manual.

[81] 17 CFR 232.101(b)(9).

[82] 17 CFR 232.101(a). The Commission notes that issuers and exchanges that need to obtain a temporary hardship exemption from EDGAR filing requirements may seek to do so pursuant to Rule 201 of Regulation S–T.

[83] *See* Item 3.01 of Securities Act Release No. 8400, (March 16, 2004), 69 FR 15594 (March 25, 2004) (adopting amendments to Form 8–K).

[84] *See* Proposing Release, *supra* note 1.

[85] *See* Item 3.01 of Form 8–K, 17 CFR 249.308.

[86] 17 CFR 240.19d–1.

[87] These delisting decisions are reviewable by the Commission under Section 19(d)(2) of the Exchange Act because they have been considered by the Commission to be a denial if access to services offered by the self-regulatory organization (''SRO''). 15 U.S.C. 78s(d)(2). *See e.g., Healthtech Int'l Inc.*, 70 S.E.C. 2337 (1999). If, in any proceeding to review an exchange's delisting decision, the Commission finds that the specific grounds on which such denial of access exist in fact, that the denial of access is in accordance with the rules of the exchange, and that such rules are, and were applied in a manner consistent with the Exchange Act, the Commission shall dismiss the proceeding. 15 U.S.C. 78s(f).

[88] *See* Rule 19d–1(j) and (k).

Commission is adopting this amendment as proposed.

One commenter asked that the Commission clarify what constitutes the exchange delisting determination that must be attached to Form 25, and what information must be included in such determination.[89] The Commission has not specified a particular form or template for the delisting determination of the exchange that serves as the notice required by Rule 19d–1. The Commission notes, however, that the delisting determination of the exchange must follow the requirements of Section 6(d) of the Exchange Act.[90] Thus, at a minimum, the delisting determination of the exchange shall be supported by a statement setting forth the specific grounds on which the delisting is based.

D. Exemption of Options and Security Futures From Section 12(d)

The Commission is amending Rule 12dd2–2 to exempt standardized options and securities futures products from Section 12(d) of the Exchange Act and Rule 12d2–2 thereunder. When Congress enacted the Commodity Futures Modernization Act of 2000 (''CFMA'',[91] it excluded security futures products traded on a national securities exchange from the requirement to register under Section 12(a) of the Exchange Act.[92] In addition, the Commission exempted by rule security futures products from Section 12(g), if traded on a national securities exchange and cleared by a clearing agency that is registered as a clearing agency under Section 17A of the Exchange Act or exempt from registration as a clearing agency under Section 17A(b)(7).[93] Although the CFMA did not explicitly exempt security futures products from the requirements of Section 12(d) or Rule 12d2–2 under the Exchange Act, the Commission has not applied the requirements under those provisions to securities futures exchanges and temporarily exempted them from Rule 12d2–2 under the Exchange Act.[94]

In addition, the Commission believes there is little practical benefit to requiring the delisting of standardized options and security futures to comply with Rule 12d2–2. Standardized options and security futures products are derivatives, and thus holders of such products have no ownership interest in the underlying security or index, unless the option or security future is physically settled and the holder chooses to exercise the standardized option or hold the security future until expiration. For this reason, when a standardized option or security futures product fails to meet an exchange's maintenance standards, the exchange may not add new options series or expiration months in security futures products, but market participants are still allowed to do closing transactions in open series of options until expiration or until the settlement date of the security future.

The Commission received no comments on its proposal to exempt standardized options and security futures products from Section 12(d) of the Exchange Act and the requirements of Rule 12d2–2, and is adopting the amendments as proposed. Paragraph (e) of amended Rule 12d2–2 exempts from Section 12(d) of the Exchange Act, and Rule 12d2–2 thereunder, standardized options, as defined in Rule 9b–1(a)(4) under the Exchange Act,[95] that are issued by a clearing agency registered under Section 17A of the Exchange Act[96] and traded on a national securities exchange registered pursuant to Section 6(a) of the Exchange Act.[97] Paragraph (e) to Rule 12d–2 also exempts from Section 12(d)[98] and Rule 12d2–2 any security futures products that are traded on a national securities exchange.

E. Compliance Date

The amendments and new rules will become effective on August 22, 2005. To provide exchanges sufficient time to conform their SRO rules to the new requirements, however, the compliance date of the amendments and new rules is April 24, 2006.

F. Implementation

To the extent that exchanges have to revise their rules to comply with the amendments and new rules, SRO rule changes would be required to be filed with the Commission under Section 19(b) of the Exchange Act.[99] Such proposed rule changes that meet the requirements of Rule 12d2–2, as well as Section 19(b) and Rule 19b–4[100] under the Exchange Act, must be filed with the Commission no later than October 24, 2005 and must be operative no later than nine months after publication of Rule 12d2–2.

IV. Paperwork Reduction Act

A. Summary of Collection of Information

As discussed in the Proposing Release, certain provisions of Rule 12d2–2 and Form 25 contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995.[101] The Commission submitted the collection of information requests contained in the proposed amendments to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11, and OMB approved the request for approval of the revision of collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The OMB approved the collection of information titled ''Removal from Listing and Registration of Matured, Redeemed, or Retired Securities—Rule 12d2–2 and Form 25,'' (OMB Control No. 3235–0080).

The Commission is adopting amendments to its rules and Form 25 to streamline the procedures for removing from listing, and withdrawing from registration, securities under Section 12(b) of the Exchange Act. The final amendments to Rule 12d2–2 require all issuers and national securities exchanges seeking to delist and/or deregister a security in accordance with the rules of an exchange and the Commission to file Form 25 in an electronic format with the Commission

[89] *See* Amex Letter, *supra* note 19, at 3.

[90] 15 U.S.C. 78f(d). Section 6(d)(2) of the Exchange Act, 15 U.S.C. 78f(d)(2), requires, among other things, that in any proceeding by a national securities exchange to determine whether a person shall be prohibited or limited with respect to access to services offered by the exchange, the exchange shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for prohibition or limitation under consideration and keep a record. A determination by the exchange to prohibit or limit a person with respect to access to services offered by the exchange shall be supported by a statement setting forth the specific grounds on which the denial, bar, or prohibition or limitation is based.

[91] Pub. L. 106–554, 114 Stat. 2763.

[92] 15 U.S.C. 78*l*(a).

[93] *See* Securities Act Release No. 8171 (December 23, 2002), 68 FR 188 (January 2, 2003).

[94] *See* Securities Exchange Act Release No. 49859 (June 15, 2004), 69 FR 34409 (June 21, 2004).

[95] 17 CFR 240.9b–1(a)(4).

[96] 15 U.S.C. 78q–1.

[97] 15 U.S.C. 78f(a).

[98] 15 U.S.C. 78*l*(d).

[99] *See* Preliminary Note to Rule 12d2–2. As SROs, exchanges currently are required by the Exchange Act to file with the Commission any proposed new rules or rule amendments, accompanied by a concise general statement of the basis for, and purpose of, the proposed rule change. Upon the filing of a proposed rule change, the Commission shall publish notice of it and provide an opportunity for public comment. *See* Section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1), and Rule 19B–4 under the Exchange Act, 17 CFR 240.19b–4. The proposed rule change may not take effect unless the Commission approves it pursuant to Section 19(b)(2) of the Exchange Act, or it is otherwise permitted to become effective under Section 19(b)(3)(A) or Section 19(b)(7) of the Exchange Act. 15 U.S.C. 78s(b)(2), (b)(3)(A) and (b)(7).

[100] 17 CFR 240.19b–4.

[101] 44 U.S.C. 3501.

on the EDGAR database. In addition, as in current Rule 12d2–2, an exchange seeking to delist and/or deregister a class of securities must promptly deliver a copy of the application to the issuer. The final amendment to Rule 19d–1 provides that Form 25 serve as an exchange's notice to the Commission under Section 19(d) of the Exchange Act. Finally, Rule 12d2–2 exempts standardized options and security futures products traded on a national securities exchange from Section 12(d) of the Exchange Act.

Because the final rules are substantially similar to those proposed, the Commission continues to believe that the estimates published in the Proposing Release regarding the proposed collection of information burdens are appropriate.[102] Compliance with the collection of information imposed by the final rules is mandatory. Any information with the Commission filed by the exchanges and/or issuers as required by the final rules will not be confidential and will be made available to the public.

B. Use of Information

The collections of information are necessary for persons to obtain certain benefits or to comply with certain requests. As discussed, Form 25 will be used by both issuers and national securities exchanges to delist a class of securities from a national securities exchange, and to withdraw from registration a class of securities under Section 12(b) of the Exchange Act. Form 25 will enable the Commission to receive organized information relating to an issuer and/or the listed exchange that intends to delist and/or deregister a class of securities from the listed exchange pursuant to Section 12(b) of the Exchange Act. Moreover, Form 25, in addition to the exchange's delisting determination, will serve as notice of an exchange's final action as required under Section 19(d) of the Exchange Act.

C. Respondents

The final rules apply to national securities exchanges and issuers seeking to delist a class of securities from a national securities exchange and/or to withdraw from registration a class of securities under Section 12(b) of the Exchange Act. At the end of 2003, there were nine national securities exchanges. In 2003, 57 issuers sought to delist a class of securities from a national securities exchange and/or to withdraw from registration a class of securities under Section 12(b) of the Exchange Act. Given these figures, the Commission staff estimates that approximately 66 respondents will be required to comply with these Rule amendments.

D. Total Annual Reporting and Recordkeeping Burdens

The Commission estimates that the current combined burden under Rule 12d2–2 is 848 burden hours per year. This estimate is based on activities of national securities exchanges and issuers in 2003. In 2003, the national securities exchanges filed 544 Forms 25 at one burden hour per form (including filling out the Form 25 and providing notice to the issuer). In addition, the national securities exchanges filed 190 delisting applications at one burden hour per application (including filling out the application and providing notice to the issuer).

In the Proposing Release, the Commission proposed to eliminate current Rule 12d2–2(e)(2), which requires exchanges to deliver a copy of the application to the issuer. Nevertheless, the Proposing Release's estimate of one burden hour per Form 25 for national securities exchanges mistakenly included this requirement; a more accurate estimation of the burden hours without this requirement would have been lower than that set forth in the Proposing Release. However, after further evaluation, the Commission today is adopting amendments to Rule 12d2–2 that will continue to require exchanges seeking to delisting and/or deregister a class of securities to deliver a copy of the Form 25 to the issuer.[103] Therefore, the hour burden estimate for filing a Form 25 would remain one burden hour per form-the estimate includes filling out the Form 25 and providing notice to the issuer.

Of those written applications filed by national securities exchanges, 104 were filed to delist equity securities and 86 were filed to delist options. Rule 12d2–2 will exempt standardized options and security futures products. The Commission estimates that the exemption for standardized options and security futures products will lower the total burden hours incurred by national securities exchanges from 734 hours to 648 hours.[104]

In 2003, 57 issuers voluntarily delisted their securities by filling out and submitting delisting applications, which, for issuers, take on average, two burden hours per application. Rule 12d2–2 will require issuers that voluntarily delist their securities to file a Form 25, which takes one burden hour, rather than a voluntary delisting application, which, for issuers, takes two burden hours. Assuming that 57 issuers voluntarily delist their securities, this change will reduce the total burden hours incurred by issuers from 114 hours to 57 hours.

As a result of this reduction, the combined estimated annual burden under Rule 12d2–2 for exchanges and issuers will be 705 hours.[105]

E. No Responses to Request for Comment

In the Proposing Release, the Commission solicited comments on: (1) The accuracy of our burden hour estimates; (2) whether the proposed changes to collection of information are necessary for the proper performance of the Commission's functions; (3) whether there are ways to enhance the quality, utility, and clarity of the proposed information to be collected; (4) whether there are ways to minimize burden hour estimates; and (5) whether the proposed amendments would have any effects on any other collection of information not previously identified. The Commission did not receive any comments on the Paperwork Reduction analysis contained in the Proposing Release.

V. Costs and Benefits of Final Rule Amendments

A. Introduction

The new amendments to Rule 12d2–2 and Form 25 adopted by the Commission today simplify the deregistration and delisting requirements under Section 12 of the Exchange Act. Rule 12d2–2 and Form 25 will require both national securities exchanges and issuers seeking to delist and deregister a class of securities to file the Form 25 with the Commission on EDGAR. The application to delist a class of securities on Form 25 will be effective 10 days after filing with the Commission. However, withdrawal from

[102] With regard to estimates under Rule 12d2–2, the Commission Staff has changed the estimate of the total paperwork burden slightly due to a miscalculation. The Commission stated in the Proposing Release that the number of burden hours per year is 851 hours. The actual number of burden hours per year is 848 hours.

[103] *See* Rule 12d2–2(b)(2).

[104] None of the national securities exchanges currently use EDGAR to file Form 25. However, the Commission believes that requiring Form 25 to be filed on EDGAR will not change the amount of time required to complete Form 25.

[105] The Commission notes that exchanges may need to amend their rules to comply with the requirements of Rule 12d2–2. Pursuant to Exchange Act Rule 19b–4, any such amendments would need to be filed with the Commission as proposed rule changes. However, this collection of information would be collected pursuant to Exchange Rule 19b–4 and therefore would not be an additional collection of information for Rule 12d2–2.

Section 12(b) registration obligations will not be effective until 90 days after the Form 25 is filed, or such shorter period of time that the Commission may require. In addition, the Commission will no longer issue orders approving a delisting. Instead, the revised Form 25 with an attached national securities exchange delisting decision will constitute notice of an exchange's final action under Section 19(d) of the Exchange Act.

Rule 12d2–2 specifies the delisting requirements with which national securities exchanges and issuers must comply. First, each national securities exchange must have adequate delisting rules relating to notification to the issuer of a delisting, review and appeal of a national securities exchange's delisting decision, and dissemination of notice of a delisting. This provision includes a requirement that the national securities exchange give public notice of its decision to delist a class of securities, via a press release and posting on the national securities exchange's Web site, no fewer than 10 days before the delisting on Form 25 becomes effective. In addition, the exchange must promptly deliver a copy of the application to the issuer.

A delisting issuer must certify that it has complied with applicable delisting rules of the national securities exchange and applicable state laws, submitted written notification to the applicable national securities exchange of the issuer's decision to delist at least 10 days before it files Form 25 and, contemporaneously with such notice, has widely disseminated notice of the delisting of its class of securities. Rule 12d2–2 will exclude options and securities futures from the delisting requirements. The Commission solicited comments on the cost and benefit analysis contained in the Proposing Release. In response, the Amex Letter stated that the Amex supports the Commission's efforts to provide increased transparency and efficiency to the delisting and deregistration process.[106]

B. Benefits

Amendments to Rule 12d2–2, as adopted, will benefit issuers, national securities exchanges, and investors. The use of Form 25 for all delistings provides a uniform method of delisting a class of securities. In addition, the use of EDGAR as a method of filing the Form 25 makes information contained in Commission filings easily available to issuers, national securities exchanges, and the investing public, without any corresponding increase in the time required for issuers to complete Form 25. The electronic format of the information facilitates research and data analysis, and the use of EDGAR facilitates more efficient storage, retrieval, and analysis of delisting information. Quicker access to this information will not only facilitate review of the information, but also enhance the Commission's ability to study and address issues that relate to this information.

Rule 12d2–2 is intended to provide clarity to both issuers and national securities exchanges. The requirement that all national securities exchanges have specified rules relating to the delisting process should clarify the issues that both issuers and national securities exchanges must address before filing a Form 25. Requiring issuers to certify that they have in fact followed the necessary steps in the delisting process should serve as a reminder to delisting issuers of the necessary procedures, and provide the public with adequate notice that a delisting has been properly effected.

In addition, Rule 12d2–2, by exempting standardized options and security futures products, eliminates the time national securities exchanges currently spend filing applications to delist these products. Rule 12d2–2 also promotes the comparable regulatory treatment of options and security futures. The exemption for standardized options and security futures also provides clarity to market participants.

C. Costs

The Commission believes that the changes described above will streamline the delisting process and may result in a net reduction in the current costs borne by issuers and national securities exchanges. The Commission does not expect any detrimental effects to investors as a result of the new amendments to Rule 12d2–2 and Form 25.

The filing of Form 25 imposes costs on national securities exchanges and issuers. Rule 12d2–2 requires national securities exchanges and issuers to spend time filling out Form 25s in connection with a delisting. In addition, national securities exchanges who seek to delist and/or deregister a class of securities must promptly deliver a copy of the Form 25 to the issuer. National securities exchanges may also incur costs associated with the maintenance of EDGAR capabilities. However, the Commission expects the Form 25 requirements to be less time consuming than the method currently used to initiate a delisting; therefore, the administrative time burden associated with delisting will likely be lower than that of the current practice associated with delistings. With respect to EDGAR facilities, it is the Commission's understanding that the national securities exchanges already have EDGAR capabilities. In addition, the costs associated with maintaining the technological facilities necessary to file Form 25s on EDGAR should be insignificant.

The requirement that an issuer that wishes to voluntarily delist represent on Form 25 that it has taken the steps necessary to comply with applicable national securities exchange rules and has provided adequate notice to the public, will impose costs on delisting issuers in the form of the time associated with completing the Form 25. The Commission believes, however, that issuers already bear this cost, as they are currently required to file a delisting application with the Commission. In fact, Rule 12d2–2 reduces cost to issuers by eliminating the current delisting application format and replacing it with the Form 25. Currently, delisting applications are not granted until the Commission issues an order, which may impose additional requirements on issuers; however, a delisting on the Form 25 will be effective 10 days after it is filed with the Commission. In addition, currently, an issuer must file reports under Section 13(a) until the Commission issues its order to delist the security. However, under the final Rule amendments adopted today while the actual deregistration under Section 12(b) would not occur generally until 90 days later, an issuer's duty to file reports under Section 13(a) as a result of the Section 12(b) registration will be suspended upon the effective date of the delisting. The Commission Staff estimates that the annual paperwork cost to issuers will be $4,674 (57 hours × $82 per hour for an attorney).[107]

In addition, Rule 12d2–2 may impose costs on national securities exchanges. The national securities exchanges may incur a duty to codify or change their rules. While most national securities exchanges already have some of the delisting requirements as part of their rules, some of the rules will need to be changed. For example, not all of the national securities exchanges currently have in their rules specific procedures regarding notice to the issuer of the national securities exchange's decision to delist a class of securities. Therefore,

[106] *See* Amex Letter, *supra* note 19.

[107] Security Industry Association's *Report on Management and Professional Earnings in the Securities Industry 2003* (the ''2003 Report''). According to the 2003 Report, the hourly cost of an attorney is approximately $82.

Rule 12d2–2 will likely impose, on some national securities exchanges, a cost associated with codifying the notification requirement.[108]

Finally, Rule 12d2–2 could impose costs on national securities exchanges relating to the review of delistings upon appeal to the Commission. Currently, any person aggrieved by a Commission action made by delegated authority may seek Commission review of the action. Accordingly, when the Commission issues an order striking a class of securities from listing and registration by delegated authority,[109] an aggrieved party may petition the Commission for review of the delisting order. Thereafter, an aggrieved party may seek review in the U.S. Court of Appeals.[110]

Rule 12d2–2 will result in a review process similar to the delisting of Nasdaq securities, where an aggrieved party can appeal the National Association of Securities Dealers' (''NASD'') delisting decision to the Commission as a denial of access, and the Commission must review the decision on a de novo basis. Under this process, the Commission requires the NASD to file a response to an appeal by the aggrieved party. The Commission's decision can be appealed to the U.S. Court of Appeals.

Rule 12d2–2 will require parties aggrieved by a national securities exchange's delisting decision to appeal the decision to the Commission before going to the U.S. Court of Appeals. A national securities exchange whose delisting decision was appealed would have to respond to an appeal, which will require the national securities exchange to incur costs. Because the Commission is required to review petitions filed under Section 19(d) of the Exchange Act, aggrieved parties could determine to avail themselves of the Commission appeal process more frequently. Thus, national securities exchanges may have to respond more often to such appeals.

VI. Regulatory Flexibility Act Certification

The Commission has certified, pursuant to 5 U.S.C. 605(b), that the amendments to Rule 12d2–2 and Form 25 will not have a significant economic impact on a substantial number of small entities. This certification was set forth in the Proposing Release.[111] The Commission solicited and did not receive any comments about the impact on small entities or the Regulatory Flexibility Act certification.

VII. Consideration of Impact on the Economy, Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

Section 3(f) of the Exchange Act[112] requires the Commission, whenever it engages in rulemaking that requires it to consider or determine if an action is necessary or appropriate in the public interest, to consider if the action will promote efficiency, competition, and capital formation. Section 23(a)(2) of the Exchange Act[113] requires the Commission, in making rules under the Exchange Act, to consider the impact that any such rule would have on competition. Section 23(a)(2) of the Exchange Act prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

In the Proposing Release, the Commission solicited comments on the effects of the amendments on burden on competition and promotion of efficiency, competition, and capital formation. The Commission did not receive any comments that addressed these issues.

The Commission believes that Rule 12d2–2 promotes efficiency by streamlining the delisting and deregistration process. Rule 12d2–2 establishes one form that must be filled out for all delistings, whether voluntary or involuntary. The Form 25 informs the Commission and the public that a security previously traded on a national securities exchange is no longer traded, and enables the Commission to verify that a delisting has occurred in accordance with the rules of the national securities exchange.

Furthermore, the Commission expects that Rule 12d2–2, by exempting standardized options and security futures products from Rule 12d–2, will promote the comparable regulatory treatment of options and security futures. The exemption for standardized options and security futures products would also provide clarity to market participants.

The Commission does not believe that Rule 12d2–2 will have any anti-competitive effects. The Commission is also not aware of any impact on capital formation that will result from Rule 12d2–2.

VIII. Statutory Authority and Text of Final Rule

Pursuant to the Exchange Act and particularly Sections 3(b), 12(d), 23(a), and 36 thereof, 15 U.S.C. 78c, 78*l*, and 78w(a), the Commission is adopting amendments to § 232.101, § 240.12d2–2, § 240.19d–1, and Form 25 (referenced in 17 CFR 249.25) of Chapter II of Title 17 of the *Code of Federal Regulations* in the manner set forth below. The Commission is also adopting the amendments to § 232.101 pursuant to the Securities Act of 1933, and particularly Sections 6, 7, 8, 10, and 19(a) thereof, 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

List of Subjects

17 CFR Part 232

Administrative practice and procedure, Confidential business information, Reporting and recordkeeping requirements, Securities.

17 CFR Part 240

Issuers, Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

Text of Final Rule

■ For the reasons set out in the preamble, the Commission amends Title 17, Chapter II of the Code of Federal Regulations as follows.

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.*; and 18 U.S.C. 1350.

* * * * *

■ 2. Section 232.101 is amended by:
■ a. Removing the word ''and'' at the end of paragraph (a)(1)(ix);
■ b. Removing the period at the end of paragraph (a)(1)(x) and in its place adding ''; and'';
■ c. Adding paragraph (a)(1)(xi);
■ d. Adding the word ''and'' at the end of paragraph (b)(7);
■ e. Removing ''; and'' at the end of paragraph (b)(8) and in its place adding a period; and
■ f. Removing paragraph (b)(9).

The addition reads as follows:

§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

[108] *See supra* note 105.

[109] 17 CFR 200.30–3(a)(1).

[110] 15 U.S.C. 78y. An aggrieved party must petition the Commission for review of action made by delegated authority before seeking judicial review. 17 CFR 201.430(c).

[111] *See* Securities Exchange Act Release No. 49858 (June 15, 2004), 69 FR 34860 (June 22, 2004).

[112] 15 U.S.C. 78c(f).

[113] 15 U.S.C. 78w(a)(2).

(1) * * *

(xi) Form 25 (§ 249.25 of this chapter).

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 3. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 4. Section 240.12d2–2 is amended by:

■ a. Removing the authority citation following § 240.12d2–2;

■ b. Adding a ''Preliminary Note'' before paragraph (a);

■ c. Revising the introductory text of paragraph (a), paragraphs (a)(4), (b), (c), (d), and (e); and

■ d. Removing paragraph (f).

The addition and revisions read as follows:

§ 240.12d2–2 Removal from listing and registration.

Preliminary Notes: 1. The filing of the Form 25 (§ 249.25 of this chapter) by an issuer relates solely to the withdrawal of a class of securities from listing on a national securities exchange and/or from registration under section 12(b) of the Act (15 U.S.C. 78*l*(b)), and shall not affect its obligation to be registered under section 12(g) of the Act and/or reporting obligations under section 15(d) of the Act (15 U.S.C. 78*o*(d)).

2. *Implementation.* The rules of each national securities exchange must be designed to meet the requirements of this section and must be operative no later than April 24, 2006. Each national securities exchange must submit to the Commission a proposed rule change that complies with section 19(b) of the Act (15 U.S.C. 78s) and Rule 19b–4 (17 CFR 240.19b–4) thereunder, and this section no later than October 24, 2005.

(a) A national securities exchange must file with the Commission an application on Form 25 (17 CFR 249.25) to strike a class of securities from listing on a national securities exchange and/or registration under section 12(b) of the Act within a reasonable time after the national securities exchange is reliably informed that any of the following conditions exist with respect to such a security:

* * * * *

(4) All rights pertaining to the entire class of the security have been extinguished; *provided, however*, that where such an event occurs as a result of an order of a court or other governmental authority, the order shall be final, all applicable appeal periods shall have expired, and no appeals shall be pending.

(b)(1) In cases not provided for in paragraph (a) of this section, a national securities exchange may file an application on Form 25 to strike a class of securities from listing and/or withdraw the registration of such securities, in accordance with its rules, if the rules of such exchange, at a minimum, provide for:

(i) Notice to the issuer of the exchange's decision to delist its securities;

(ii) An opportunity for appeal to the national securities exchange's board of directors, or to a committee designated by the board; and

(iii) Public notice of the national securities exchange's final determination to remove the security from listing and/or registration, by issuing a press release and posting notice on its Web site. Public notice under this paragraph shall be disseminated no fewer than 10 days before the delisting becomes effective pursuant to paragraph (d)(1) of this section, and must remain posted on its Web site until the delisting is effective.

(2) A national securities exchange must promptly deliver a copy of the application on Form 25 to the issuer.

(c)(1) The issuer of a class of securities listed on a national securities exchange and/or registered under section 12(b) of the Act may file an application on Form 25 to notify the Commission of its withdrawal of such securities from listing on such national securities exchange and its intention to withdraw the securities from registration under section 12(b) of the Act.

(2) An issuer filing Form 25 under this paragraph must satisfy the requirements in paragraph (c)(2) of this section and represent on the Form 25 that such requirements have been met:

(i) The issuer must comply with all applicable laws in effect in the state in which it is incorporated and with the national securities exchange's rules governing an issuer's voluntary withdrawal of a class of securities from listing and/or registration.

(ii) No fewer than 10 days before the issuer files an application on Form 25 with the Commission, the issuer must provide written notice to the national securities exchange of its determination to withdraw the class of securities from listing and/or registration on such exchange. Such written notice must set forth a description of the security involved, together with a statement of all material facts relating to the reasons for withdrawal from listing and/or registration.

(iii) Contemporaneous with providing written notice to the exchange of its intent to withdraw a class of securities from listing and/or registration, the issuer must publish notice of such intention, along with its reasons for such withdrawal, via a press release and, if it has a publicly accessible Web site, posting such notice on that Web site. Any notice provided on an issuer's Web site under this paragraph shall remain available until the delisting on Form 25 has become effective pursuant to paragraph (d)(1) of this section. If the issuer has not arranged for listing and/or registration on another national securities exchange or for quotation of its security in a quotation medium (as defined in § 240.15c2–11), then the press release and posting on the Web site must contain this information.

(3) A national securities exchange, that receives, pursuant to paragraph (c)(2)(ii) of this section, written notice from an issuer that such issuer has determined to withdraw a class of securities from listing and/or registration on such exchange, must provide notice on its Web site of the issuer's intent to delist and/or withdraw from registration its securities by the next business day. Such notice must remain posted on the exchange's Web site until the delisting on Form 25 is effective pursuant to paragraph (d)(1) of this section.

(d)(1) An application on Form 25 to strike a class of securities from listing on a national securities exchange will be effective 10 days after Form 25 is filed with the Commission.

(2) An application on Form 25 to withdraw the registration of a class of securities under section 12(b) of the Act will be effective 90 days, or such shorter period as the Commission may determine, after filing with the Commission.

(3) Notwithstanding paragraphs (d)(1) and (d)(2) of this section, the Commission may, by written notice to the exchange and issuer, postpone the effectiveness of an application to delist and/or to deregister to determine whether the application on Form 25 to strike the security from registration under section 12(b) of the Act has been made in accordance with the rules of the exchange, or what terms should be imposed by the Commission for the protection of investors.

(4) Notwithstanding paragraph (d)(2) of this section, whenever the Commission commences a proceeding against an issuer under section 12 of the Act prior to the withdrawal of the registration of a class of securities, such

security will remain registered under section 12(b) of the Act until the final decision of such proceeding or until the Commission otherwise determines to suspend the effective date of, or revoke, the registration of a class of securities.

(5) An issuer's duty to file any reports under section 13(a) of the Act (15 U.S.C. 78m(a)) and the rules and regulations thereunder solely because of such security's registration under section 12(b) of the Act will be suspended upon the effective date for the delisting pursuant to paragraph (d)(1) of this section. If, following the effective date of delisting on Form 25, the Commission, an exchange, or an issuer delays the withdrawal of a security's registration under section 12(b) of the Act, an issuer shall, within 60 days of such delay, file any reports that would have been required under section 13(a) of the Act and the rules and regulations thereunder, had the Form 25 not been filed. The issuer also shall timely file any subsequent reports required under section 13(a) of the Act for the duration of the delay.

(6) An issuer whose reporting responsibilities under section 13(a) of the Act are suspended for a class of securities under paragraph (d)(5) of this section is, nevertheless, required to file any reports that an issuer with such a class of securities registered under section 12 of the Act would be required to file under section 13(a) of the Act if such class of securities:

(i) Is registered under section 12(g) of the Act; or

(ii) Would be registered, or would be required to be registered, under section 12(g) of the Act but for the exemption from registration under section 12(g) of the Act provided by section 12(g)(2)(A) of the Act.

(7)(i) An issuer whose reporting responsibilities under section 13(a) of the Act are suspended under paragraph (d)(5) of this section is, nevertheless, required to file any reports that would be required under section 15(d) of the Act but for the fact that the reporting obligations are:

(A) Suspended for a class of securities under paragraph (d)(5) of this section; and

(B) Suspended, terminated, or otherwise absent under section 12(g) of the Act.

(ii) The reporting responsibilities of an issuer under section 15(d) of the Act shall continue until the issuer is required to file reports under section 13(a) of the Act or the issuer's reporting responsibilities under section 15(d) of the Act are otherwise suspended.

(8) In the event removal is being effected under paragraph (a)(3) of this section and the national securities exchange has admitted or intends to admit a successor security to trading under the temporary exemption provided for by § 240.12a–5, the effective date of the Form 25, as set forth in paragraph (d)(1) of this section, shall not be earlier than the date the successor security is removed from its exempt status.

(e) The following are exempt from section 12(d) of the Act and the provisions of this section:

(1) Any standardized option, as defined in § 240.9b–1, that is:

(i) Issued by a clearing agency registered under section 17A of the Act (15 U.S.C. 78q–1); and

(ii) Traded on a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)); and

(2) Any security futures product that is:

(i) Traded on a national securities exchange registered under section 6(a) of the Act or on a national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78*o*–3(a)); and

(ii) Cleared by a clearing agency registered as a clearing agency pursuant to section 17A of the Act or is exempt from registration under section 17A(b)(7) of the Act.

■ 5. Section 240.19d–1 is amended by:

■ a. Removing the authority citation at the end of § 240.19d–1;

■ b. Adding paragraph (j); and

■ c. Adding paragraph (k).

The additions read as follows:

§ 240.19d–1 Notices by self-regulatory organizations of final disciplinary actions, denials, bars, or limitations respecting membership, association, participation, or access to services, and summary suspensions.

* * * * *

(j) Notice of limitation or prohibition of access to services by delisting of security. Any national securities exchange for which the Commission is the appropriate regulatory agency that delists a security pursuant to section 12(d) of the Act (15 U.S.C. 78*l*(d)), and § 240.12d2–2 must file a notice with the Commission in accordance with paragraph (k) of this section.

(k) Contents of notice required by paragraph (j) of this section. The national securities exchange shall file notice pursuant to paragraph (j) of this section on Form 25 (§ 249.25 of this chapter). Form 25 shall serve as notification to the Commission of such limitation or prohibition of access to services. The national securities exchange must attach a copy of its delisting determination to Form 25 and file Form 25 with the attachment on EDGAR.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 6. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 7. Section 249.25 and Form 25 are revised to read as follows:

§ 249.25 Form 25, for notification of removal from listing and/or registration.

This form shall be used by registered national securities exchanges and issuers for notification of removal of a class of securities from listing on a national securities exchange and/or withdrawal of registration under section 12(b) of the Act (15 U.S.C. 78*l*(b)).

Note: The text of Form 25 does not, and this amendment will not, appear in the Code of Federal Regulations.

BILLING CODE 8010–01–P

OMB APPROVAL
OMB Number: 3235-0080
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Estimated average burden hours per response.....1.70

FORM 25

Securities and Exchange Commission
Washington, D.C. 20549

NOTIFICATION OF REMOVAL FROM LISTING AND/OR REGISTRATION UNDER SECTION 12(b) OF THE SECURITIES EXCHANGE ACT OF 1934.

Commission File Number _____

_____
(Exact name of Issuer as specified in its charter, and name of Exchange where security is listed and/or registered)

_____
(Address, including zip code, and telephone number, including area code, of Issuer's principal executive offices)

_____
(Description of class of securities)

Please place an X in the box to designate the rule provision relied upon to strike the class of securities from listing and registration:

☐ 17 CFR 240.12d2-2(a)(1)

☐ 17 CFR 240.12d2-2(a)(2)

☐ 17 CFR 240.12d2-2(a)(3)

☐ 17 CFR 240.12d2-2(a)(4)

☐ Pursuant to 17 CFR 240.12d2-2(b), the Exchange has complied with its rules to strike the class of securities from listing and/or withdraw registration on the Exchange.[1]

☐ Pursuant to 17 CFR 240.12d2-2(c), the Issuer has complied with the rules of the Exchange and the requirements of 17 CFR 240.12d2-2(c) governing the voluntary withdrawal of the class of securities from listing and registration on the Exchange.

Pursuant to the requirements of the Securities Exchange Act of 1934, _____(Name of Issuer or Exchange) certifies that it has reasonable grounds to believe that it meets all of the requirements for filing the Form 25 and has caused this notification to be signed on its behalf by the undersigned duly authorized person.

_____	By_____	_____
Date	Name	Title

[1] Form 25 and attached Notice will be considered compliance with the provisions of 17 CFR 240.19d-1 as applicable. See General Instructions.

BILLING CODE 8010–01–C

General Instructions

1. This form is required by Rule 12d2–2 (17 CFR 240.12d2–2) of the General Rules and Regulations under the Securities Exchange Act of 1934 (''Exchange Act'').

2. Exchanges: Attach the delisting determination to this Form 25 to serve as the required Notice pursuant to Exchange Act Rule 19d–1 (17 CFR 240.19d–1). Form 25 and the attached Notice will be considered compliance with the provisions of Rule 19d–1 as applicable.

3. The Form 25 and any attachments must be filed electronically on the EDGAR database.

4. The removal of the class of securities from listing on the exchange shall be effective 10 days after filing the Form 25. With respect to the filing of any amendment to Form 25, the removal of the class of securities from listing on the exchange shall be effective 10 days after filing the amended Form 25.

5. The withdrawal of registration of a class of securities registered under Section 12(b) of the Exchange Act shall take effect in 90 days, or such shorter period as the Commission may determine, after the exchange or issuer files a Form 25 with the Commission. With respect to the filing of any amendment to Form 25, the withdrawal of registration of a class of securities registered under Section 12(b) shall take effect in 90 days, or such shorter period as the Commission may determine, after the exchange or issuer files the amended Form 25.

6. For purposes of Section 12 of the Exchange Act, a class of securities shall no longer be considered listed on a national securities exchange upon the effective date of delisting even though the withdrawal of registration is effective at a later time.

7. The issuer's duty to file any reports under Section 13(a) of the Exchange Act and the rules and regulations thereunder as a result of the security's registration under Section 12(b) of the Exchange Act shall be suspended upon the effective date of the delisting. If, following the effective date of delisting, the withdrawal of registration under Section 12(b) is delayed by the Commission, an exchange, or an issuer, the issuer shall, within 60 days of such delay, file any reports that would have been required under Section 13(a) and the rules and regulations thereunder, had the Form 25 not been filed. The issuer will also file any subsequent reports required under Section 13(a) for the duration of the delay.

8. An issuer whose reporting responsibilities under Section 13(a) of the Exchange Act are suspended for a class of securities under Rule 12d2–2(d)(5) is, nevertheless, required to file any reports that an issuer with such a class of securities registered under Section 12 of the Exchange Act would be required to file under Section 13(a) if such class of securities: (a) is registered under Section 12(g) of the Exchange Act; or (b) would be registered, or would be required to be registered, under Section 12(g) of the Exchange Act but for the exemption from registration under Section 12(g) provided by Section 12(g)(2)(A) of the Exchange Act.

9. An issuer whose reporting responsibilities under Section 13(a) of the Exchange Act are suspended under Rule 12d2–2(d)(5) is, nevertheless, required to file any reports that would be required under Section 15(d) of the Exchange Act but for the fact that the reporting obligations are: (a) Suspended for a class of securities under Rule 12d2–2(d)(5); and (b) suspended, terminated, or otherwise absent under Section 12(g) of the Exchange Act. The reporting responsibilities of an issuer under Section 15(d) of the Exchange Act shall continue until the issuer is required to file reports under Section 13(a) of the Exchange Act or the issuer's reporting responsibilities under Section 15(d) are otherwise suspended.

10. Issuers should determine if they have additional registration and reporting requirements under Section 12(g) of the Exchange Act and reporting obligations pursuant to Section 15(d) of the Exchange Act upon the filing of Form 25.

11. In any case where the Commission has commenced a proceeding under Section 12 of the Exchange Act prior to the withdrawal of the registration of a class of securities becoming effective, such security will remain registered under Section 12(b) of the Exchange Act until the final decision of such proceeding, or until the Commission otherwise determines to suspend the effective date of, or revoke, the registration of a class of securities.

12. In the event removal is being effected under Rule 12d2–2(a)(3) and the national securities exchange has admitted or intends to admit a successor security to trading under the temporary exemption provided for by Exchange Act Rule 12a–5 (17 CFR 240.12a–5) the Form 25 shall be filed with the Commission in a manner that ensures that the delisting does not become effective until the successor security is removed from its exempt status.

Dated: July 14, 2005.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 05–14229 Filed 7–21–05; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Friday,
July 22, 2005

Part IV

Department of Labor

Employment and Training Administration

20 CFR Part 604

Unemployment Compensation—Eligibility; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 604

RIN 1205–AB41

Unemployment Compensation—Eligibility

AGENCY: Employment and Training Administration, Labor.

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

SUMMARY: The Department of Labor (Department) is proposing this rule to implement the requirements of the Social Security Act (SSA) and the Federal Unemployment Tax Act (FUTA) that limit a state's payment of unemployment compensation (UC) only to individuals who are able and available (A&A) for work. This rule would apply to all state UC laws and programs.

COMMENT DATE: Written comments must be submitted on or before September 20, 2005.

ADDRESSES: You may submit written comments on the proposed rule (please identify this proposed rule by Regulatory Information Number (RIN) 1205–AB41) by any of the following methods:

- Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Comments may be mailed or delivered to Cheryl Atkinson, Administrator, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210.
- Comments may be submitted electronically to the Office of Workforce Security at the e-mail address: *eligibilityrule@dol.gov.* Receipt of submissions, whether by U.S. mail, other delivery, or e-mail, will not be acknowledged.

Instructions: all submissions received must include the agency name and the RIN for this rulemaking: RIN 1205–AB41. If commenters transmit comments by Fax or through the Internet and also submit a hard copy by mail, please indicate that it is a duplicate copy of the Fax or Internet transmission.

All comments will be available for public inspection and copying during normal business hours at the Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210. Copies of the proposed rule are available in alternate formats of large print and electronic file on computer disk, which may be obtained at the above-stated address. The proposed rule is also available at the Web address *http://www.workforcesecurity.doleta.gov.*

FOR FURTHER INFORMATION CONTACT: Gerard Hildebrand, Office of Workforce Security, ETA, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C–4518, Washington, DC 20210. Telephone: (202) 693–3038 (voice) (this is not a toll-free number); 1–800–326–2577 (TDD); facsimile: (202) 693–2874; e-mail: *hildebrand.gerard@dol.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Department and its predecessors (the Social Security Board and the Federal Security Agency) have consistently interpreted provisions of federal UC law, contained in the SSA and the FUTA, to require that individuals must be A&A for work to be eligible for UC. Although this interpretation is longstanding, it has never been comprehensively addressed in a rule in the Code of Federal Regulations (CFR).

The A&A requirement is implicit in the structure and purpose of the SSA and the FUTA, and Congress has repeatedly adopted, acquiesced in, and relied on the Department's interpretation that federal UC law includes an A&A requirement. Nevertheless, because the A&A requirement is not explicitly stated in federal law or the CFR, there appears to be some confusion regarding the validity of the A&A requirement as well as its scope and application.

This confusion became especially clear in rulemakings that created and then removed the Birth and Adoption UC (BAA–UC) regulation. (See 65 FR 37210 (June 13, 2000) for the final BAA–UC rule and 68 FR 58540 (October 9, 2003) for the final rule removing the BAA–UC rule.) After promulgating the BAA–UC rule as an interpretation of the A&A requirement, the Department subsequently determined that the BAA–UC rule was contrary to the A&A requirement. In both rulemakings, commenters argued that there are no specific A&A requirements set out in federal law and that Congress expressly rejected A&A requirements. In the course of these rulemakings, it also became clear that misconceptions existed about the application and scope of the federal A&A requirement. For example, some situations where the Department deemed the individual to meet the A&A requirement—such as temporary lay-offs—were viewed by others as ''exceptions'' to the A&A requirement. As another example, some viewed an active work search as a necessary component of the A&A requirement, whereas the Department does not share this view.

As a result of this confusion, the Department has determined that there is a need to adopt a regulation that clearly sets forth its interpretation of the A&A requirement. This proposed rule also sets forth the requirement that aliens must meet A&A requirements to receive UC. This rule does not regulate other areas of the UC program, such as monetary entitlement or disqualifications for such actions as voluntarily quitting employment. This rule also does not address federal labor laws (such as minimum wage or overtime laws) or disability nondiscrimination laws (such as the Section 504 of the Rehabilitation Act of 1973).

Basis for the A&A Requirement

As noted above, the Department and its predecessors have interpreted and enforced federal A&A requirements since the inception of the federal-state UC program. Although no A&A requirements are explicitly stated in federal law, the Department and its predecessors interpreted five provisions of federal UC law, contained in the SSA and FUTA, as requiring that states condition the payment of UC upon a claimant being able to and available for work. Two of these provisions, at Section 3304(a)(4), FUTA, (26 U.S.C. 3304(a)(4)) and Section 303(a)(5), SSA, (42 U.S.C. 503(a)(5)) with specific exceptions, limit withdrawals from a state's unemployment fund to the payment of ''compensation.'' Section 3306(h), FUTA, (26 U.S.C. 3306(h)) defines ''compensation'' as ''cash benefits payable to individuals with respect to their unemployment.'' The A&A requirements provide a federal test of an individual's continuing ''unemployment.'' (The meaning of ''unemployment'' in this statutory framework is discussed below.) Two other provisions, found in Section 3304(a)(1), FUTA, (26 U.S.C. 3304(a)(1)) and Section 303(a)(2), SSA, (42 U.S.C. 503(a)(2)) require that compensation ''be paid through public employment offices.'' The requirement that UC be paid through the public employment system (the purpose of which is to find people jobs) ties the payment of UC to both an individual's ability to work and availability for work. These A&A

requirements serve, in effect, to limit UC eligibility.

The experience rating requirements at Section 3303(a), FUTA, 26 U.S.C. 3303(a)), are also tied to the test of involuntary unemployment due to lack of work. Experience rating was originally established to ensure an equitable distribution among employers of the cost of the system, and to encourage employers to stabilize their work forces. (''Credits'' will be provided ''in the form of lower contribution rates * * * to employers who have stabilized their employment.'' (S. Rep. 628, 74th Cong. 1st Sess. 1935 Page 14.)) Under an experience rating system approved under Section 3303(a), FUTA, an employer who lays off fewer workers will generally pay lower contributions (used to fund benefits) than an employer who lays off more workers. If not for the A&A requirement, the intent of experience rating would be negated since benefits could be based on an individual's own actions without regard to an employer's attempt to stabilize employment by offering suitable work to its current and former employees.

In enactments following the original SSA, Congress has acted several times to reaffirm that UC is payable only to individuals who are able and available for work. In 1946, Congress amended the SSA and FUTA to permit states to withdraw certain employee contributions from their unemployment funds for the payment of ''cash benefits with respect to * * * disability.'' (Current Sections 303(a)(5), SSA, and 3304(a)(4)(A), FUTA.) Because individuals whose disabilities render them completely unable to work do not meet the ''able'' requirements, Congress determined that explicit statutory authority was necessary to permit payment of cash benefits from state unemployment funds to such individuals and, even then Congress limited this authority to withdrawals of employee contributions. These individuals would not otherwise be entitled to such cash benefits because they are not unemployed due to a lack of suitable work; rather they are unemployed because the severity of their disabilities prevents them from working.

When Congress passed a federal prohibition on denying UC solely due to pregnancy (Section 3304(a)(12), FUTA), it noted that an individual must be ''able to work * * * and be available for employment'' (H. Rep. No. 752, 91st Cong. 2d Sess. Page 19 (1970)) and that pregnant workers must continue to meet the ''availability for work and ability to work'' requirements. (*Id.* at 21.) Simply put, a state could no longer deny UC to a woman merely because she was pregnant, but the woman nevertheless would need to be A&A as a condition of eligibility.

When Congress first enacted a provision requiring the reduction of UC due to receipt of retirement pay (Section 3304(a)(15), FUTA), it explained that it was establishing a ''uniform rule'' to address the fact that some recipients of retirement payments ''have actually withdrawn from the labor force,'' that is, are not A&A. (S. Rep No. 1265, 94th Cong. 2d Sess. 22 (1976).) In seeking to remedy this problem, Congress demonstrated its continuing resolve that individuals be A&A as a condition of UC eligibility.

In 1993, Congress required that states refer individuals likely to exhaust UC to reemployment services and deny UC to individuals who failed to participate in these services. (Sections 303(a)(10) and (j), SSA.) This requirement reflected Congress' interest in helping UC claimants get back to work, especially those expected to have the hardest time returning to work quickly, and its willingness to deny UC to those individuals unwilling to take positive steps toward reemployment. Providing reemployment services to individuals who are not able or willing to accept employment (that is, who are not A&A) would waste resources while denying reemployment services to others who could benefit.

The Social Security Board, the original administrator of the Federal-State UC program, adopted the federal A&A requirements contemporaneously with the passage of the original Social Security Act of 1935. The basis for the federal A&A requirements was summarized in a March 11, 1939, letter from the Chair of the Social Security Board to the Governor of California, concerning whether the state could use its unemployment fund to pay benefits for temporary disability:

> The entire legislative history [of the UC titles of the original SSA] including the Report to the President of the Committee on Economic Security, the report of the House Committee on Ways and Means, the report of the Senate Committee on Finance, and the Congressional debates all indicate, either expressly or by implication, the compensation contemplated under [these titles] is compensation to individuals who are able to work but are unemployed by reason of lack of work. Several provisions of those titles are meaningful only if applied to State laws for the payment of such compensation. For example, the requirement that compensation be paid through public employment offices, or the requirement that States make [certain information] available to agencies of the United States charged with the administration of public works or assistance through public employment, are obviously without reasonable basis if applied to payments to disabled individuals [whose impairments render them totally unable to work].[1] Many of the standards contained [in the experience rating provisions] are similarly without reasonable basis if applied to a State law for the payment of disability compensation [under these circumstances].
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> For these reasons, the Board is of the opinion that the [UC titles of the SSA] are applicable solely to State laws for the payment of compensation to individuals who are able to work and are unemployed by reason of lack of work. [Emphasis added.]

The ''legislative history'' cited in this letter included Congressional Committee Reports asserting that:

> The essential idea in unemployment compensation * * * is the accumulation of reserves in time of employment from which partial compensation may be paid to workers who become unemployed and are unable to find work. * * * In normal times it will enable most workers who lose their jobs to tide themselves over, until they get back to their old work or find other employment without having to resort to relief. [H. Rep. 615, 74th Cong. 1st Sess. 1935 Page 7.]
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> The essential idea in unemployment compensation is the creation of reserves during periods of employment from which compensation is paid to workmen who lose their positions when employment slackens and who cannot find other work. Unemployment compensation differs from relief in that payments are made as a matter of right, not on a needs basis, but only while the worker is involuntarily unemployed. * * * Payment of compensation is conditioned upon continued involuntary unemployment. Beneficiaries must accept suitable employment offered them or they lose their right to compensation. [S. Rep. 628, 74th Cong. 1st Sess. 1935 Page 11.]
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> For the great bulk of industrial workers unemployment compensation will mean security during the period following unemployment while they are seeking another job, or are waiting to return to their old position. [*Id.* Page 12.]

As illustrated by this history, the UC program is designed to provide temporary wage insurance for individuals who are unemployed due to lack of suitable work. An individual must be able to accept an offer of suitable work, must be available to accept that work offer and must not refuse suitable work if offered to be eligible for UC. The federal A&A requirements implement this design by testing whether the fact that an

[1] The term ''disabled'' as it was used in this letter presumed a total disability that rendered the individual completely unable to perform any work. In current nondiscrimination law, the presumption is that an individual with a disability is able to work and, indeed, should be encouraged to work. The effect, if any, of an individual's disability on his or her ability to work and availability for work for UC purposes must be determined on a case-by-case basis.

individual did not work for any week was involuntary due to the unavailability of suitable work.

The legislative history quoted above indicates that eligibility for UC is not based on the individual's personal need, except to the extent that his/her ''need'' is created by lack of suitable work. The legislative history also establishes a link between the public works programs in existence in 1935 and the UC program that bears on the A&A requirements. As noted in the Social Security Board's contemporaneous interpretation, an SSA provision (Section 303(a)(7)) requires that states make the name, address, ordinary occupation, and employment status of UC recipients available to agencies of the United States charged with the administration of public works or assistance through public employment. This requirement is predicated upon the understanding that UC recipients must be out of work due to lack of available work. It would make no sense to refer an individual, for whom work was available, to a public works program, which should be the employer of last resort. Senator Wagner, who introduced the SSA in the Senate, described the relationship between the proposed UC program and the government's public works programs (as well as public employment offices) as follows in the floor debate on the SSA:

> [Unemployment insurance] is not designed to supplant, but rather to supplement the public-works projects which must absorb the bulk of persons who may be disinherited for long periods of time by private industry. * * * A provision in the present bill requires that the Federal tax rebate shall be used to encourage a close connection between State job-insurance laws and unemployment-exchange offices. This provision emphasizes the fact that the [monetary] relief of existent unemployment is but a subordinate phase of the main task of providing work for all who are strong and willing. [79 Cong. Rec. 9284 (June 14, 1934).]

Senator Wagner's remarks demonstrate that Congress intended the UC system to be subordinate to the main task of getting people back to work. The A&A requirement is integral to this purpose.

As noted above, the Department and its predecessors have long interpreted federal law to require that individuals be A&A. That longstanding interpretation is reflected in the Employment Security Manual (ESM), which was first issued to the states about 1950 and interprets federal law to require that ''a state law provide for * * * the payment of benefits only to individuals who are unemployed and who are able to work and available for work.'' (See part V, section 5000 B, ESM.) Although the A&A requirements described in the ESM were never formally promulgated as regulations governing the basic federal-state program, they have been codified as appendices to the regulations governing federal UC programs. (See 20 CFR 614, Appendix A (the UC program for former military personnel (UCX)); 20 CFR 625, Appendix A (Disaster Unemployment Assistance (DUA)); and 20 CFR 617, Appendix A (Trade Adjustment Assistance (TAA)). They are also made applicable to the Unemployment Compensation for former Federal Civilian Employees (UCFE) program by 20 CFR 609.5(c). The UCFE and UCX programs provide that ''compensation will be paid by the State to a Federal employee * * * subject to the same conditions as the compensation which would be payable * * * under the unemployment compensation law of the State * * *.'' 5 U.S.C. 8502(b). Further, the TAA program provides that the ''availability and disqualification provisions'' of the state UC law apply to trade readjustment allowances (cash benefits in the nature of UC), except where inconsistent with the Trade Act or the Secretary's regulations. 19 U.S.C. 2294.

The Department made the A&A requirements of the ESM applicable to the federal UCFE, UCX, and TAA programs because those programs are required to apply state law regarding eligibility for UC, and the Department has in turn always taken the position that federal law requires state UC programs to have A&A requirements. Further, although the statute (42 U.S.C. 5177) creating the DUA program did not include any requirement to follow state law, the Department imposed the ESM's A&A requirements on that program in the belief that the A&A requirements are such a fundamental part of any unemployment compensation program that it could not truly be an unemployment compensation program without an A&A requirement. Thus, like Congress, the Department, by incorporating the ESM's A&A requirements into federal UC programs, has long recognized the A&A requirement to be an essential part of the UC program.

The Department has also stated that whether a claimant is available for work should be determined by whether there is a labor market for his or her services:

> The availability requirement means that the claimant *must* be available for suitable work which is ordinarily performed in his chosen locality in sufficient amount to constitute a substantial labor market for his services. A claimant does not satisfy the requirement by being available for an insignificant amount of work. Ordinarily, for example, a concert pianist in a rural area who limits his availability to concert work in that area is not available for enough suitable work to meet the requirement. [Emphasis added. U.S. Department of Labor, Bureau of Employment Security, Unemployment Insurance Legislative Policy—Recommendations for State Legislation 1962 (October 1962).]

Section-by-Section Description of Proposed Rule

Section 604.1, Purpose and Scope

This proposed section sets forth the purpose and scope of the proposed rule, which is to implement the requirements of federal UC law that limit a state's payment of UC only to individuals who are able to work and who are available for work. The regulation applies to all state UC laws and programs. It does not, by its terms, apply to the federal unemployment compensation programs mentioned above. However, those federal programs, as noted above, follow state requirements with respect to A&A, and those state requirements would need to meet the minimum requirements established by this rulemaking.

Section 604.2, Definitions

This proposed section provides definitions which apply to the proposed rule. In general, these are the same definitions as used in other federal regulations pertaining to UC.

Section 604.3, Able and Available Requirement—General Principles

This proposed section sets forth the Department's general interpretation concerning the A&A requirements. It provides that a state may pay UC only to an individual who is unemployed due to a lack of suitable work for the week for which UC is claimed. To test whether the individual is unemployed due to a lack of suitable work for such week, the state must ensure the individual is A&A.

The proposed section goes on to provide that whether an individual is able to work and available for work will be tested by determining whether that individual is offering services for which a labor market exists. This does not mean that job vacancies must exist, only that, at a minimum, the type of services the individual is able and available to perform is generally performed in the labor market. This ''labor market test'' is designed to ensure that an individual's unemployment is due to a lack of suitable work. That is, if the services offered by an individual are so restricted that there is no labor market for those services, then that individual is not able

and available, and is not unemployed due to a lack of suitable work. Rather, the individual is unemployed because of those restrictions. Those restrictions on services could be for any number of reasons, such as hours of availability, limitations on the distance the individual is willing to commute, or what types of jobs the claimant is willing to accept.

For example, if an individual limits his or her availability only to evening hours, the test of availability is whether there is a labor market for the individual's services given these restrictions. Similarly, if, for reasons such as the need to care for parents or a child, an individual limits his or her availability only to part-time work in certain occupations, the test of availability is whether there is a labor market for part-time work in those occupations. If there is a market, the State may regard the individual as meeting the availability test. If there is not, the individual must be denied. In sum, while individuals are not expected to be available for all work to be eligible for UC, they may not impose restrictions that effectively remove them from the labor market.

The same principle applies with respect to the ''able to work'' requirement: a state may find that an individual with one or more disabilities is ''able'' to work if there are jobs in the individual's labor market that the individual can perform with reasonable accommodation.

Under the proposal, states retain the authority to determine what constitutes the labor market for an individual under their UC laws. States already have well established laws concerning the labor market, and the regulation is not intended to disturb this. Generally, states look at local labor markets, but in some cases, due to telecommuting, it is possible for individuals to be legitimately attached to the labor force even though they will not relocate and their employment opportunities are outside the local area. As a result, the rule would permit states to consider such individuals to be available for work.

The proposed section also clarifies how the A&A requirement relates to the individual's initial separation from the labor market. It does not look to why the individual was separated from employment, except to the extent that the individual may not have been A&A for the week of the separation. Thus, there is no Federal requirement that the initial separation be involuntary for an individual to be eligible for UC. As a result, state eligibility requirements concerning voluntarily leaving employment are outside the scope of this rule. What the rule does test is whether an individual is able to work and available for work for the week for which UC is claimed.

An example may help explain how the separation provisions of state law, such as voluntary leaving provisions, are distinct from the A&A requirements. Assume an individual left work to care for an ill child. Whether to disqualify this individual for voluntarily leaving employment is entirely left to state law. However, if the state does not disqualify the individual for voluntarily leaving employment, the individual must still be A&A to be eligible for UC. If caring for the ill child prevents the individual from being available for a new job, the individual will be held ineligible for not meeting the state's A&A requirements because the individual is not involuntarily unemployed due to lack of suitable work. However, after the child no longer needs care and the individual becomes available for work, the individual may immediately commence collecting UC.

In this regard, the Department stresses that the proposed regulation places minimum requirements on states. It does not prohibit states from imposing more stringent A&A tests, assuming that these tests are consistent with other applicable Federal laws.

Section 604.4, Application—Ability To Work

Proposed paragraph (a) provides that an individual may be considered able to work under the state UC law if the individual is able to work for all or a portion of the week claimed, provided that any limitation on his or her ability to work does not constitute a withdrawal from the labor market. An individual may, under this proposed paragraph, be able to work only part-time, provided this limitation does not constitute a withdrawal from the labor market. In this case, the individual is able to perform some work, which is the minimum federal requirement.

Proposed paragraph (b) provides for the treatment of individuals who initially meet the A&A requirements, but who later refuse suitable work because of illness. These individuals may, at a state's option, be found eligible for the period before they refuse suitable work. The reasoning behind this is that, until work is refused, the unemployment is due to lack of work, which is what the A&A requirements are designed to test. The A&A requirements are preserved because the individual must initially demonstrate ability and availability before the illness, cannot have voluntarily withdrawn from the work force, and must be held ineligible if he or she refuses suitable work offered during the illness.

Section 604.5, Application—Availability for Work

This proposed section provides for application of the available for work requirement. Proposed paragraph (a)(1) provides that an individual may be considered available under the state UC law if the individual is available for any work for all or a portion of the week claimed, provided that any limitation placed by the individual on his or her availability does not constitute a withdrawal from the labor market. An individual may, under this proposed paragraph, limit his or her availability to part-time work, provided this limitation does not constitute a withdrawal from the labor market. In this case, the individual is available for some employment, which is the minimum federal requirement. States may craft additional stipulations on any part-time availability requirement they may create as long as such stipulations are consistent with other applicable Federal laws. For example, a state may require the worker to have had previous part-time work in the base period, or limit its part-time provision to individuals who can work only part-time due to disability.

Proposed paragraph (a)(2) takes into account that, since the A&A requirement tests whether an individual is unemployed due to a lack of suitable work, a state may find an individual to be available when the individual limits his or her availability to suitable work as defined under state UC law. Limitations on what constitutes suitable work for an individual are treated the same as any other restriction that might be imposed on the services an individual offers in the labor market. As a result, the concept of suitable work is flexible—generally, the longer an individual is unemployed, the more types of work will be considered suitable for the individual.

The proposed paragraph provides that an individual may be considered to be available for work if the individual limits his/her availability to ''suitable work'' as defined under a state's UC law, provided such limitation does not constitute a withdrawal from the labor market. Generally, suitable work involves a determination of whether the work for which the individual is available is consistent with the individual's education and training, whether the job is in the local labor market (usually measured by the distance or time of commute from the

individual's home to the worksite) and the individual's previous work history (which may include factors such as occupation, pay and fringe benefits), and how long the individual has been unemployed.

As noted, the proposed paragraph provides that the limitation to suitable work may in some circumstances constitute a withdrawal from the labor market. Such a withdrawal could happen if, for example, the individual's availability is limited to his or her traditional occupation and to the local labor market. If that occupation no longer exists in the local labor market, then, in this case, the individual cannot be said to be available for work. The expectation is that, prior to denying any individual, the state would first advise the individual that because such work is no longer available in the local labor market, such a limited availability is unacceptable and the individual should expand his or her availability to jobs for which a labor market exists.

Proposed paragraph (a)(3) provides that an individual on temporary lay-off from an employer may limit his or her availability to that employer. What constitutes a ''temporary'' lay-off will be determined under state law. (Typically, the employer must advise the state UC agency of when the employee is expected to return to work, and the state agency uses this response in determining, under its law, whether the lay-off is temporary.) An individual on temporary lay-off must be available to work for the employer who laid-off the individual as soon as the employer again offers work to the individual. While this limits an individual's availability for work to only one employer, it is nonetheless a test of whether the unemployment is due to lack of suitable work. Indeed, payment of UC to individuals on temporary lay-off allows employers to preserve their skilled workforces, which has been cited as one of the purposes of the UC program. It also reflects a practical reality: Most other employers are unlikely to hire an individual on temporary lay-off because that individual will leave any new employment to return to the prior employment.

Proposed paragraph (b) provides that an unemployed individual, who is appearing for jury duty before any court under a lawfully issued summons, may, if the state UC law so provides, be considered to be available, provided that, prior to any required appearance at such court, the individual demonstrated that s/he was available for work. The availability requirement still applies because the individual must initially demonstrate availability before being called for jury duty and because while serving on the jury the individual is no less available for work than he or she would have been if required to serve while employed. Attendance at jury duty may be taken as evidence that the individual continues to be available for work. This exception does not apply to individuals who are employed but unable to go to work because of jury duty. Nor does this exception apply to an individual who is laid-off from employment to attend jury. These individuals have not previously established availability and the unemployment is not due to a lack of suitable work, but instead, absence from work due to the call for jury duty. We note that other state laws may provide employment protections for individuals called to jury duty. This regulation is not meant to supersede or alter those laws or their interpretation.

This proposed paragraph is also consistent with Congress's treatment of jury duty in the Federal-State Extended Unemployment Compensation Act (EUCA) of 1970, which provides that extended benefits shall not be denied to an individual during a week in which s/he fails to actively engage in seeking work if the individual has been summoned to appear for jury duty before any court of the United States or any state for that week *if* such exemption applies to recipients of regular benefits. (Section 202(a)(3)(A) of Pub. L. 91–373, as amended.)

An individual summoned to jury duty is available in the same sense that an employee is available for work; that is, the individual would be available but for the fact that the court summoned him or her to jury duty. This application of the availability requirement recognizes that it is unreasonable to deny UC to an individual who has initially met the availability requirement because of a governmental compulsion to serve on a jury.

Finally, if the individual does not appear as required by the jury summons, the proposed paragraph would provide that the state must determine if the reason for non-appearance indicates that the individual is not able to work or is not available for work.

Proposed paragraph (c) addresses a specific case in which UC may not be denied due to the application of the availability requirement. It implements Section 3304(a)(8), FUTA, with respect to its ban on applying availability provisions to individuals who are in state-approved training. Specifically, this section of FUTA provides that UC ''shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work).'' The proposed paragraph provides that an individual may not be denied UC for failure to be available for a week if, during such week, the individual is in training with the approval of the state agency. Since failure to attend or participate in approved training may mean the individual is no longer interested in maintaining an attachment to the labor market, the paragraph goes on to provide that if the individual fails to attend or participate in training during a week, then the state must evaluate the individual's eligibility under its A&A provisions.

The proposed rule does not otherwise implement the requirements of Section 3304(a)(8), FUTA, because those requirements are beyond the scope of this rule. What types of training will be approved continues to be left to the individual states, although the Department encourages states to consider approving training under the Workforce Investment Act, Public Law 105–220 (29 U.S.C. 2801 *et seq.*) While states may not deny individuals who are actually ''in'' (that is, attending) state approved training under their availability provisions, states remain free to otherwise determine what constitutes being ''in training.'' For example, states may consider an individual to be ''in'' training during breaks in training. If, however, an individual fails to attend or otherwise participate in such training, the proposed rule requires states to determine whether the reason for non-attendance or non-participation indicates the individual is not able to work or is not available for work.

Section 236(d) of the Trade Act of 1974, as amended, prohibits a state from denying UC to a worker ''in'' TAA-approved training ''because of the application'' of ''provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.'' This rule does not address this provision because it is already implemented by TAA rules at 20 CFR 617.18(b)(i).

Proposed paragraph (d) addresses the treatment of availability for purposes of the Self-Employment Assistance (SEA) program under Section 3306(t)(2), FUTA. That section provides that ''State requirements relating to availability for work, active search for work, and refusals to accept work are not

applicable to such individuals * * * long as such individual meet the requirements'' for the SEA program. Thus, the rule provides that individuals who meet SEA program requirements may not be denied UC because they are not available for work. The proposed rule does not otherwise implement the SEA provisions of federal UC law.

Proposed paragraph (e) addresses the treatment of availability for purposes of short-time compensation (STC) programs described by Section 401 of Public Law 102–318. In STC (or ''worksharing'') programs, the employees of a company may work a reduced workweek in lieu of some of the employees being totally laid-off so long as certain conditions are met. The proposed paragraph recognizes that, under the STC legislation, individuals working a reduced work week are not required to meet a state UC law's availability requirement, but instead may be required to be available only for his/her regular work week. The proposed rule does not otherwise address STC programs.

Proposed paragraph (f) addresses the treatment of aliens. It provides that aliens must meet the A&A requirements of the regulation. In addition, it provides that, to be considered available for work in the United States for a week, the alien must be legally authorized to work in the United States during such week by the appropriate agency of the United States government. That agency is currently the United States Citizenship and Immigration Services (USCIS), a bureau of the Department of Homeland Security. An alien not legally authorized to work is not available for work; thus, the regulations would require a state to deny an alien benefits for any week the alien was not legally authorized to work.

The proposed rule does not address specific classes of aliens, nor does it specifically address what evidence is needed to prove the alien is authorized to work, as these may change over time. In determining whether the alien is legally authorized to work, including the acceptability of any documentation provided, the proposed rule requires the state to follow the requirements of Section 1137(d), SSA, (42 U.S.C. 1320b–7(d)). These requirements, commonly called ''Systematic Alien Verification for Entitlements,'' or SAVE, are made applicable to the UC program by Section 1137(b)(3), SSA, (42 U.S.C. 1320b–7(b)(3)). A state must meet these requirements to receive UC administrative grants under Section 303(f), SSA, (42 U.S.C. 503(f)).

The proposed rule does not address Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which limits the eligibility of aliens for public benefits, including UC, based upon their alien status. Since it does not govern the ability or availability of aliens for work, it is beyond the scope of this rulemaking. However, states will need to take account of the provisions of Title IV in determining the eligibility of aliens for UC.

Proposed paragraph (g) clarifies the relationship between the availability requirement and the requirement, found in almost every state law, that the individual conduct an active search for work. It provides that an active work search is not required by the rule, although a state may require an individual to be actively seeking work to be considered available for work, or impose a separate requirement that the individual must actively seek work.

An active search for work is not a necessary component of availability and is not, therefore, a federal requirement for regular UC. Although an active work search is one way for the individual to indicate availability, it is not the only way and, in some cases, such as temporary lay-offs, requiring an active search for work may be viewed as unreasonable. Other ways of determining availability may be an individual's active registration with the state's employment service or, when appropriate, the individual's use of union hiring halls or private recruiting firms.

Section 604.6, Conformity and Substantial Compliance

For a state to receive federal grants to fund UC administration, and for employers in the state to receive credit against the federal unemployment tax, state law must conform to federal UC law. A state law would conform to federal UC law as interpreted by this rulemaking when the state law includes provisions which meet or exceed the minimum A&A requirements established by this rulemaking. A state must also administer its UC laws so as to substantially comply with the requirements of federal UC law. Substantial compliance with federal UC law, as interpreted by this rulemaking, means the state's administration of its law is substantially consistent with the minimum A&A requirements established by this rulemaking. Additionally, where a state consistently administers its law differently from its express provisions, the Department assumes that a state's administration of its law reflects the requirements of its law. Thus, a state's administration of its law may raise issues of whether its law conforms to the federal requirements. ''Conformity,'' unlike ''compliance,'' is not preceded by the adjective ''substantial,'' meaning that a state law must conform with the federal requirements without qualification.

This proposed section provides that the requirements of the rule are requirements for purposes of conformity and substantial compliance. It also sets forth how the Department of Labor would determine and enforce conformity and substantial compliance with the A&A requirements of Title III of the SSA and the FUTA. The procedures in 20 CFR 601.5 would apply, meaning that if any issue involving conformity and substantial compliance arose, the Department would generally first hold informal discussions with state officials. Should informal discussions fail to resolve the issue, the Department would offer the state UC agency an opportunity for a hearing. If the Secretary of Labor were to find, after reasonable notice and opportunity for a hearing, a failure to conform or substantially comply with the rule's A&A requirements, the Secretary would notify the Governor of the state that grants to fund state administration of the UC program would be withheld and the Secretary would make no certification under FUTA to the Secretary of the Treasury that employers in the state are eligible to receive credit against the federal unemployment tax.

Because this rule is intended to implement long-standing Departmental interpretations, it does not, in and of itself, require amendments to state law (including regulations).

Executive Order 12866

This proposed rule is a ''significant regulatory action'' within the meaning of Executive Order 12866 because it meets the criteria of Section 3(f)(4) of that Order in that it raises novel or legal policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, the proposed rule has been submitted to, and reviewed by, the Office of Management and Budget (OMB).

However, the proposed rule is not ''economically significant'' because it would not have an annual effect on the economy of $100 million or more. The proposed rule merely codifies in regulation interpretations which have existed since the beginning of the program and which are already applied by the states. Thus, it imposes no new conditions on states, employers, or workers. We have also determined that the proposed rule would have no

adverse material impact upon the economy and that it would not materially alter the budgeting impact of entitlements, grants, user fees or loan programs, or the rights and obligations of recipients thereof.

Further, we have evaluated the proposed rule and found it consistent with the regulatory philosophy and principles set forth in Executive Order 12866, which governs agency rulemaking. Although the proposed rule would impact states and state UC agencies, it would not adversely affect them in a material way. The proposed rule would ensure that the UC program operates as wage insurance by setting forth a test to assure that only individuals involuntarily unemployed due to lack of suitable work receive benefits.

Executive Order 13132

We have reviewed this regulatory action in accordance with Executive Order 13132 regarding federalism. This Executive Order requires agencies, when formulating and implementing policies that have federalism implications, to the extent possible, to refrain from limiting state policy options, to consult with states before taking any action which would restrict states' policy options, and to take such action only where there is clear statutory and constitutional authority and the presence of a problem of national scope. The UC program is a matter of national scope, as evidenced by existing federal legislation, which limits state flexibility in certain areas.

Policies with federalism implications are those with 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. We have determined that this proposed rule may have federalism implications. We intend to consult with organizations representing state elected officials about this rule in the upcoming weeks.

Executive Order 12988

We drafted and reviewed this proposed regulation in accordance with Executive Order 12988, Civil Justice Reform, and it would not unduly burden the federal court system. The proposed rule was written to minimize litigation and provide a clear legal standard for affected conduct, and was reviewed carefully to eliminate drafting errors and ambiguities.

Unfunded Mandates Reform Act of 1995 and Executive Order 12875

This proposed rule was reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*) and Executive Order 12875. We have determined that this proposed rule does not include any Federal mandate that may result in increased expenditures by state, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement.

Paperwork Reduction Act

This regulatory action contains no information collection requirements.

Regulatory Flexibility Act

This proposed rule would not have a ''significant economic impact on a substantial number of small entities.'' The proposed rule affects states and state agencies, which are not within the definition of ''small entity'' under 5 U.S.C. 601(6). Under 5 U.S.C. 605(b), the Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Congressional Review Act

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

Effect on Family Life

We certify that this proposed rule was assessed in accordance with Public Law 105–277, 112 Stat. 2681, and that the proposed rule would not adversely affect the well-being of the nation's families.

List of Subjects in 20 CFR Part 604

Employment and Training Administration, Labor, Unemployment compensation.

Catalogue of Federal Domestic Assistance Number

This program is listed in the Catalogue of Federal Domestic Assistance at No. 17.225, Unemployment Insurance.

Signed at Washington, DC on July 14, 2005.

Emily Stover DeRocco,

Assistant Secretary of Labor, Employment and Training Administration.

Words of Issuance

For the reasons set forth in the preamble, the Department of Labor proposes that Chapter V of Title 20, Code of Federal Regulations, be amended by adding new part 604 to read as follows:

PART 604—REGULATIONS FOR ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION

Sec.
604.1 Purpose and scope.
604.2 Definitions.
604.3 Able and available requirement—general principles.
604.4 Application—ability to work.
604.5 Application—availability for work.
604.6 Conformity and substantial compliance.

Authority: 42 U.S.C. 1302(a); 42 U.S.C. 503(a)(2) and (5); 26 U.S.C. 3304(a)(1) and (4); 26 U.S.C. 3306(h); 42 U.S.C. 1320b–7(d); Secretary's Order No. 4–75 (40 FR 18515); and Secretary's Order No. 14–75 (November 12, 1975).

§ 604.1 Purpose and Scope.

The purpose of this part is to implement the requirements of federal UC law that limit a state's payment of UC to individuals who are able to work and available for work. This part applies to all state UC laws and programs.

§ 604.2 Definitions.

Department means the United States Department of Labor.

FUTA means the Federal Unemployment Tax Act, 26 U.S.C 3301 *et seq.*

Social Security Act means the Social Security Act, 42 U.S.C.

State means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

State UC agency means the agency of the state charged with the administration of the state's UC law.

State UC law means the law of a state approved under Section 3304(a), FUTA (26 U.S.C. 3304(a)).

Unemployment Compensation (UC) means cash benefits payable to individuals with respect to their unemployment.

Week of unemployment means a week of total, part-total or partial unemployment as defined in the state's UC law.

§ 604.3 Able and available requirement—general principles.

(a) A state may pay UC only to an individual who is able to work and available for work for the week for which UC is claimed.

(b) Whether an individual is able to work and available for work under paragraph (a) of this section shall be tested by determining whether the individual is offering services for which a labor market exists. This does not mean that job vacancies must exist, only that, at a minimum, the type of services the individual is able and available to perform are generally performed in the labor market. The state shall determine the geographical scope of the labor market for an individual under its UC law.

(c) The requirement that an individual be able to work and available for work applies only to the week of unemployment for which UC is claimed. It does not apply to the reasons for the individual's separation from employment, although the separation may indicate the individual was not able to work or available for work during the week the separation occurred. This part does not address the authority of states to impose disqualifications with respect to separations. This part does not limit the states' ability to impose additional able and available requirements that are consistent with applicable Federal laws.

§ 604.4 Application—ability to work.

(a) A state may consider an individual to be able to work during the week of unemployment claimed if the individual is able to work for all or a portion of the week claimed, provided that any limitation on his or her ability to work does not constitute a withdrawal from the labor market.

(b) If an individual has previously demonstrated his or her ability to work and availability for work following the most recent separation from employment, the state may consider the individual able to work during the week of unemployment claimed despite the individual's illness or injury, unless the individual has refused an offer of suitable work due to such illness or injury.

§ 604.5 Application—availability for work.

(a) *General application.* A state may consider an individual to be available for work during the week of unemployment claimed under any of the following circumstances:

(1) The individual is available for any work for all or a portion of the week claimed, provided that any limitation placed by the claimant on his or her availability does not constitute a withdrawal from the labor market.

(2) The individual limits his or her availability to work which is suitable for such individual as determined under the state UC law, provided such limitation does not constitute a withdrawal from the labor market. In determining whether the work is suitable, states may, among other factors, take into consideration the education and training of the individual, the commuting distance from the individual's home to the job, the previous work history of the individual (including salary and fringe benefits), and how long the individual has been unemployed.

(3) The individual is on temporary lay-off and is available to work only for the employer that has temporarily laid-off the individual.

(b) *Jury service.* If an individual has previously demonstrated his or her availability for work following the most recent separation from employment and is appearing for duty before any court under a lawfully issued summons during the week of unemployment claimed, a state may consider the individual to be available for work. For such an individual, attendance at jury duty may be taken as evidence of continued availability for work. However, if the individual does not appear as required by the summons, the state must determine if the reason for non-attendance indicates that the individual is not able to work or is not available for work.

(c) *Approved training.* An individual may not be denied UC for failure to be available for work during a week if, during such week, the individual is in training with the approval of the state agency. However, if the individual fails to attend or otherwise participate in such training, the state must determine if the reason for non-attendance or non-participation indicates that the individual is not able to work or is not available for work.

(d) *Self-employment assistance.* An individual may not be denied UC for failure to be available for work during a week if, during such week, the individual is participating in a self-employment assistance program and meets all the eligibility requirements of such self-employment assistance program.

(e) *Short-time compensation.* An individual participating in a short-time compensation (also known as worksharing) program shall not be denied UC under the state UC law for failure to be available for work during a week, but such individual shall be required to be available for his or her normal workweek.

(f) *Alien status.* To be eligible for UC for a week, an alien must meet the able to work and available for work requirements of this part. To be considered available for work in the United States for a week, the alien must be legally authorized to work that week in the United States by the appropriate agency of the United States government. In determining whether an alien is legally authorized to work in the United States, the state shall follow the requirements of Section 1137(d), SSA, which relate to verification of and determination of an alien's status.

(g) The requirement that an individual be available for work does not require an active work search on the part of the individual. States may, however, require an individual to be actively seeking work to be considered available for work, or states may impose a separate requirement that the individual must actively seek work.

§ 604.6 Conformity and substantial compliance.

(a) *In general.* A state's UC law must conform with, and the administration of its law must substantially comply with, the requirements of this part for purposes of certification under:

(1) Section 3304(c), FUTA, with respect to whether employers are eligible to receive credit against the federal unemployment tax established by Section 3301, FUTA, and

(2) Section 302, SSA, with respect to whether a state is eligible to receive federal grants for the administration of its UC program.

(b) *Resolving issues of conformity and substantial compliance.* For the purposes of resolving issues of conformity and substantial compliance with the requirements of this part, the following provisions of 20 CFR 601.5 apply:

(1) Paragraph (b), pertaining to informal discussions with the Department of Labor to resolve conformity and substantial compliance issues, and

(2) Paragraph (d), pertaining to the Secretary of Labor's hearing and decision on conformity and substantial compliance.

(c) *Result of Failure to Conform or Substantially Comply.*

(1) *FUTA Requirements.* Whenever the Secretary of Labor, after reasonable notice and opportunity for a hearing to the state UC agency, finds that the state UC law fails to conform, or that the state or state UC agency fails to comply substantially, with the requirements of the FUTA, as implemented in this part,

then the Secretary of Labor shall make no certification under such act to the Secretary of the Treasury for such state as of October 31 of the 12-month period for which such finding is made. Further, the Secretary of Labor shall notify the Governor of the state and such state UC agency that further payments for the administration of the state UC law will not be made to the state.

(2) *SSA Requirements.* Whenever the Secretary of Labor, after reasonable notice and opportunity for a hearing to the state UC agency, finds that the state UC law fails to conform, or that the state or state UC agency fails to comply substantially, with the requirements of Title III, SSA, as implemented in this regulation, then the Secretary of Labor shall notify the Governor of the state and such state UC agency that further payments for the administration of the state UC law will not be made to the state until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Department of Labor shall make no further payments to such state.

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Federal Register

Friday,
July 22, 2005

Part V

Department of Agriculture

Farm Service Agency

Public Meetings of Advisory Committee on Beginning Farmers and Ranchers; Notice

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Public Meetings of Advisory Committee on Beginning Farmers and Ranchers

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. II, the Farm Service Agency (FSA) is issuing this notice to advise the public that meetings of the Advisory Committee on Beginning Farmers and Ranchers (Committee) will be held to discuss various beginning farmer issues.

DATES: The public meetings will be held August 8–9, 2005. The first meeting, on August 8, 2005, will start at 8:30 a.m. and end at 5:30 p.m. The second meeting, on August 9, 2005, will begin at 8 a.m. and end by 4 p.m. All times noted are central standard time (c.s.t.).

ADDRESSES: All meetings will be held at the Omaha Hilton, 1001 Cass Street, Omaha, Nebraska, telephone (402) 998–3400. Written requests to make oral presentations must be sent to: Mark Falcone, Designated Federal Official for the Advisory Committee on Beginning Farmers and Ranchers, Farm Service Agency, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 0522, Washington, DC 20250–0522; telephone (202) 720–1632; FAX (202) 690–1117; e-mail: *mark.falcone@wdc.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Falcone at (202) 720–1632.

SUPPLEMENTARY INFORMATION: Section 5 of the Agricultural Credit Improvement Act of 1992 (Pub. L. 102–554) required the Secretary of Agriculture (the Secretary) to establish the Committee for the purpose of advising the Secretary on the following:

(1) The development of a program of coordinated financial assistance to qualified beginning farmers and ranchers required by section 309(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929). Under the program, Federal and State beginning farmer programs provide financial assistance to beginning farmers and ranchers;

(2) Methods of maximizing the number of new farming and ranching opportunities created through the program;

(3) Methods of encouraging States to participate in the program;

(4) The administration of the program; and

(5) Other methods of creating new farming or ranching opportunities.

The Committee meets at least once a year and all meetings are open to the public. The duration of the Committee is indefinite. Earlier meetings of the Committee, beginning in 1999, provided an opportunity for members to exchange ideas on ways to increase opportunities for beginning farmers and ranchers. Members discussed various issues and drafted numerous recommendations, which were provided to the Secretary.

Agenda items for the August 2005 meetings include:

(1) The Secretary of Agriculture's remarks to the National Association of Farm Broadcasters on May 2, 2005, and his question as to whether enough is being done to encourage and support the next generation of farmers and people who are interested in starting out in production agriculture;

(2) A discussion between the President of the National State Departments of Agriculture and committee members concerning state beginning farmer programs;

(3) Research conducted and demographic information on farm succession (transferring the family farm to the next generation);

(4) Opportunities for beginning farmers and ranchers to purchase some of the land currently in the Department's Conservation Reserve Program (CRP) that will become available in the next few years due to contracts expiring;

(5) Farm Credit Services of America's (Decorah, Iowa) Young and Beginning Farmer program;

(6) FSA's beginning farmer programs; and

(7) Risk Management Education Programs concerning beginning farmers and ranchers.

Attendance is open to all interested persons but limited to space available. Anyone wishing to make an oral statement should submit a request in writing (letter, fax, or e-mail) to Mark Falcone at the above address. Statements should be received no later than August 2, 2005. Requests should include the name and affiliation of the individual who will make the presentation and an outline of the issues to be addressed. The floor will be open to oral presentations beginning at 1:15 p.m. CST on August 8, 2005.

Comments will be limited to 5 minutes, and presenters will be approved on a first-come, first-served basis.

Persons with disabilities who require special accommodations to attend or participate in the meetings should contact Mark Falcone by August 2, 2005.

Signed in Washington, DC, on July 5, 2005.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 05–14511 Filed 7–21–05; 8:45 am]

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Surface Transportation Extension Act of 2005, Part III (July 20, 2005; 119 Stat. 379)

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