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

WHEN: Tuesday, August 16, 2005
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

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Contents

Federal Register

Vol. 70, No. 157

Tuesday, August 16, 2005

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

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR

Proposed Rules:
1201 48081

7 CFR

Proposed Rules:
920 48082

9 CFR

Proposed Rules:
391 48238
590 48238
592 48238

14 CFR
71 (3 documents) 48057, 48238

Proposed Rules:
39 (2 documents) 48084, 48085

21 CFR
179 48057
1240 48073

31 CFR
537 48240

33 CFR

Proposed Rules:
117 (2 documents) 48088, 48091

40 CFR
52 (2 documents) 48073, 48078
81 48238

Proposed Rules:
52 (2 documents) 48093, 48238
136 48256

50 CFR

Proposed Rules:
17 (2 documents) 48093, 48094

Rules and Regulations

Federal Register
Vol. 70, No. 157
Tuesday, August 16, 2005

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21703; Airspace Docket No. 05–ACE–19]

Modification of Legal Description of the Class D Airspace; and Class E Airspace; Topeka, Forbes Field, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class D and Class E airspace at Topeka, Forbes Field, KS.

DATES: *Effective:* 0901 UTC, October 27, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64196; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 12, 2005 (70 FR 39914). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 27, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on August 3, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–16158 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket FAA 2005–21522; Airspace Docket No. 05–AWP–6]

Establishment of Class E Surface Area, South Lake Tahoe, CA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final Rule; correction.

SUMMARY: The Federal Aviation Administration (FAA) published in the **Federal Register** of July 7, 2005, a document establishing Class E Surface Area at South Lake Tahoe, CA. The location of the airport was incorrectly published, this action amends the legal description and corrects the longitude coordinate. The amended description replaces all references to South Lake Tahoe, CA airport.

EFFECTIVE DATE: September 15, 2005.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520.1, Air Traffic Organization, Western Terminal Operations, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION: The FAA published a document in the **Federal Register** of July 7, 2005, Docket FAA 2005–21522; Airspace Docket No. 05–AWP–06 (70 FR 39175), establishing Class # Surface Area at South Lake Tahoe, CA. In that rule the longitude coordinate was incorrectly published. The correct coordinate should be 119°59′44″. This document corrects the longitude coordinate.

Correction to the Final Rule

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

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

■ 1. The authority citation for 14 CFR, part 71 continues to read as follows:

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

§ 71.1 [Corrected]

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

Paragraph 6002 *Class E Airspace Designated as Surface Areas.*

* * * * *

AWP CA E2 South Lake Tahoe, CA [Established]

South Lake Tahoe Airport, CA
(Lat. 38°53′38″ N., long. 119°59′44″ W.)
Within a 4.3-mile radius of the South Lake Tahoe Airport.

* * * * *

Issued in Los Angeles, California, on August 1, 2005.

John Clancy,

Area Director, Western Terminal Operations.

[FR Doc. 05–16154 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 1999F–4372]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ionizing radiation for control of *Vibrio* species and other foodborne pathogens in fresh or frozen molluscan shellfish (e.g., oysters, mussels, clams, etc.). This action is in

response to a petition filed by the National Fisheries Institute and the Louisiana Department of Agriculture and Forestry.

DATES: This rule is effective August 16, 2005. Submit written or electronic objections and requests for a hearing by September 15, 2005. See section VI 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. 1999F–4372, 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. 1999F–4372 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: Lane A. Highbarger, Center for Food Safety and Applied Nutrition (HFS–255), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1204.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

In a notice published in the **Federal Register** of October 19, 1999 (64 FR 56351), FDA announced that a food additive petition (FAP 9M4682) had been filed by the National Fisheries Institute, 1901 North Fort Myer Dr., Arlington, VA 22209, and the Louisiana Department of Agriculture and Forestry, P.O. Box 3334, Baton Rouge, LA 70821. The petition proposed that the food additive regulations in part 179, *Irradiation in the Production, Processing, and Handling of Food* (21 CFR part 179), be amended to provide for the safe use of approved sources of ionizing radiation for control of *Vibrio* and other foodborne pathogens in fresh or frozen molluscan shellfish.

II. Safety Evaluation

Under section 201(s) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(s)), a source of radiation used to treat food is defined as a food additive. The additive is not added to food literally, but is rather a source of radiation used to process or treat food such that, analogous to other food processing technologies, its use can affect the characteristics of the food. In the subject petition, the intended technical effect is for control of foodborne pathogens, including but not limited to *Vibrio* bacteria, that might be present in fresh or frozen molluscan shellfish.

In evaluating the safety of a source of radiation to treat food intended for human consumption, the agency must identify the various effects that may result from irradiating the food and assess whether any of these effects pose a public health concern. In this regard, the following three areas of concern need to be addressed: (1) Potential toxicity, (2) nutritional adequacy, and (3) potential microbiological risk from the treated food. Each of these areas is discussed in detail in this document. FDA has fully considered the data and studies submitted in the subject petition as well as other data and information relevant to safety.

A. Analyses of Data by the World Health Organization

Based on a joint FAO/IAEA/WHO[1] Committee's conclusion on the toxicological, microbiological safety and nutritional adequacy of irradiated foods, the Codex Alimentarius Commission (Codex) published its standard for irradiated foods in 1983 (revised in 2003) for adoption by Codex member countries (Refs. 1 and 2). This standard was based on the conclusion that the irradiation of any food commodity at an overall average dose of up to 10 kiloGray (kGy) presents no concerns. The newly revised standard (2003) states that the

> [m]inimum absorbed dose should be sufficient to achieve the technological purpose and the maximum absorbed dose should be less than that which would compromise consumer safety, wholesomeness [of the food] or would adversely affect structural integrity, functional properties, or sensory attributes. The maximum absorbed dose delivered to a food should not exceed 10 kGy, except when necessary to achieve a legitimate technological purpose.

(Ref. 2) The original version of the standard explains in a footnote that ''wholesomeness [in the context of the standard] refers to safety for consumption of irradiated foods from the toxicological point of view * * * and that irradiation up to an overall average dose of 10 kGy introduces no special nutritional or microbiological problems.''

FDA did not adopt the 1983 Codex recommendations because, at that time, it had not sufficiently analyzed the issues of nutritional adequacy and microbiological safety for all foods at all doses, nor had the agency pursued the analysis of toxicity beyond the examination of individual studies (62 FR 64107 at 64112, December 3, 1997).

At the request of one of its member states, WHO conducted a subsequent review and analysis of the safety data on irradiated food (Ref. 3). WHO

[1] FAO is the Food and Agriculture Organization of the United Nations; IAEA is the International Atomic Energy Agency; and WHO is the World Health Organization.

considered the extent to which data on one type of food can be extrapolated to other foods and the extent to which individual studies of irradiated foods can be integrated into a single database to be evaluated as a whole, as opposed to separate evaluations of a series of individual studies (62 FR 64107 at 64112). This review included all of the studies in FDA's files considered to be reasonably complete by the agency, as well as those studies that appeared to be acceptable but had some deficiencies interfering with interpretation of the data (51 FR 13376 at 13378, April 18, 1986). WHO's review also included data from the U.S. Department of Agriculture (USDA) and from the Federal Research Centre for Nutrition at Karlsruhe, Germany (62 FR 64107 at 64112). WHO concluded that while levels of some vitamins are decreased when food is irradiated at doses relevant for food irradiation, few vitamins are severely affected, with the exception of thiamine and vitamin E. However, these losses are small (on the order of 10 to 20 percent or less) at or below an overall average absorbed dose of 10 kGy and are comparable to losses seen with other forms of food processing, such as thermal processing and drying (Ref. 3).

B. Radiation Chemistry

Scientists have compiled a large body of data regarding the effects of ionizing radiation on different foods under various conditions of irradiation. These data indicate that the effects of ionizing radiation on the characteristics of treated foods are a direct result of the chemical reactions induced by the absorbed radiation. The types and amounts of products generated by radiation-induced chemical reactions (''radiolysis products'') depend on both the chemical constituents of the food and on the specific conditions of irradiation. The principles of radiation chemistry also govern the extent of change, if any, in both the nutrient levels and the microbial load of irradiated foods. For a detailed discussion and evaluation of radiation chemistry, nutrition, toxicology, and microbiology related to irradiation of flesh-based foods under various conditions of use, see the agency's final rule permitting the irradiation of meat (62 FR 64107). In the current rulemaking, FDA has reviewed relevant data and information regarding radiation chemistry as it applies specifically to fresh or frozen molluscan shellfish irradiated at absorbed doses not to exceed 5.5 kGy.

The major components of fresh or frozen molluscan shellfish are water, protein, and lipid. Irradiation of water produces reactive hydroxyl and hydrogen radicals. These radicals can either recombine to form water, hydrogen gas, or hydrogen peroxide, or react with other components of molluscan shellfish. While the most significant effect of radiation-processing on the protein and lipid components of fresh or frozen molluscan shellfish results from the chemical reactions induced by hydroxyl radicals generated from the radiolysis of the water, radiolysis products of protein and lipid may also result from directly absorbed radiation. These radiolysis products, however, form in very small amounts and are usually the same as compounds found in foods that have not been irradiated (Ref. 4).

The amounts of radiolysis products generated in a particular food are directly proportional to the radiation dose. Therefore, FDA can draw conclusions about the amounts of radiolysis products expected to be generated at radiation doses relevant to the subject petition by extrapolating from data obtained at higher doses for foods of similar composition irradiated under similar conditions. In general, the types of products generated by irradiation are similar to those products produced by other methods of food processing, such as canning, cooking, etc., because all chemical reactions caused by the addition of energy must follow the laws of chemistry. The radiation chemistry of food is also strongly influenced by the physical state of the food (solid, liquid, dry, or frozen) during irradiation. For example, the extent of chemical change that occurs in a particular food in the dry or frozen state will be less than the change that occurs in the same food when liquid water is present, all other conditions (including dose and ambient atmosphere) being equal, because indirect reaction products from water will be minimized (Ref. 5).

During the course of reviewing chemical effects of irradiation as part of the evaluation of this and other petitions, FDA became aware of a reference that suggested that irradiating apple juice may produce furan (Ref. 6). Because furan has been shown to cause cancer in laboratory animals, FDA initiated research on whether the referenced report was accurate and whether furan was a common radiolysis product in food. FDA has confirmed that certain foods form furan in low quantities when irradiated and also that some foods form furan when heated. Studies on the irradiation of molluscan shellfish show that if furan is formed when molluscan shellfish are irradiated, it is formed at levels that are undetectable, or below the background levels of natural furan formation (Ref. 7). Therefore, the consumption of irradiated molluscan shellfish will not increase the amount of furan in the diet and is not an issue with this petition.

In the **Federal Registers** of May 2, 1990 (55 FR 18538), and December 3, 1997 (62 FR 64107), FDA issued final rules permitting the use of ionizing radiation for the control of foodborne pathogens in poultry and meat, respectively (referred to henceforth as the poultry and meat final rules). In the poultry final rule, the agency concluded that poultry irradiated at a dose not to exceed 3 kGy was safe. In the meat final rule, the agency concluded that refrigerated uncooked meat, meat byproducts, and meat food products, as defined in Title 9 of the Code of Federal Regulations (CFR), irradiated at doses up to 4.5 kGy are safe, and that frozen meat, meat by-products, and meat food products irradiated at doses up to 7.0 kGy are safe. Because meat is high in protein, lipid, and water, the radiation chemistry of proteins, lipids, and water (in both the liquid and frozen state) was extensively discussed in the meat final rule. The radiation chemistry of proteins and lipids discussed in the meat final rule is also relevant to other flesh foods, including foods such as poultry and fish, that may be referred to as ''meat'' in common usage, but that do not conform to the definition of meat in Title 9 of the CFR. Molluscan shellfish, depending on the species, differ from other flesh foods in that they contain between 2 and 6 percent carbohydrate, up to 20 percent protein, and up to 10 percent fat; the remainder is primarily water. While the carbohydrate level is higher than in other flesh foods, the level is still low.

1. Protein

With respect to proteins, several types of reactions can occur as a result of irradiation. One type of reaction is the breaking of a small number of peptide bonds to form polypeptides of shorter length than the original protein. Radiation-induced aggregation or cross-linking of individual polypeptide chains can also occur; these processes result in protein denaturation. In irradiated flesh foods, most of the radiolytic products derived from proteins have the same chemical composition regardless of the protein sources, but are altered in their secondary and tertiary structures. These changes are similar to those that occur as a result of heating, but in the case of irradiation, such changes are far less pronounced and the amounts of reaction products generated are far lower (Refs. 4 and 8). Studies have established that

there is little change in the amino acid composition of fish irradiated at doses below 50 kGy (Ref. 9), which is well above the petitioned maximum absorbed dose for molluscan shellfish. Therefore, no significant change in the amino acid composition of fresh or frozen molluscan shellfish is expected to occur under the conditions set forth in this regulation.

2. Carbohydrate

The main effects of ionizing radiation on carbohydrates in foods have been reviewed previously in the literature and by WHO (Refs. 5, 10, and 11). One of the main effects of ionizing radiation is the abstraction of hydrogen from the carbon-hydrogen bonds of the carbohydrate, resulting in directly ionizing and exciting the carbohydrate molecule. Carbohydrate radicals may result from ionization of monosaccharides such as glucose or polysaccharides such as starch. Radiolysis products formed from starches of different origin are reported to be qualitatively similar (Refs. 5 and 11). In polysaccharides, the glycosidic linkages between constituent monosaccharide units may be broken, resulting in the shortening of polysaccharide chains and reduction in the viscosity of polysaccharides in solution. Starch may be degraded into dextrins, maltose, and glucose. Sugar acids, ketones, and other sugar monosaccharides may also be formed as a result of ionizing radiation. Irradiation of carbohydrates at doses up to 10 kGy has minimal effect on the carbohydrate functionality. The overall effects of ionizing radiation are the same as those caused by cooking and other food processing treatments. Carbohydrates that are present as a component of food are less sensitive to the effects of irradiation than pure carbohydrates (Ref. 5). No significant change in the carbohydrate composition of fresh or frozen molluscan shellfish is expected to occur under the conditions set forth in this regulation, i.e., a maximum absorbed dose of 5.5 kGy.

3. Lipid

The meat final rule also discussed the radiation chemistry of lipids (predominantly triglycerides in meat). A variety of radiolysis products derived from lipids have been identified, including fatty acids, esters, aldehydes, ketones, alkanes, alkenes, and other hydrocarbons (Refs. 12 and 13). Identical or analogous compounds, however, are also found in foods that have not been irradiated. In particular, heating food produces the same types of compounds, but in amounts far greater than the trace amounts produced from irradiating food (Refs. 4 and 14). In addition, alkylcyclobutanones (ACBs), which are formed in small quantities when fats are exposed to ionizing radiation, have been identified in meat and poultry. The specific ACBs formed will depend on the fatty acid composition of the food. For example, 2-dodecylcyclobutanone (2–DCB) has been reported to be formed from palmitic acid in amounts from 0.3 to 0.6 microgram per gram lipid per kGy (µg/g lipid/kGy) from irradiated chicken (Ref. 15). Other researchers have found that (2—DCB) is formed at significantly lower rates, 0.04 µg/g lipid/kGy from ground beef (Ref. 16). For comparison, ground beef tallow contains approximately 25 percent palmitic acid and chicken fat contains approximately 22 percent palmitic acid.

One major difference between fish (including shellfish and finfish) and other flesh foods is the predominance of polyunsaturated fatty acids (PUFAs) in the lipid phase of fish. PUFAs are a subclass of lipids that have a higher degree of unsaturation in the hydrocarbon chain than the saturated (e.g., stearic acid) or monounsaturated (e.g., oleic acid) fatty acids. Due to the higher level of unsaturation, PUFAs are generally more readily oxidized than saturated fatty acids. Therefore, PUFAs could be more radiation-sensitive than other lipid components, as observed in some studies of irradiated oil. However, evidence from meat studies suggests that the protein component of meat may protect lipids from oxidative damage (Ref. 5). Because the lipid fraction of meat consists primarily of saturated and monounsaturated fatty acids with negligible quantities of PUFAs, FDA did not explicitly address the radiation chemistry of PUFAs in its previous reviews.

The effects of irradiation on PUFAs in fish have been described in several studies reviewed by FDA. Adams *et al.* studied the effects of radiation on the concentration of PUFAs in herring and showed that irradiation of herring fillets at sterilizing doses (50 kGy), well above the petitioned maximum dose for molluscan shellfish, had no effect on the concentration of PUFAs (Ref. 17). Similarly, Armstrong *et al.* conducted research on the effects of radiation on fatty acid composition in fish and concluded that no significant changes occurred in the fatty acid profiles upon irradiation at 1, 2, or 6 kGy (Ref. 18). The authors also concluded that variations in fatty acid composition between individual samples were greater than any radiation-induced changes.

Sant'ana and Mancini-Filho studied the effects of radiation on the distribution of fatty acids in fish (Ref. 19). They studied two monounsaturated fatty acids and seven PUFAs (including three different omega-3 fatty acids) before and after irradiation at doses up to 3 kGy. The authors observed insignificant changes in the concentration of total monounsaturated fatty acids and an approximately 13 percent decrease in total PUFAs at the highest dose, largely attributable to a loss of the long chain PUFAs, including docosahexaenoic acid. The overall change for essential fatty acids (e.g., linoleic and linolenic acids) was minimal (less than 3 percent). The authors also observed an increase in lipid oxidation based on levels of thiobarbituric acid reactive substances, but noted that antioxidants such as tocopherol protect against lipid oxidation (Ref. 4).

In addition, a study summarized in an International Consultative Group on Food Irradiation monograph compared the fatty acid composition of unirradiated and irradiated herring oil (Ref. 20). The profile for 12 fatty acids was compared to controls 1 day and 28 days after irradiation. Only two fatty acids appeared to have decreased by day 28 following irradiation at 50 kGy (Ref. 4).

Research conducted by FDA on various species of seafood also demonstrated that the concentrations of PUFAs are not significantly affected by irradiation (Refs. 21 and 22). Therefore, based on the totality of evidence, the agency concludes that no significant loss of PUFAs is expected to occur in the diet under the conditions of irradiation set forth in this regulation. In summary, FDA's review of the radiation chemistry of proteins and lipids in the subject petition raises no issues that have not been considered previously in the meat and poultry final rules (Ref. 4).

C. Assessment of Potential Toxicity

In the safety evaluation of irradiated meat and poultry, the agency examined all of the available data from toxicological studies relevant to the safety of irradiated flesh-based foods, including studies on fish high in PUFAs. These included 24 long-term feeding studies, 10 reproduction/teratology studies, and 15 genotoxicity studies with flesh-based foods irradiated at doses from 6 to 74 kGy. No toxicologically significant adverse effects attributable to irradiated flesh foods were observed in any of the studies (62 FR 64107 at 64112 and 64114).

The proposed maximum absorbed dose of 5.5 kGy for fresh and frozen molluscan shellfish in the subject petition is somewhat higher than the currently permitted maximum dose for the irradiation of non-frozen meat. However, FDA previously evaluated the long-term toxicological studies of flesh foods fed at a range that includes absorbed doses that are either similar to or considerably higher than the absorbed dose requested in this petition. In addition, the absorbed dose exceeded 50 kGy in many studies with no adverse effects reported. Therefore, these data demonstrate that molluscan shellfish irradiated at levels up to the dose proposed in this petition will not present a toxicological hazard (Ref. 8).

In summary, FDA has reviewed a large body of data relevant to the assessment of potential toxicity of irradiated foods. While all of the studies are not of equal quality or rigor, the agency concludes that the quantity and breadth of testing and the number and significance of endpoints assessed would have identified any real or meaningful risk. The overwhelming majority of studies showed no evidence of toxicity. On those few occasions when adverse effects have been reported, FDA finds that those effects have not been consistently produced in related studies conducted at a higher dose or longer duration, as would be expected if the effects were attributable to irradiation (62 FR 64107 at 64112 and 64114). Therefore, based on the totality of evidence, FDA concludes that irradiation of fresh and frozen molluscan shellfish under the conditions proposed in this petition does not present a toxicological hazard.

D. Microbiological Profile of Molluscan Shellfish

Vibrio bacteria predominate in estuarine environments, and consequently, are naturally present in most finfish and shellfish (Ref. 23). Most cases of reported diseases attributed to *Vibrio* species are associated with consumption of raw molluscan shellfish, particularly raw oysters. Although *Vibrio* species from shellfish infect relatively few individuals, they can cause severe illness, including mortality. Of the 12 *Vibrio* species known to cause human infections, 8 have been associated with consumption of food. *V. parahaemolyticus* and *V. vulnificus* are most commonly isolated from oysters. *V. vulnificus* is associated with 95 percent of all seafood-related deaths in the United States (Ref. 24).

In general, the subject petition relies on published or other publicly available information or material from previous food additive petitions to address microbiological issues. The petitioner has documented that *Vibrio* species in uncooked molluscan shellfish provide a significant public health risk. *Vibrio* bacteria are highly sensitive to ionizing radiation and are usually eliminated by doses as low as 0.5 kGy. Published D_{10} values[2] for *V. parahaemolyticus* and other *Vibrio* species range from 0.02 to 0.4 kGy (Ref. 25).

Control of contaminating *Salmonella* or *Listeria* generally requires higher doses than for *Vibrio* species, because the D_{10} values are higher, about 0.5 to 1.0 kGy and 0.4 to 0.6 kGy, respectively (Ref. 26). Several publications referenced in the subject petition state that these three genera can be eliminated by doses well under 10 kGy. Numerous studies demonstrate that a dose of 5 kGy will reduce a population of *Salmonella* serotypes, *Staphylococcus aureus*, *Shigella*, and *Vibrio* by at least six log cycles. Other studies report 5-log reductions for *Listeria* and *Salmonella* at 2.3 kGy and 2.8 kGy. In addition, D_{10} values for irradiation cited in published literature for several *Salmonella* serotypes in various fresh foods ranged from 0.2 to 0.9 kGy. Therefore, irradiation at doses up to the dose limit in the regulation could significantly reduce the populations of these organisms (Ref. 25).

Clostridium botulinum (*C. botulinum*) type E can sometimes be found in seafood. Because this organism is relatively resistant to radiation, as compared to non-spore forming bacteria, the petitioner provided data regarding the likelihood that *C. botulinum* would grow and produce toxin in irradiated molluscan shellfish. Included in the petition's references is an in-depth discussion of the likelihood for outgrowth and toxin production by *C. botulinum* type E in fish (Ref. 27). The author cites studies conducted in his laboratory on the effect of storage temperature and irradiation on toxin production by *C. botulinum* type E in fish. In these studies, no toxin was detected after incubation with fish of up to 10^5 organisms at 0 degrees Celsius for 8 weeks, well beyond the shelf life of these products. At 5 degrees Celsius, no toxin was produced for up to 6 weeks of storage in inoculated fish that had not been irradiated or for up to 7 weeks when irradiated at 2 kGy. Thus, it took longer for toxin to be produced in the irradiated fish than in fish that were not irradiated. Additionally, the time required for toxin production, 7 weeks, is far beyond the shelf life of fresh seafood. Therefore, irradiation would not increase the risk from botulinum toxin.

Current Hazard Assessment and Critical Control Point plans in effect for molluscan shellfish require storage under proper conditions, including maintenance at controlled temperatures. Therefore, irradiation can serve as an effective method for the primary intended use of eliminating populations of *Vibrio* species and other pathogens in molluscan shellfish without adding a significant risk from the growth of and toxin production by *C. botulinum* type E (Ref. 25).

The subject petition includes data and information that support the effectiveness of the proposed irradiation of fresh and frozen molluscan shellfish at a maximum absorbed dose of 5.5 kGy to control *Vibrio* species and other foodborne pathogens. While the data show that irradiation is effective in reducing the levels of *Vibrio* species and other bacteria in fresh and frozen molluscan shellfish, the data also show that irradiation will not increase the risk of toxin production from germinated spores of *C. botulinum* type E.

Based on the available data and information, FDA concludes that irradiation of fresh or frozen molluscan shellfish conducted in accordance with current good manufacturing practices will reduce or eliminate bacterial populations with no increased microbial risk from pathogens that may survive the irradiation process.

E. Nutritional Considerations

Lipids are a component of molluscan shellfish contributing approximately 20 to 30 percent to the caloric value of molluscan shellfish. PUFAs are a significant source of omega-3 and omega-6 fatty acids and are therefore nutritionally important components of the fat of molluscan shellfish. As noted in section II.A of this document, PUFA levels were not reduced significantly by ionizing radiation. Additionally, the amount of omega-3 and omega-6 PUFAs can vary widely within a single species and between species of molluscan shellfish. The omega-3 fatty acid content among most species varies within a factor of 2, and the total PUFA content can vary by more than a factor of 10 (omega-3 and omega-6 PUFAs) within an individual species. Furthermore, molluscan shellfish are only one of several fish sources of long chain PUFAs. Because of the variety of seafood sources of long chain PUFAs, the variation of fatty acid content in molluscan shellfish, and the observed insensitivity of PUFAs to irradiation, FDA concludes that irradiation of fresh

[2] D_{10} is the absorbed dose of radiation required to reduce a bacterial population by 90 percent.

and frozen molluscan shellfish under the conditions proposed will not adversely affect the nutritional adequacy of the diet with respect to PUFAs (Ref. 8).

Molluscan shellfish contain several B-vitamins including thiamine, niacin, vitamin B6, and vitamin B12.[3] Individual food intake data is available from nationwide surveys conducted by the USDA. These surveys were designed to monitor the types and amounts of foods eaten by Americans and food consumption patterns in the U.S. population. FDA routinely uses these data to estimate exposure to various foods, food ingredients, and food contaminants. The relative contribution of the food category ''shellfish and fish (excluding canned tuna)'' is less than 3 percent of the dietary intake for thiamine, niacin, and vitamin B6 (Ref. 28). Fish and shellfish are, however, significant contributors to vitamin B12 intake among U.S. adults, contributing to approximately 20 percent of the total vitamin B12 intake.

Irradiation of any food, regardless of the dose, has no effect on the levels of minerals that are present in trace amounts (Ref. 5). Levels of certain vitamins, on the other hand, may be reduced as a result of irradiation. The extent to which this reduction occurs depends on the specific vitamin, the type of food, and the conditions of irradiation. Not all vitamin loss is nutritionally significant, however, and the extent to which a reduction in a specific vitamin level is significant depends on the relative contribution of the food in question to the total dietary intake of the vitamin. While thiamine is among the most radiation sensitive, the more nutritionally significant vitamin in fish and shellfish, vitamin B12, is extremely resistant to radiation.

Based on the available data and information, FDA concludes that irradiation of fresh or frozen molluscan shellfish under the conditions set forth in the regulation in this document will have no adverse impact on the nutritional adequacy of the diet.

III. Comments

FDA has received numerous letters, primarily form letters, from individuals that state their opinions regarding the potential dangers and unacceptability of irradiating food. None of these letters contain any substantive information that can be used in a safety evaluation of irradiated molluscan shellfish.

Additionally, FDA received several comments from Public Citizen (PC) and the Center for Food Safety (CFS) requesting the denial of this and other food irradiation petitions. The comments were largely of a general nature and not necessarily specific to the petitioned requests. Some of the comments specifically questioned a report of a Joint FAO/IAEA/WHO Study Group on the wholesomeness of foods irradiated with doses above 10 kGy. Because the comments were addressed to the Docket for this rulemaking, the comments and FDA's response are discussed as follows:

A. Studies Reviewed in the 1999 FAO/IAEA/WHO Report on High-Dose Irradiation

(1) One comment states that the petition should be denied because there are four positive studies mentioned but mischaracterized in the 1999 FAO/IAEA/WHO report on high-dose irradiation. The comment states:

> The 1999 FAO/IAEA/WHO report is the most detailed recent review of food irradiation safety. CFS [Center for Food Safety] anticipates that FDA will seek to rely on it. It is critical that FDA understand the defects in that report before making a determination on the above-referenced additive petition...the four studies were incorrectly classified as ''negative for high-dose irradiation effect, possible effect of nutrition or diet.''* * *
>
> The 1999 FAO/IAEA/WHO report acknowledged the Anderson *et al.* study (on laboratory animal diets) showed ''*evidence of weakly mutagenic effect*'' with one diet that was irradiated, yet it classified the study as ''*negative for high-dose irradiation effect, possible effect of nutrition or diet*'' (p. 117). However, no indication exists that the irradiated standard PRD laboratory diet that produced the mutagenic effect was otherwise deficient. Further, the unirradiated control PRD diet did not produce the mutagenic effect. Anderson *et al.* found irradiation of the diet produced the effect. The 1999 FAO/IAEA/WHO report's classification of the study as ''negative'' was unfounded. (Emphasis in original.)

In the study performed by Anderson *et al.* (1981) mice were fed four laboratory diets irradiated at 10 kGy, 25 kGy, and 50 kGy (Ref. 29). Mice were also fed unirradiated diets as a negative control. Additionally, mice were injected intraperitoneally with a known mutagen, cyclophosphamide, at 200 mg per kg of body weight (mg/kg body weight) as a positive control. The study report stated that mice consuming one diet (PRD diet)[4] irradiated at 50 kGy resulted in a slight increase in post-implantation deaths over the unirradiated diet when compared to the positive control. The other three irradiated diets showed no significant increases in early post-implantation death. The comment provides no information to explain why the Anderson *et al.* study on radiation-sterilized laboratory diets should be considered relevant to the conditions proposed in this petition for the irradiation of molluscan shellfish to a maximum absorbed dose that will not exceed 5.5 kGy. Moreover, the comment provides no analysis of the study and no information to demonstrate that the ''weakly mutagenic effect'' associated with the laboratory diet irradiated at 50 kGy is attributable to irradiation of the diet.

(2) The comment states that ''[a] thorough discussion of the Bugyaki *et al.* study in a 1970 FAO/IAEA/WHO Expert Committee report highlighted it as a significant positive finding.'' The comment goes on to state:

> The 1999 FAO/IAEA/WHO report admitted that Bugyaki *et al.* showed ''*chromosomal abnormalities in germ cells due to formation of peroxides and radicals,*'' but - without explanation - classified the study as ''*negative for high-dose irradiation effect, possible effect of nutrition or diet*'' (p. 118). That is plain inconsistency; the 'peroxides and radicals' resulted from the irradiation (see Bugyaki *et al.*, at p. 118: ''*... some of the changes produced by radiation — the free radicals for example — will disappear with time.*'' [translated from French]). Further, the same Expert Committee agreed 29 years earlier that Bugyaki *et al.* demonstrated ''*certain disturbing effects*'' of high dose irradiation. That Committee did not discount the effects as artifacts of nutrition or diet, as the 1999 Committee did. The 1999 FAO/IAEA/WHO report's classification of this study as 'negative' again lacks a rational foundation. (Emphasis in original.)

In Bugyaki *et al.*, a 1968 report on irradiated wheat, mice were fed a diet containing 50 percent freshly irradiated wheat meal (50 kGy); the balance was basic food powder (the basic food powder was described by the author to contain 55 percent vegetable matter, 35 percent animal matter, and 10 percent complementary nutrients) (Ref. 30). Control animals were fed a diet containing 50 percent wheat that had not been irradiated with the balance being the basic food powder. Because the authors were concerned that compression into pellets may affect the irradiated foods, the animals were fed the food in powder form. The authors note that there were readily observable

[3] Dietary sources of nutrients have been evaluated using the 1994/1996 Continuing Survey of Food Intakes by Individuals database.

[4] The PRD diet is a formulation of 5.125 g/100 g Barley, 10.0 g/100 g maize meal, 18.125 g/100 g oats (Sussex Ground), 20.0 g/100 g wheat, 20.0 g/100 g wheat feed, 5.0 g/100 g white fish meal (crude protein 66 percent), 2.5 g/100 g yeast, 10.0 g/100 g soya extract, 7.5 g/100 g dry skimmed milk (crude protein 33), 0.75 g/100 g salt (NaCl), and a 1.0 percent vitamin mineral supplement.

physical and chemical changes in the wheat meal irradiated at 50 kGy.

The authors state that both the treated and untreated animals developed tumors. However, the tumors found in the treated animals were different than the tumors found in the untreated animals. The authors note that the treated animals had a slight increase in anatomic-pathological lesions; however, they go on to state that there was no well defined damage. Additionally, they state that there were alterations in the meiotic chromosomes of the treated animals. The authors conclude that animals consuming a large part of their diet irradiated at doses as high as 50 kGy may deserve special attention.

The comment provides no information to demonstrate why the Bugyaki *et al* study on freshly irradiated wheat at 50 kGy is relevant to the conditions proposed in this petition for the irradiation of molluscan shellfish to a maximum absorbed dose that will not exceed 5.5 kGy. Foods irradiated at such a high dose often require careful control of temperature and atmosphere to prevent compositional changes that would make them unsuitable for food use. The agency notes that several long term feeding studies using foods irradiated under appropriate conditions at doses greater than 50 kGy demonstrated no toxicological effects that could be attributed to the irradiated foods.

(3) The comment states:

> The 1999 FAO/IAEA/WHO report states the study performed by Moutschen-Dahmen *et al.* showed ''*increased pre-implantation embryonic deaths; not confirmed by cytological analysis*'' and classified the study as ''*negative for high-dose irradiation effect, possible effect of nutrition or diet*'' (p. 115). The suggestion of an effect of nutrition or diet is unsupported. (Emphasis in original.)

The agency has previously addressed the study by Moutschen-Dahmen *et al.* (51 FR 13376 at 13387) and noted:

> There was no increase in post-implantation losses. Post-implantation losses, determined by counting dead embryos, are believed to be the most reliable and sensitive indicator of dominant lethality. The authors found only pre-implantation losses, which are much less sensitive than post-implantation losses and merely a measure of total implants dead or alive subtracted from the total number. In addition to the possibility that results of the study could be spurious, any number of factors other than dominant lethality may cause pre-implantation losses, such as a decrease in the number of eggs ovulated.
>
> If these effects were real, one would expect to see some effect on post implantation losses at a lower dose because post-implantation losses are a much more sensitive indicator than pre-implantation losses, as mentioned previously.

The agency concluded:

> Although the findings reported may be statistically significant, the authors were uncertain as to what to attribute these results. They concluded that the most probable mechanism by which these effects could be produced would be via chromosomal aberration. The studies necessary to establish an association between these effects and chromosomal aberrations were not conducted. Additional treatment levels below that conducted as mentioned previously to detect post-implantation losses or examinations of the 24 to 48 hour fertilized eggs could have proved better evidence of causality, but these studies were not conducted. Thus, although pre-implantation losses were observed, FDA concludes that there is no biological significance to this observation because it was not reproducible.

The comment provides no information to demonstrate why the Moutschen-Dahmen *et al.* (Ref. 31) study (1970) in which mice were fed a laboratory chow diet, of which 50 percent was irradiated at 50 kGy is relevant to the conditions proposed in this petition for the irradiation of molluscan shellfish to a maximum absorbed dose that will not exceed 5.5 kGy. The study was designed to look for mutations that would be lethal to the animals. Further, the comment provides no information to demonstrate that the pre-implantation deaths were caused by dominant lethal mutations that were induced by the consumption of irradiated food. Finally, the comment provides no evidence to refute the agency's previous conclusion.

(4) With regard to another study (Ref. 32), the comment states that:

> The 1999 FAO/IAEA/WHO report admits the study showed ''*significant increase in the mutation frequency induced by the high dose irradiated foods*,'' but nevertheless classified the study as ''*negative for high-dose irradiation effect, possible effect of nutrition or diet*'' (p. 115). This is patently contradictory; the 'negative' classification again lacks explanation. (Emphasis in original.)

In the study performed by Johnston-Arthur *et al.* (1975), Swiss albino mice were starved for 36 hours and then fed normal and irradiated (7.5 kGy, 15 kGy, and 30 kGy) laboratory chow for 7 hours (Ref. 32). The mice were then injected intraperitoneally with *Salmonella typhimurium* TA 1530 and the bacteria were incubated in the mice for 3 hours. The mice were then sacrificed and the bacteria were harvested and tested using the host-mediated assay test for mutagenicity. The results indicated a significant increase in the mutation frequency in the bacteria that were exposed to the 30 kGy-sterilized food. No significant differences were observed in the bacteria that were harvested from the mice fed the 7.5 kGy and 15 kGy diet when compared with the control.

The comment provides no information to demonstrate why the Johnston-Arthur *et al.* study on the irradiation sterilization of lab chow at 30 kGy is relevant to the irradiation of molluscan shellfish to a maximum absorbed dose that will not exceed 5.5 kGy. Moreover, mutation studies with *S. typhimurium* are intended to screen for possible mutations affecting animals that can be tested in long term animal studies. However, several properly conducted long term feeding studies performed on animals fed with foods irradiated at higher doses (up to 56 kGy) have shown no mutagenic effects to the subject animals.

Finally, the agency notes that the subject of this regulation is the petition (FAP 9M4682) regarding shellfish and not the 1999 FAO/IAEA/WHO report on high-dose irradiation. In its review of the published literature on the safety of irradiated foods, the agency finds that properly conducted animal feeding studies showed no evidence of toxicity attributable to irradiated food. On the few occasions when studies reported adverse effects, the effects were not consistently reproduced in related studies conducted with similar foods irradiated to doses equal to or higher than those for which the adverse effects were reported, as would be expected if the reported effect were a toxic effect caused by a radiolysis product (62 FR 64107 at 64112 and 64114).

B. Review Article

One comment submitted a paper (Kevesan and Swaminathan, 1971) that reviewed studies performed in the 1950s and 1960s on irradiated substrates and irradiated foods (Ref. 33). The comment states that numerous studies from the 1950s and 1960s found a variety of toxic effects in animal feeding and in vitro studies, which on the whole cast doubt on the safety of the technology. The comment asks FDA to ''take a closer look at the host of past positive studies cited therein.''

The comment further states:

> [A]ttempts to discount all of the past positive findings as aberrations, products of chance, or artifacts of diet will no longer suffice. These studies need further FDA review particularly in view of the 2003 Codex Alimentarius standard revision that allowed for higher absorbed doses of radiation than previously permitted.

The agency notes that the subject of FAP 9M4682 is the irradiation of molluscan shellfish to a maximum absorbed does of 5.5 kGy, not the recently revised Codex standard. Furthermore, the authors of the paper referenced by the comment do not come to the conclusion that the comment implies. Rather, the study's authors

(Kevesan and Swaminathan) conclude that ''major deficiencies in the way some of the experiments have been designed and conducted coupled with inadequacy of genetic data urgently necessitates further investigations before concluding that the irradiated food materials 'can be consumed with impunity'.''

FDA agrees with the conclusions of the review article in the context of studies performed prior to 1970. However, many properly conducted studies have been performed after this review was written. As previously noted in this document, the agency finds that properly conducted animal feeding studies showed no evidence of toxicity attributable to irradiated food. On the few occasions when studies reported adverse effects, the effects were not consistently reproduced in related studies conducted with similar foods irradiated to doses equal to or higher than those for which the adverse effects were reported, as would be expected if the reported effect were a toxic effect caused by a radiolysis product (62 FR 64107 at 64112 and 64114). The comment provides no additional information that would cause the agency to change its conclusion on the safety of irradiated food.

C. Irradiated Strawberry

One comment submitted a paper (Verschuuren, Esch, and Kooy, 1971) describing the effects of feeding rats irradiated strawberry-powder and irradiated strawberry-juice (Ref 34). The comment states that rats fed ''irradiated strawberry powder supplement showed a statistically significant growth deficit compared to the control animals fed the same diet, including the powder supplement, but which was unirradiated.'' The comment goes on to state:

FDA's internal reviewers in 1981 and 1982 (reviews are attached to study) twice classified the Verschurren (*sic*) *et al.* study as one the agency should ''accept'' without reservations, only to be later overridden by a third reviewer who was able to reclassify the study as ''reject.'' This change was based on the third reviewer's suggestion that the study was hampered by ''inadequate diet and restricted food intake,'' a surprising suggestion as nothing in the study supported that conclusion

The comment misrepresents the conclusion of one of the reviewers who did the initial review of the study. Initially, the study was accepted by two reviewers. However, upon further review by one of the initial reviewers and a third reviewer, this paper was rejected in the secondary review because of inadequate diet and restricted food intake. The comment provides no information that would alter the agency's conclusion that some of the diets were incomplete and restricted. Moreover, the comment provides no information that explains why the consumption of irradiated strawberry-powder is relevant to the consumption of irradiated molluscan shellfish with a maximum absorbed dose of 5.5 kGy.

D. Reproduction Performance

One comment states that a study conducted at Columbia University in 1954 ''supports other studies that yielded adverse health effects, which our organizations have previously submitted to this docket.''

The comment submitted part of a report, ''Termination Report—Part 1, Food Irradiation and Associated Studies, September 15, 1954,'' which was conducted at Columbia University for the U.S. Atomic Energy Commission. The report compares the fertility of ''Professor Sherman's high generation rats'' that were fed either ''Sherman diet 16'' or a ''modified Sherman diet''[5] (milk powder was replaced by skim milk powder and irradiated butterfat). The report concluded that there was a significant decrease in the fertility of the rats fed the irradiated diet. The report also mentions that there is significant vitamin E destruction; however, the comment did not include the entire results and discussion section with the authors' discussion.

FDA reviewers have previously reviewed a subsequent publication of a report of this study (Ref. 35). At the time of the study, it was not well recognized that irradiation of fat in the presence of air can stimulate oxidation leading to rancidity and high levels of peroxides. Such rancidity can lead to nutritional deficiencies due to the animals reducing their food consumption and destruction of vitamins. FDA reviewers concluded that it appears that littermates were mated and that the females were mated almost continually, allowing little time for rest between litters. If there was a nutritional or oil peroxidation and palatability problems with the diet, it would be exacerbated by the continuous breeding of the females. Considering the report's mention of considerable vitamin E destruction, the effects seen appear to be the result of a nutritionally inadequate diet, not toxicity, and would not be relevant to irradiation of molluscan shellfish.

[5] The control diet was ''Sherman diet 16,'' consisting of 1000 g ground whole wheat, 200 g whole milk powder, and 20 g salt. The ''irradiated diet'' consisted of 1000 g ground whole wheat, 147 g skim milk powder, 53 g irradiated butterfat, and 20 g salt.

E. Mutagenicity Studies

One comment states that the petition should be denied because the number of positive mutagenicity studies (including those discussed previously that were identified by the comment as mischaracterized or ignored) compares favorably with the number of negative studies. The comment states that ''[m]ore than one-third of both *in vivo* and *in vitro* studies are positive'' for mutagenicity, suggesting there is ''bias in the official posture in support of the safety of irradiation.''

The suggestion of the comment that FDA showed a ''bias in the official posture'' on the safety of the consumption of irradiated food is not supported by any substantive information.

The Bureau of Foods Irradiated Foods Committee (BFIFC) recommended that foods irradiated at a dose above 1 kGy be evaluated using a battery of mutagenicity tests to assess whether long-term feeding studies in animals were necessary (Ref. 36). Mutagenicity studies are primarily used to screen for potential mutagenic effects. Animal feeding studies are more reliable for determining the true mutagenic potential of a compound that is consumed in food (Ref 37). Moreover, one cannot draw valid conclusions from data simply by summing positive and negative results without fully evaluating the individual studies and assessing what conclusions such studies support and considering the totality of evidence. If the occasional report of a mutagenic effect were valid and significant to health, one should have seen consistent adverse toxicological effects in the many long term and reproduction studies with animals. This has not been the case.

F. International Opinions

The comment states that the petition should be denied because ''[a] majority of Parliamentary Members voted for a provision that the EU's list of foods authorised (*sic*) for irradiation should not be expanded,'' and ''[a] working group of the Codex Alimentarius Commission's Contaminants and Food Additives Committee in November, 2002, recommended *against* approval of a Codex proposal to remove the present 10 kiloGray radiation dose cap, which would allow any foods to be irradiated at any dose — regardless of how high. (Emphasis in original.)''

The agency notes that the subject of this regulation is the petition (FAP 9M4682) to permit irradiating shellfish at a dose up to 5.5 kGy, not whether the maximum dose in the Codex General Standard for Irradiated Foods should be

raised above 10 kGy. The act requires FDA to issue a regulation authorizing safe use of an additive when safety has been demonstrated under the proposed conditions of use. FDA notes that the Codex General Standard for Irradiated Foods has recently been revised (Codex 2003) by supplanting reference to a maximum overall average dose of 10 kGy with the statement that ''[t]he maximum absorbed dose delivered to a food should not exceed 10 kGy, except when necessary to achieve a legitimate technological purpose.'' (Ref. 2). The comment fails to demonstrate why the debate within Codex leading up to this change is relevant to the conditions proposed in this petition for the irradiation of molluscan shellfish to a maximum absorbed dose that will not exceed 5.5 kGy.

One comment states that the petition should be denied because of a report published by the Organisation for Economic Co-Operation and Development (OECD) which states:

Hitherto available data indicate, however, that increased rates of mutation and chromosomal aberration will probably be induced in certain cases. Although experiments indicate that the genetical (*sic*) effect, in cases where it is induced, is relatively small compared to the effect of direct exposure of animals to radiation, the same experiments indicate that the possible effect will not be negligible.

The comment goes on to state that ''[r]ather than being refuted by subsequent evidence, the OECD's statement regarding likely induction of mutations and chromosomal aberration has been confirmed in many studies, cited in this and our earlier comments.''

The 1965 OECD report, entitled ''Steering Committee for Nuclear Energy Study Group on Food Irradiation,'' reflects scientific understanding at the time it was written (Ref. 38). The document is a compendium of published and unpublished (at the time) reports on the effect of irradiated substances on a variety of organisms. The report concluded that ''it is impossible to arrive at any definite conclusion as to the presence or absence of genetic effects if irradiated food were used for human consumption or for animal feeding.'' Furthermore, the report states that more rigorous studies should be performed and when contradictory results are found, the reasons should be determined. Since the report was compiled in 1965 numerous studies have been performed on the effects of consuming irradiated foods in multiple animal species and in humans. Starting in the 1980's, FDA has reviewed these and other studies, and while many of these studies cannot individually establish safety, they still provided important information that, when evaluated collectively, supports a conclusion that there is no reason to believe that irradiation of flesh foods presents a toxicological hazard. The comment provides no evidence to refute the agency's conclusion.

G. Alkylcyclobutanones

One comment states that ''certain chemical by-products formed in food that has been irradiated, known as cyclobutanones, could be toxic enough to cause significant DNA damage, potentially leading to carcinogenic and mutagenic effects.'' In addition, the comment states that ''[t]wo major international food safety groups — CCFAC (Codex Committee on Food Additives and Contaminants), and SCF (The Scientific Committee on Food of the European Commission) — deemed the indications of toxicity strong enough to necessitate considerable additional study.''

2–ACBs have been reported as radiolysis products of fats (Refs. 39a and 39b). Studies performed by researchers have reported that certain alkylcyclobutanones can cause single strand DNA breaks detectable by the COMET[6] assay (Ref. 40). Several animal feeding studies have been conducted with fat-containing foods irradiated at doses far higher than would be used on molluscan shellfish. If 2–ACBs, at the level present in irradiated foods, were of sufficient toxicity to cause significant DNA damage, one would expect to have seen adverse effects in those studies where animals were fed meat as a substantial part of their diet. Moreover, the COMET assay has not yet reached the level of reliability and reproducibility that is needed to be considered a standard procedure for testing potential genotoxins. At present, the assay is of value primarily in basic research of cellular response to DNA damage and repair, in both *in vitro* and *in vivo* systems (Ref. 41).

Also, contrary to what is implied by the comment, the Scientific Committee on Foods of the European Commission concluded, in July 2002, ''[a]s the adverse effects noted refer almost entirely to *in vitro* studies, it is not appropriate, on the bases of these results, to make a risk assessment for human health associated with the consumption of 2–ACBs present in irradiated fat-containing foods.'' The genotoxicity of 2–ACBs has not been established by the standard genotoxicity assays nor are there any adequate animal feeding studies in existence to determine no-observed-adverse-effect levels (NOAELs) for various alkylcyclobutanones. Reassurance as to the safety of irradiated fat-containing food can be based on the large number of feeding studies carried out with irradiated foods which formed the basis for the wholesomeness assessments of irradiated foods published by FAO/IAEA/WHO.

Moreover, researchers have recently demonstrated that 2–DCB does not induce mutations in the *Salmonella* mutagenicity test or intrachromosomal recombination in *Saccharomyces cerevisiae* or the *Escherichia coli* tryptophan reverse mutation assay (Refs. 42 and 43). A further study, published in 2004, has demonstrated that the Ames assay showed no difference between 5 concentrations of 2–DCB and the controls, including samples incubated with S9. The results indicate that 2–DCB does not produce point or frameshift mutations in *Salmonella* and is not activated by S9. The study also investigated the toxicity of 2–DCB and concluded ''that the potential risk from 2–DCB, if any, is very low'' (Ref. 44).

One comment states that 2–DCB is a unique radiolysis byproduct of palmitic acid, and ''[b]ecause palmitic acid appears in molluscan shellfish in varying quantities and high percentages, the FDA should refrain from considering the petition until potential cytotoxicity and genotoxicity of 2–DCB in each type of shellfish covered by the petition is thoroughly studied.''

FDA agrees that 2–DCB is a radiation by-product of triglycerides with esterified palmitic acid and that molluscan shellfish contain significant amounts of such triglycerides. FDA previously reviewed studies in which animals were fed diets containing irradiated meat, poultry, and fish which contain triglycerides with palmitic acid (62 FR 64107 at 64113), and concluded that no adverse effects were associated with the consumption of these irradiated flesh foods. The comment provides no evidence to refute the agency's conclusion regarding the irradiation of molluscan shellfish to a maximum absorbed dose that will not exceed 5.5 kGy.

One comment states that two studies by Delincée *et al.* on the potential genotoxicity of 2–DCB were mischaracterized in the 1999 FAO/IAEA/WHO report. The comment states that while ''[t]he 1999 FAO/IAEA/WHO report properly labeled Study 5 as demonstrating a '*possible effect of high-dose irradiation*.'* * * it rationalized this by saying the level of the lipid

[6] Single cell gel electrophoresis or 'Comet assay' is a rapid and very sensitive fluorescent microscopic method to examine DNA damage and repair at individual cell level.

present in the experiment was three orders of magnitude greater than the normal lipid level in chicken meat.'' In addition, the comment states that ''[s]tudy 6 did not, in fact, use an '*extremely high level*' of 2–DCB as claimed in the WHO Secretariat's proof note. The level of 2–DCB, according to the researchers, was carefully calibrated and multiplied by the appropriate toxicological safety factor, to determine the safety of chicken irradiated for shelf sterilization.'' In summary, the comment states that ''Delincée *et al.* conclude that applying the standard toxicological safety factor of 100 below the 'no-effect level' means that 2–DCB failed the standard safety test'' and should be denied under § 170.22 (21 CFR 170.22).

In the first study cited, Delincée *et al.* incubated rat and human colon cells for 30 minutes in solutions containing 0.3-1.25 mg/ml 2–DCB and determined by the COMET assay that there were single strand DNA breaks (Ref. 45). The authors also state that they observed a cytotoxic effect at increased concentration. Cytotoxicity can confound the results of the COMET assay such that standard protocols attempt to use concentrations below that producing cytotoxicity (Ref. 46). Delincée notes that the 2–DCB concentration in the lipid fraction of chicken irradiated at 58 kGy (Raltech study) is 17 µg/g lipid (Refs. 45 and 47). Thus, the concentration of 2–DCB used in the assay was 17 to 73 times higher than that in the lipid fraction of radiation sterilized chicken. As the average dose in the Raltech study was 10 times higher than the maximum dose requested in the shellfish petition, the concentration of 2–DCB and other alkylcyclobutanones would be far lower in the lipid fraction of shellfish than in the experiment by Delincée. Moreover, the concentration reported in the study cited is the concentration in a liquid solvent (solvent not reported) in direct contact with colon cells. As one would not consume pure irradiated lipid from shellfish, the concentration of any 2–DCB from shellfish would be diluted substantially by the major components in shellfish and further by other components being consumed simultaneously. Thus, cells in the colon of humans would be in contact with concentrations more than a thousand times lower than those used in Delincée's study. In the Raltech study in mice, chicken constituted 35 percent of the diet by dry weight, and there were no adverse toxicological effects that could be attributed to the consumption of irradiated chicken.

In the second paper (Ref. 40), the authors administered 2–DCB to rats by pharyngeal tube at doses of 1.12 and 14.9 mg/kg body weight. They reported the higher concentration as equivalent to the amount found in 800 broiler chickens treated at 60 kGy (equivalent to approximately 40,000 wild eastern oysters irradiated at the maximum dose requested by the petition). They harvested colon cells from the rats 16 hours later and performed the COMET assay. Although the authors observed single strand DNA breaks at the higher concentration, no effect was seen at the lower concentration.

In its review of studies in which animals were fed diets containing beef irradiated at 56 kGy, pork at 56 kGy, poultry at 6 kGy, fish at 6 kGy, horse meat at 6.5 kGy, fish at 56 kGy, and others (62 FR 64107 at 64113), the agency found no evidence of toxicity attributable to the consumption of various flesh foods, which contain esterified palmitic acid and other fatty acids, and which should also contain 2–DCB and other alkylcyclobutanones.

Furthermore, the comment misrepresents the paper's conclusions. The comment states that the ''failure to pass the 100-fold safety factor'' means that 2–DCB fails the standard set under § 170.22, and therefore, the petition should be denied. Contrary to what the comment implies, the authors did not conclude that the ''test failed the 100-fold safety factor.'' Rather, the dose applied to the animals was set on the basis of calculations such that the lower dose would be equivalent to 100 times the amount of all 2–ACBs consumed if all fat in the diet were irradiated at a pasteurizing dose (3 kGy); and the larger dose was set to be 100 times the total alkylcyclobutanones from radiation sterilization (60 kGy) of all dietary fat. The authors noted that there was no effect at the lower dose and that the higher dose was equivalent to the amount from 800 radiation-sterilized broiler chickens and questioned this approach to the use of safety factors.

FDA notes that § 170.22 provides that ''[e]xcept where evidence is submitted which justifies use of a different safety factor, a safety factor in applying animal experimentation data to man of 100 to 1 will be used.'' FDA and food safety scientists worldwide have long agreed that the evaluation of the safety of irradiated foods requires consideration of the whole food, not the testing of each component (although identification of major radiolysis products will aid in the interpretation of data) (Ref. 5). Applying a 100-fold safety factor to a processed food is neither feasible nor rational. Similarly, testing each component of a food separately is impossible. There are too many components to test them all, and many food components that occur naturally will cause adverse effects if tested in isolation at an exaggerated dose. For example, naturally occurring food components, such as solanine from potatoes, tomatine from tomatoes or various vitamins and minerals, would cause toxic effects if consumed in amounts 100 times greater than normal. Thus, requiring a 100-fold safety factor for each component of a food (that occurs naturally or is produced through processing) is not appropriate.

An affidavit written by Dr. William Au that was submitted by CFS and PC, states that radiolysis compounds (e.g., 2–DCB) are formed during the irradiation of food and that ''[t]heir potential health hazard has not been adequately evaluated. Without conclusive evidence of the potential health consequences of these products, the safety of irradiated food cannot be assured.''

The affidavit provides no basis to conclude that the multitude of studies on irradiated foods (which contain the radiolysis products referred to) are inappropriate for the evaluation of the safety of those foods. In FDA's review of the consumption of irradiated flesh foods for a previous petition on irradiated meat, FDA concluded that ''the results of the available toxicological studies of irradiated flesh foods also demonstrates that a toxicological hazard is highly unlikely because no toxicologically significant adverse effects attributable to consumption of irradiated flesh foods were observed in any of these studies'' (62 FR 64107 at 64114). As those foods would have contained the radiolysis products, including 2–DCB, produced by the irradiation of fats, Dr. Au is incorrect in stating that its potential hazard to health has not been evaluated.

One comment references a paper published in 2004 that summarizes the European testing of 2–ACBs. The comment quotes language from the paper stating that ''the in vitro and in vivo experiments with laboratory animals demonstrated that 2–ACBs have potential toxicity,'' and the comment states that ''the paper concludes that as far as the possibility of health hazards from consuming irradiated food, 'further research is highly required''' (Ref. 48). The comment concludes by asserting that ''unfortunately, no comprehensive research on the toxicity of 2–ACBs has been undertaken to date, leaving this uncertainty as a huge obstacle to FDA's making a reliable decision on the five pending petitions.''

FDA disagrees that the conclusions of this paper would prevent completing

the safety review of FAP 9M4682. The conclusions submitted by the comment selectively quote from the authors' conclusions. The authors state:

Although our results point towards toxic, genotoxic and even tumor promoting activity of certain highly pure 2–ACBs, it should be emphasized that these experimental data are **inadequate to characterize a possible risk associated with the consumption of irradiated fat containing food**. Other food components may influence the reactions of 2–ACBs not evident from our experiments on purified 2–ACBs. More knowledge is also needed about the kinetics and metabolism of 2–ACBs in the living organism. It would, therefore, **at present be premature to draw the final conclusion that 2–ACBs are a health hazard on consumption of irradiated food**, but further research is highly required.

(Emphasis added) As previously noted in this document, FDA has reviewed studies in which animals were fed diets containing irradiated meat, poultry, and fish which contain triglycerides (62 FR 64107 at 64113). The agency concluded that no adverse effects were associated with the consumption of these irradiated flesh foods. The comment provides no additional information that would alter the agency's conclusion that the consumption of irradiated fat-containing foods does not present any health hazard.

H. Promotion of Colon Cancer

One comment submitted a paper entitled *Foodborne Radiolytic Compounds (2-Alkylcyclobutanones) May Promote Experimental Colon Carcinogenesis* (Ref. 49) and a commentary by Chinthalapally V. Rao, Ph.D. (Ref. 50) that states that the petition should not be approved until additional research is performed on a purported correlation between the consumption of ACBs and the promotion of colon carcinogenesis.

Raul *et al* designed their study to determine if 2–ACBs, specifically 2-tetradecylcyclobutanone (2–tDCB) and 2-(tetradec-5'-enyl)-cyclobutanone (2–tDeCB), will promote the carcinogenic effects of azoxymethane (AOM), which is known to induce colon preneoplastic lesions, adenomas, and adenocarcinomas in rats (Ref. 49). The paper states that the ''[p]resent report is the first demonstration that pure compounds, known to be exclusively produced on irradiation in dietary fats, may promote colon carcinogenesis in animals.''

Many different chemicals, some of which occur naturally in the human body, are known to promote carcinogenesis (Ref. 51). Additionally, Dr. Rao states that colon cancer is largely influenced by dietary lipids such as animal fat. Moreover, FDA notes that Dr. Rao states that the precursor lipids (which will be consumed in millions of times greater amount than the 2–ACBs, 2–tDCB and 2–tDeCB) are influential in the promotion of colon cancer.

The data showed no significant difference in tumor incidence between treatment groups. Raul *et al* reported no apparent difference in the number of aberrant crypt[7] foci (ACF)[8] per centimeter of colon, except that the 6 month treatment group receiving 2-tDeCB showed an increase in the total number of aberrant crypts (Refs. 52 and 53). However, the study has design flaws that make it difficult to understand the relevance of the data. Both FDA and Dr. Rao note that these flaws include: (1) Use of a limited number of animals (6 male Wistar rats per group); (2) use of a poor animal model (Wistar rats); and (3) alcohol, the vehicle in the study, has been linked to tumor promotion in many studies. Most importantly, as Raul *et al* point out in the discussion in their paper, the exposure of rats to 2–ACBs (milligrams per kilogram body weight) was three orders of magnitude higher than human exposure would be (micrograms per kilogram body weight).

Given the limitations of the animal model and study design, ambiguous data, and the absence of close relationship between the chemical exposure used in the study and the expected human exposure, the agency finds that the comment provides no substantial or reliable scientific information to show that there is reason to believe that the consumption of 2–ACBs will promote colon cancer. Moreover, the agency notes that long term feeding studies performed using irradiated foods that contain 2–ACBs did not show any promotion of colon cancer. The results of these latter long term feeding studies are more relevant than results from the Raul paper because the 2–ACBs were fed in the diet as in human exposure and the levels of exposure would still have been increased over usual dietary levels.

I. Indian National Institute of Nutrition Studies

One comment states that the petition should be denied because six positive studies conducted by the Indian National Institute of Nutrition (NIN) were ignored in the 1999 FAO/IAEA/WHO report. The comment states that FDA should give full consideration to the NIN studies, most notably the children's study using freshly irradiated food. The comment also states that the validity of these studies is supported by expert commentary and two published defenses by the NIN researchers.

A commentary by Dr. William Au submitted with the comment states ''[s]ome reports in the peer-reviewed literature on mutagenic activities of irradiated foods were not considered in the 1999 FAO/IAEA/WHO report (Bhaskaram and Sadasivan, 1975; Vijayalaxmi, 1975, 1976, 1978; Vijayalaxmi and Sadasivan, 1975; Vijayalaxmi and Rao, 1976).'' ''Although the observations from these studies are not confirmed by some publications in the literature, the positive findings have support from other publications (Bugyaki *et al.*, 1968; Moutschen-Dahmen, *et al.*, 1970; Anderson *et al.*, 1980; Maier *et al.*, 1993). Furthermore, repeated observations of activities that have significant public health implications such as polyploidy in somatic cells, genetic alterations in germ cells and reproductive toxicity should not be ignored, but should be considered seriously and explicitly by FDA with respect to the pending food irradiation petitions.''

The agency notes that the subject of this regulation is the petition (FAP 9M4682) submitted by NFI regarding shellfish, not the 1999 FAO/IAEA/WHO report on high-dose irradiation. The studies cited by the comment are not related to irradiated shellfish or other irradiated flesh foods.

The comment implies that FDA has not considered the cited studies despite the fact that FDA previously discussed the reason why some of the study reports could not be used to support a decision on irradiated foods (51 FR 13376 at 13385 and 13387). In 1986 FDA addressed the studies performed at the NIN (Ref. 54) and stated:

A committee of Indian scientists critically examined the techniques, the appropriateness of experimental design, the data collected, and the interpretations of NIN scientists who claimed that ingestion of irradiated wheat caused polyploidy in rats, mice, and malnourished children. After careful deliberation, this committee concluded that the bulk of these data are not only mutually contradictory, but are also at variance with well-established facts of biology. The committee was satisfied that once these data were corrected for biases that had given rise to these contradictions, no evidence of increased polyploidy was associated with ingestion of irradiated wheat.

The agency agreed with the conclusions of the committee of scientists that the studies

[7] A crypt is a cell that is used as a pathological marker. A crypt focus is a grouping of crypts. An aberrant crypt is a crypt that has altered luminal openings, thickened epithelia and are larger than adjacent normal crypts.

[8] Aberrant crypt foci of the colon are possible precursors of adenoma and cancer, and ACF have been observed in animals exposed to colon specific carcinogens, e.g. AOM.

with irradiated foods do not demonstrate that adverse effects would be caused by ingesting irradiated foods.
(51 FR 13376 at 13385)

Moreover, the agency notes that adverse effects which should have been seen if the conclusions drawn by the NIN researchers were valid were not observed in studies performed using similar foods irradiated at higher doses and consumed for longer periods of time. Finally, we note that the paper by Maier cited in the comment by Dr. Au concluded that ''* * * the consumption of irradiated wheat does not, therefore, pose any health risk to humans.''

J. Toxicity Data

One comment states that the petition should be denied because it does not contain specific data about the potential toxicity of irradiated molluscan shellfish. The comment concludes that ''FDA cannot credibly assess the safety and wholesomeness of foods covered by the petition if no toxicology data were included in the petition.''

The petitioner (FAP 9M4682) did not submit copies of toxicological data specific to irradiated shellfish. However, as noted earlier, FDA has reviewed a large body of data relevant to the assessment of the potential toxicity of irradiated flesh foods. The agency disagrees with the statement that ''FDA cannot credibly assess the safety and wholesomeness of foods covered by the petition if no toxicological data were included in the petition.'' There was no reason to submit additional copies of studies that have previously been reviewed by FDA. The comment provides no basis to challenge FDA's reliance on these studies to assess the safety of irradiated molluscan shellfish.

One comment states that the petition should be denied because ''* * * in the course of legalizing the irradiation of numerous classes of food over a 14-year span, the FDA relied on dozens of studies declared 'deficient' by agency toxicologists.''

FDA notes that the animal feeding studies reviewed in support of this petition (FAP 9M4682) were not considered deficient by agency scientists. Rather, they were considered acceptable or accepted with reservation by the agency scientists because even though all studies may not have met modern standards in all respects, they provided important information. Those studies categorized by FDA scientists as deficient were not relied on in the review of this petition. Although some of the studies accepted with reservation might not have been reported in full, used fewer animals, or examined fewer tissues than is common today, they still provide important information that, when evaluated collectively, supports the conclusion that consumption of molluscan shellfish irradiated under the conditions proposed in this petition is safe (Ref. 55).

K. Failure to Meet Statutory Requirements

One comment submitted by CFS and PC states that the petition should be denied because Delincée *et al* (Ref. 40). stated that ''* * * the results urge caution and should provide impetus for further studies.'' The comment further states that if established irradiation researchers and numerous medical experts urge caution and further research on the safety of irradiated food, then ''reasonable certainty,'' as required by 21 CFR 170.3(i), is missing.

The comment quotes selectively from the conclusions of Delincée regarding ACBs and omits other portions more relevant to this petition. For example, the sentence immediately prior to the sentence quoted states: ''The requisite concentrations are very much higher than those that can be reached through the consumption of irradiated foods that contain fat.'' Additionally, the authors note in the referenced article that ''[i]t should be mentioned once again that in many animal feeding experiments with irradiated foods in which it is known that cyclobutanones was also in the feed, no evidence has been found to indicate an injury from irradiated foods that have been consumed.'' In a comment to the docket in response to the statement made by CFS and PC, Dr. Delincée states that ''[u]nfortunately, the authors Worth and Jenkins did not take my precautions into account but made a story about the 'dangerous' cyclobutanones. In my opinion they greatly exaggerate the risks of 2-alkylcyclobutanones (2–ACB), which we still do not know very much about'' (Ref. 56).

One comment requests that the agency remove the food additive petition from the expedited review process.

FDA has established a process to give priority to petitions for technologies intended to reduce pathogen levels in foods (64 FR 517, January 5, 1999). FDA notes that petitions under expedited review are subject to all controls and requirements regarding safety data applicable to comparable petitions in the standard review process. Accordingly, valid scientific evidence, as defined by § 171.1 (21 CFR 171.1), is required to support the approval of an expedited petition. Likewise, the standards for safety and for data presentation are identical to the standard review process. The comment provides no information to support removing the petition from the expedited review process.

One comment requests that FDA review all of part 179 to determine if the regulations adequately protect the public health based on the best available scientific information.

This comment is outside the scope of this petition.

One comment states that the petition should be denied because ''FDA did not review studies that met the protocols established by the National Academy of Sciences/National Research Council (NAS/NRC) as required by 21 CFR 170.20.''

The comment provides no information to demonstrate that the studies reviewed by the agency in support of this petition (FAP 9M4682) fail to meet the standards set forth under § 170.20 (21 CFR 170.20). Section 170.20 states:

> The Commissioner will be guided by the principles and procedures for establishing the safety of food additives stated in current publications of the National Academy of Sciences-National Research Council. A petition will not be denied, however, by reason of the petitioner's having followed procedures other than those outlined in the publications of the National Academy of Sciences-National Research Council if, from available evidence, the Commissioner finds that the procedures used give results as reliable as, or more reliable than, those reasonably to be expected from the use of the outlined procedures.

FDA has consistently taken the position that many scientifically valid types of data may properly support a finding that the proposed use of a food additive will cause ''no harm'' to consumers. For example, § 170.20 which sets forth the general scientific criteria that FDA uses in evaluating a food additive petition, cites the ''principles and procedures * * * stated in 'current' publications of the National Academy of Sciences, National Research Council'' as a guide that the agency uses in its safety evaluation of food additives. NAS has written testing standards for both public and agency use, but these testing requirements have been stated in relatively general terms. In practice, FDA has applied toxicological criteria and exposure information that were current for the time in assessing the safety each food additive. The agency has continuously adjusted food additive testing recommendation as necessary to reflect both the steady progress of science and the most current information about population exposure to additives (Ref. 57).

FDA concludes that the data considered for this regulation, when

evaluated in its entirety, are sufficient to support the safety of consumption of irradiated molluscan shellfish at a maximum absorbed dose that will not exceed 5.5 kGy.

One comment states that the petition should be denied because the battery of experiments prescribed by the BFIFC to assess the potential toxicity and mutagenicity of irradiated food was based on the assumption that only 10 percent of the food supply would likely be irradiated and fell ''[f]ar short of those battery prescribed by the FDA's Red Book, but the FDA [did] not comply with the *abbreviated* battery of experiments before legalizing the irradiation of pork, fruit and vegetables, poultry, red meat, eggs, sprouting seeds and juice.''

The agency notes that the subject of this regulation is the petition (FAP 9M4682) on shellfish, not the BFIFC report (Ref. 36) nor the FDA Red Book (Ref. 37).

The BFIFC report is an internal document prepared by FDA scientists that provides recommendations for evaluating the safety of irradiated foods based on the known effects of radiation on food and on the capabilities of toxicological testing. While the report and the commentary on it have aided FDA's thinking regarding the testing of irradiated foods, the report established no definitive requirements. BFIFC recognized that it may not be necessary to perform reproduction and chronic toxicity studies in cases where there was evidence that irradiated foods provided no mutagenic or other toxic effects that could be seen in shorter studies. Therefore, BFIFC recommended that in the absence of chronic and reproductive feeding studies, foods irradiated at a dose above 1 kGy be evaluated using a battery of mutagenicity tests, as well as 90-day feeding studies in two species (one rodent and one non-rodent). BFIFC also recommended that chronic studies would only be indicated when two of the four mutagenicity tests showed mutagenic effects, and that the reproductive toxicity tests would only be indicated when the 90-day studies showed a potential for effects on the reproductive system. Furthermore, BFIFC also recommended that foods should be considered generically as a class, based on their composition i.e., proteins, lipids, and carbohydrates. Consistent with these recommendations, FDA has considered several relevant chronic feeding studies, as well as the macronutrient composition of molluscan shellfish in the safety determination for this regulation. Therefore, there is no need to conduct additional mutagenicity studies to determine whether chronic studies are needed.

Finally, FDA's Red Book represents the agency's current thinking on the information needed for the safety assessment of *food ingredients*, not processed foods, such as irradiated molluscan shellfish, and it does not bind the petitioner to follow specific procedures that are recommended in the Red Book. Furthermore, even if the Red Book applied to processed foods, alternative approaches would be permissible if such approaches satisfy the requirement of the applicable statute and regulations. The comment contains no evidence to demonstrate that the studies considered for this regulation, when evaluated in totality, are insufficient to support the safety of consumption of irradiated molluscan shellfish at an absorbed dose no to exceed 5.5 kGy.

L. Trans Fatty Acids

One comment states that the petition should be denied because there is evidence that the consumption of *trans* fatty acids increases the risk of coronary heart disease and recent research shows that irradiation increases the amount of trans fatty acids present in ground beef (Ref. 58).

The paper submitted by the comment purports to show a 3.4 percent increase in the amount of *trans* fatty acids when ground beef is irradiated at 1 kGy at 25 degrees Celsius, and a greater increase in *trans* fatty acids at higher doses. For example, the paper states that unirradiated beef contains 4.60 ± 0.31 percent *trans* fatty acid, 4.40 ± 0.31 percent *trans* fatty acid when stored for 60 days, and 5.00 ± 0.31 percent *trans* fatty acid when stored for 90 days. When beef was irradiated at 3 kGy, they report 8.00 ± 0.00 percent *trans* fatty acid for all three storage times. When beef was irradiated at 8 kGy, they report 11.00 ± 0.50 percent *trans* fatty acid at day zero, 10.50 ± 0.50 percent trans fatty acid when stored for 60 days, and 10.00 ± 0.31 percent trans fatty acid when stored for 90 days.

The fat in beef has a natural background of *trans* fat that ranges from 3 percent to 10 percent and research performed by the agency shows no change in the amount of *trans* fatty acids present when ground beef is irradiated at 25 degrees Celsius (Ref. 59). Additionally, Consumer Reports (August 2003) found no *trans* fats were produced when ground beef was irradiated. The agency has reviewed the paper submitted by the comment and concludes that the researchers did not demonstrate that there was an increase in the amount of *trans* fatty acid present in irradiated ground beef, or that irradiation showed a dose dependent response. In fact, the paper fails to demonstrate that the researchers were measuring the quantity of *trans* fatty acids (Ref. 60). Therefore, the agency concludes that there is no basis to deny the petition based on increased amount of *trans* fatty acids in irradiated ground beef.

M. Elevated Hemoglobin

One comment states that the petition should be denied because the consumption of irradiated food may contribute to an increase in the number of still-born children. The comment provides three studies to substantiate this comment: (1) An unpublished report states that the consumption of irradiated potatoes increased the hemoglobin concentrations in healthy human volunteers; (2) a published study that shows that elevated hemoglobin levels were found in pigs consuming irradiated potatoes; and (3) a published study appearing to show that ''high hemoglobin concentration at first measurement during antenatal care appears to be associated with increased risk of stillbirth, especially preterm and small-for-gestational age antepartum stillbirths.''

The comment suggests that the consumption of a high carbohydrate diet may increase hemoglobin levels and this may lead to an increase in the frequency of still born children among pregnant women who consume irradiated carbohydrates. FDA notes that consumption of shellfish would not contribute significant carbohydrates to the diet because the maximum proximate carbohydrate composition of shellfish is 10 percent or less.

The first study (1967) compares the hemoglobin and hematocrit levels of 7 human volunteers who, for 14 weeks, consumed potatoes that had been irradiated at 14 kGy (Ref. 61). The study does not include a baseline prior to feeding; it provides a single measurement. The hemoglobin values reported show a slight increase during the period of consumption of irradiated potato, but they are still within the normal range of hemoglobin values (Ref. 62). Additionally, there is no concurrent control group to demonstrate that the irradiated potatoes were the cause of the increase in hemoglobin values.

The second study (1966) submitted by the comment compares piglets fed both irradiated and non-irradiated potatoes (Ref. 63). The authors conclude that the pigs fed irradiated potatoes did not differ significantly from the control animals in the parameters measured,

except that the pigs fed irradiated potatoes grew slightly faster, had a more rapid increase in hemoglobin levels, and had a higher hemoglobin concentration at the end of the experiment. The authors state that ''[t]he second generation pigs provided no indication that the irradiated potatoes might give rise to deleterious effects'' (Ref. 64).

The third study entitled ''Maternal Hemoglobin Concentration During Pregnancy and Risk of Stillbirth'' (2000) compares the hemoglobin concentration during antenatal care, the change in hemoglobin concentration during pregnancy and the risk of still birth (Ref. 64). The study compares the hemoglobin concentrations at first measurement of 702 primiparous (bearing first child) women with stillbirths occurring at 28 weeks or later to 702 primiparous women with live births. The authors concluded that high hemoglobin concentrations at first measurement appeared to be associated with an increased risk of stillbirth, especially preterm and small-for-gestational-age antepartum stillbirths. The authors note that the study was limited to primiparous women with singleton (first) pregnancies and that the conclusions can only be interpreted within that small sub-population. FDA also notes that the study did not investigate other potential confounding variables such as nutrition or physical activity.

FDA acknowledges that hemoglobin concentrations were not reported in studies such as the Bugyaki *et al.* study that reported gestational effects. However, FDA notes that none of the long term reproductive studies performed with irradiated foods that were found to be acceptable or acceptable with reservation in 1982 showed effects on reproduction. This is substantiated in the second study identified by the comment. Therefore, given the limitations in design of the additional two studies, the agency finds no basis to conclude that the consumption of irradiated shellfish will increase hemoglobin levels. Similarly, FDA finds no basis to the purported association between increased hemoglobin levels and an increase in stillbirth rates.

N. Dangers of Radiation

In an affidavit written by Dr. William Au that was submitted by CFS and PC, he states that ''[i]onizing radiation is a teratogen, mutagen, and carcinogen whereas some other procedures for food decontamination/sterilization such as heat and steam are not. Whenever other processing methods or combination of methods are equally effective in reducing the risk of foodborne disease are available, the use of radiation procedure should be avoided.''

While methods other than treatment with ionizing radiation are available to eliminate or reduce microbial contamination of food, the existence of such methods is not a reason to prohibit safe alternatives. Additionally, the act does not authorize FDA to arbitrarily limit other safe alternatives. The fact that radiation can be teratogenic, carcinogenic, or mutagenic when applied directly to living organisms is not relevant to the safety of irradiated shellfish. Most food processing techniques (such as grinding, slicing, boiling, roasting) would be harmful to living mammals but that is unrelated to the safety of the food. Irradiating the shellfish will not expose consumers to additional amounts of radiation.

O. Nutritional Deficiency

One comment states that the petition should be denied because the BFIFC ''* * *cautioned that even if 10 percent of the food supply were irradiated: 'When irradiation results in the significant loss of micronutrients, enrichment may be considered appropriate.''' The comment goes on to state that to date, FDA has authorized the irradiation of several classes of food that comprise more than half of the U.S. food supply. ''If the FDA approves the pending 'ready-to-eat' petition [FAP 9M4697], an estimated 80-90 percent of the U.S. food supply would be eligible for irradiation.'' The comment further states that ''no analysis has been done of the nutritional deficiencies that would be created among the populace should 80-90 percent of the food supply be irradiated.''

The comment provides no information to conclude that irradiating 80-90 percent of the diet is probable or feasible. Additionally, molluscan shellfish are a small part of the food supply. The comment provides no basis for the statement that consumers will suffer nutritional deficiencies from being exposed to irradiated food.

FDA agrees that treatment of food with ionizing radiation, as with heat processing, decreases the levels of some nutrients and irradiation must be evaluated by considering the nutritional consequences on the diet as a whole. The agency has specifically addressed the impact of irradiation on vitamins and other nutritional components in the **Nutrition** section in this document. Irradiation has essentially no effect on the quantity of fatty acids, amino acids, and carbohydrates in foods and no effect on the overall dietary intake of these macronutrients. While irradiation may reduce the levels of some vitamins, similar to heat processing, the agency concludes that the irradiation treatment of shellfish would have no significant effect on dietary intake of vitamins. The comment provides no evidence to refute the agency's conclusion that the consumption of irradiated molluscan shellfish would not result in nutritional deficiencies. The effects of ionizing radiation on the nutritional qualities of the foods that are the subject of other petitions, such as FAP 9M4697, will be evaluated as part of the safety evaluation for those petitions.

Another comment states that a statement by D. R. Murray in *Biology of Food Irradiation*[9] suggests that ''disproportionate and selective losses of nutrients occur in foods as consequence of irradiation.''

The comment provided the bulk of a chapter from this book and states that FDA must address the negative impact on fatty acids, vitamins, amino acids, carbohydrates and other essential components on food as a consequence of irradiation and in combination with cooking. The comment requests that the agency respond to the following four questions regarding the nutritional impact of irradiated foods.

- ''What would be the impacts of irradiation as proposed on each important vitamin and other nutritional component in each different food type that is included?''
- ''What would be the projected national rates of consumption of each different food type included in the petition after foreseeable market penetration of the product, e.g., after 5-10 years of marketing?''
- ''How would this projected future consumption vary across age, ethnic, gender, economic status, education status, and other variables in the American population?''
- ''To what extent would the various population groups likely be affected by the nutritional/vitamin impacts identified under question 1, above?''

In the review of this petition (FAP 9M4682), FDA considered whether the nutritional quality of irradiated molluscan shellfish would differ in any meaningful way from that of non-irradiated molluscan shellfish and concludes that consumption of irradiated molluscan shellfish will not result in nutritional deficiencies. FDA notes that foods are commonly processed more than once, such as by heating in the factory followed by

[9] Murray, D. R., *Biology of Food Irradiation*, Research Studies Press Ltd. Staunton, UK, Chapter 4, Radiolytic products and selective destruction of nutrients, 1990.

cooking one or more times in the home, without an adverse effect on the diet. The comment provides no rationale as to why irradiation should be considered differently from heat processing in this regard, nor why the major data research projects envisioned in the final three questions are necessary to evaluate the safety of irradiated shellfish.

IV. Conclusions

Based on the data and studies submitted in the petition and other information in the agency's files, FDA concludes that the proposed use of irradiation to treat fresh and frozen molluscan shellfish with absorbed doses that will not to exceed 5.5 kGy is safe, and therefore, the regulations in § 179.26 should be amended as set forth in this document.

In accordance with § 171.1(h), 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 § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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.

V. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. The agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. 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.

VII. References

The following sources are referred to in this document. References marked with an asterisk (*) have been placed on display at 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. References without asterisks are not on display; they are available as published articles and books.

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List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and record keeping requirements, Signs and symbols.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

■ 1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

■ 2. Section 179.26 is amended in the table in paragraph (b) by adding a new item ''11.'' under the headings ''Use'' and ''Limitations'' to read as follows:

§179.26 Ionizing radiation for the treatment of food.

* * * * *

(b) * * *

Use	Limitations
* * *	* *
11. For the control of Vibrio bacteria and other foodborne micro-organisms in or on fresh or frozen molluscan shellfish.	Not to exceed 5.5 kGy.
* * *	* *

* * * * *

Dated: August 11, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–16279 Filed 8–12–05; 1:19 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1240

Turtles Intrastate and Interstate Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulation regarding the intrastate and interstate distribution of turtles to reflect a change in responsibility for administering the provisions of the regulations from FDA's Center for Food Safety and Applied Nutrition (CFSAN) to FDA's Center for Veterinary Medicine (CVM). FDA is taking this action to enable the agency to more effectively administer the provisions of this regulation.

DATES: This rule is effective August 16, 2005.

FOR FURTHER INFORMATION CONTACT: Joseph Paige, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9210, e-mail: *jpaige@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: FDA is amending its regulations regarding the intrastate and interstate distribution of turtles (§ 1240.62 (21 CFR 1240.62)) to reflect the transfer of regulatory responsibility from CFSAN to CVM. Except as otherwise provided, § 1240.62 requires that viable turtle eggs and live turtles with a carapace length of less than 4 inches not be sold, held for sale, or offered for any other type of commercial or public distribution. FDA is amending this regulation because current expertise for addressing issues regarding this regulation is within CVM. Reassigning regulatory responsibility to CVM more effectively utilizes agency resources in administering the provisions of the regulation.

Publication of this document constitutes final action on this change under the Administrative Procedures Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because this amendment to the regulation is nonsubstantive. It merely reflects an organizational change.

List of Subjects in 21 CFR Part 1240

Communicable diseases, Public health, Travel restrictions, Water supply.

■ Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1240 is amended as follows:

PART 1240—CONTROL OF COMMUNICABLE DISEASES

■ 1. The authority citation for 21 CFR part 1240 continues to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

§ 1240.62 [Amended]

■ 2. Section 1240.62 is amended as follows:

a. In paragraphs (c)(1)(i), (c)(1)(ii), (c)(1)(v), and (c)(2) by removing ''Director of the Center for Food Safety and Applied Nutrition'' each time it appears, and adding in its place ''Director of the Center for Veterinary Medicine''.

b. In paragraph (c)(1)(ii) by removing ''5100 Paint Branch Pkwy., College Park, MD 20740'', and adding in its place ''7519 Standish Pl., Rockville, MD 20855''.

Dated: August 9, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–16142 Filed 8–15–05; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2005–IA–0003; FRL–7953–7]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of approving the 2001 and 2004 updates to the Linn County Air Quality Ordinance. These revisions will help to ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

DATES: This direct final rule will be effective October 17, 2005, without further notice, unless EPA receives adverse comment by September 15, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2005–IA–0003, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. Agency Web site: *http://docket.epa.gov/rmepub/*. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search''; then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: *Hamilton.heather@epa.gov*.

4. Mail: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier: Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID No. R07–OAR–2005–IA–0003. EPA's policy is that all comments received will be included in the public

docket without change and may be made available online at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *Hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

The Iowa Department of Natural Resources (IDNR) requested EPA approval of the 2001 and 2004 revisions to the Linn County Air Quality Ordinance, Chapter 10, Air Quality, as a revision to the Iowa SIP. The changes were adopted by the Linn County Board of Supervisors on February 9, 2005, and became effective on March 1, 2005.

The following is a description of the revisions to the Linn County Air Quality Ordinance, Chapter 10, Air Quality, which are subject to this approval action:

Addition of Definitions. The following definitions were added to the Linn County Air Quality Ordinance, Chapter 10.2, ''Definitions'' to be consistent with state rules which have been approved by EPA: Act, Administrator, Affected facility, Air quality standard, Ambient air, Auxiliary fuel firing equipment, Backyard burning, Combustion for indirect heating, Commenced, Commission, Construction, Control equipment, Country grain elevator, Director, Emergency generator, Existing equipment, Hazardous air pollutant, Landscape waste, Modification, National Ambient Air Quality Standards (NAAQS), National Emission Standards for Hazardous Air Pollutants (NESHAP), New equipment, Open burning, $PM_{2.5}$, Parts per million (PPM), Permit to operate, Prevention of Significant Deterioration (PSD), Public Health Department, Residential waste, Responsible Official, Rubbish, Shutdown, Six-minute period, Standard cubic foot (SCF), Startup, State Implementation Plan (SIP), Total suspended particulate, Trade waste, 12-month rolling period, and Volatile organic compound.

The following definitions were changed in the Linn County Air Quality Ordinance, Chapter 10.2, ''Definitions'': Air Quality Division or Air Pollution Control Agency, Board of Health, Major modification, Potential to emit, and Standard conditions. The definitions of Major modification and Potential to emit are consistent with approved state rules.

The following definitions were deleted from the Linn County Air Quality Ordinance, Chapter 10.2, ''Definitions'': Health Department and Open fire.

Locally required permits. Chapter 10.5 of the Linn County Air Quality Ordinance sets forth requirements for locally required permits. Note that EPA has not approved the local permit program with regard to permits for major sources. Major source (PSD) permits are issued by the Iowa Department of Natural Resources.

Changes were made to the wording in 10.5(2)(b), ''Public Notice Requirements.'' The term ''air pollution source'' was removed and the term ''stationary source'' was added. Also, the term ''major modification'' was removed and the term ''significant modification'' was added. These changes were made to be consistent with state and Federal rules.

The section entitled ''Duration of Permit'' located at 10.5(2)(c) changed the adjustment period after the project completion date from sixty (60) days to ninety (90) days. The change in the adjustment period allows the potential permittee additional time to ensure that the source is operational prior to obtaining the Permit to Operate. In the Linn County program, the terms and conditions of the permit to install (construct) are converted to a source operating permit after the source becomes operational.

''Posting of Permit to Operate,'' 10.5(3)(d), the term ''permit number'' was removed and was replaced with the term ''emission point number.''

In section 10.5(9), ''Exemptions from the Authorization to Install Permit and Permit to Operate Requirements,'' exemptions a, e, f, and i were changed to be consistent with recent changes to the IDNR SIP. Exemption ''a,'' which refers to fuel-burning equipment for indirect heating and re-heating surfaces, added the term ''cooling units'' to the exemption, and added the term ''per combustion unit'' to the capacity section. Exemption ''e,'' which refers to residential heaters, cook stoves, or fireplaces, added untreated wood, untreated seeds or pellets, or other untreated vegetative materials to material that can be burned. Exemption ''f'' refers to laboratory equipment used exclusively for non-production chemical and physical analyses. The term ''non-production'' was defined in this exemption for clarification. Exemption ''i,'' which refers to capacity of gasoline, diesel, or oil storage tanks, was changed to reflect the capacity of 10,570 gallons or less of an annual throughput of less than 40,000 gallons.

Seven exemptions were added to 10.5(9) as follows: ''o'' added stationary internal combustion engines with a brake horsepower rating of less than 400, or a kilowatt output less than 300; ''p'' added cooling and ventilating equipment; ''q'' added equipment not related to the production of goods or services and used for academic purposes at educational institutions; ''r'' added any container, storage tank, or vessel that contains a fluid maximum true vapor pressure of less than 0.75 psia; ''s'' added equipment used for non-production activities or exhausted inside a building; ''t'' added manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, scarfing, surface grinding or turning, and ''u'' added incinerators and pyrolysis cleaning furnaces with a rated refuse burning capacity of less than 25 pounds per hour. These additions are consistent with the approved state rules.

Permit Fees. Changes were made to Linn County Air Quality Ordinance (10.6) to reflect changes in policy. In 10.6(1), the filing fee and payable date were removed and language was added to reflect that the fee shall be paid upon the invoice due date. This change reduces the administrative burden of revising the SIP with each filing fee change. Language was added to 10.6(2) stating that the Air Pollution Control Officer has the authority to deny the issuance or renewal of any permit to any person who is in violation of the Air Quality Ordinance.

Two sections were added to 10.6 (10.6(3) and 10.6(4)) to explain fees for late permits (construction prior to permit issuance) and how fees are recommended.

Particulate Matter. With this approval, the name of this section will be changed from ''Dust and Fumes'' to ''Particulate Matter.'' In addition, 10.9 1.(a) will be changed from ''General'' to ''General Emission Rate.''

Section 10.9(1) of the Linn County Air Quality Ordinance added the emission standard of 0.1 grain per dry standard cubic foot of exhaust gas from any process or Table 1, entitled ''Allowable Rate of Emission Based on Process Weight Rate,'' whichever is lowest.

With this approval, the name of 10.9 1.(g) is changed from ''Grain Processing Plants,'' to ''Grain Handling and Processing Plants.'' Changes made to this section correctly reflect the revised title of the section, as well as the changes made in 10.9(1).

Changes were made to section 10.9 1.(j) to include phosphoric acid manufacture, diammonium phosphate manufacture, nitrophosphate manufacture, and related calculations and definitions.

The revision to 10.9 1.(l) for incinerators included removing the phrase ''objectionable odors''; 10.9 1.(l)(1) was revised to clarify that the discharge of particulate matter into the atmosphere shall not exceed 0.2 grain per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide. This change further clarifies that an incinerator with a rated burning capacity of less than 1,000 pounds per hour should not exceed discharge of particulate matter into the atmosphere that exceeds 0.35 grains per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide.

Section 10.9 1.(l)(2) was previously entitled ''Smoke,'' and is revised to read ''Visible Emissions.'' In addition to the name change, a provision was added to clarify that the appearance, density, or shade of opacity will not exceed the level specified in a federally-enforceable permit.

Training Fires. Section 10.10 of the Linn County Air Quality Ordinance sets forth rules for open burning. Specifically, section 10.10(1)(b) identifies rules for training fires. This section was expanded to reflect changes recently made in IDNR's SIP and includes specific instruction on notification, removal of asbestos-containing materials, asphalt shingles, and tires. This section also gives the Air Pollution Control Officer the authority to deny a training fire permit based on factors such as public health, air quality in the vicinity, and effects to the local environment where the burning would cause a violation of any National Ambient Air Quality Standard.

Section 10.10 A.(1)(c) identifies regulations for burning of agricultural structures which are defined in this section. The rule clarifies that weather must be favorable, and the structure must be at least one-fourth mile from any building inhabited by a person other than the landowner, a tenant or an employee thereof, unless a written affidavit is submitted to the Linn County Air Quality Division by the owner prior to the open burning. As with the update to the training fire rule, this section also clarifies removal of

asphalt shingles, asbestos-containing material, and tires.

Section 10.10 A.(1)(f), which refers to landscape wastes, added provisions stating that burning shall be conducted when weather conditions are favorable with respect to surrounding property.

The open burning of trees and tree trimmings was added to the Linn County Air Quality Ordinance at 10.10 A.(1)(h). This revision states that trees and tree trimmings may be burned at a site operated by a local governmental entity, provided the site is fenced and access controlled and conditions are favorable with respect to surrounding property. Provisions with regard to inhabited buildings are the same as with agricultural structures. This revision allows relocation of the burning operation if the burning could cause air pollution as defined in the Iowa Code (455B.131(3)).

Rules for open burning permits are found at 10.10 A.(2) of the Linn County Air Quality Ordinance. Provisions were added in this revision stating that open burning permits are valid for either 30 or 60 days from the date of issue at the request of the applicant. Fees are recommended by the Air Pollution Control Officer and established by resolution of the Linn County Board of Supervisors except for agencies or public districts that are exempt. This revision further adds that open burning permits are valid if the fee is paid, and the permit is signed by the Air Pollution Control Officer and the Fire Chief of the fire district having jurisdiction at the place of burning. The Air Pollution Control Officer has the authority to deny issuance of an open burning permit based on previous violations such as non-payment of fees, or if a person has a previous violation of this Ordinance.

Section 10.10 A.(3) updated the exemptions for open burning that include heating and recreational activities providing charcoal or clean wood material is used and the fire is no larger than three feet in diameter. The exemption for camp fires added outdoor fireplaces, and this exemption added the activity of cooking to ''recreational activities.'' In the section exempting fires for disposal of household rubbish, the burning of grass and leaves was removed, and wood, paper, cardboard, and other natural fiber products were added to the list of burnable materials. A limitation was added to this exemption stating that burning for the disposal of household rubbish at dwellings of more than four family units is not allowed. An exemption to allow for burning of paper seed bags was added as 10.10 A.(3)(d) provided that the bags resulted from activities that occurred on the premises.

Sulfur Compounds. Revisions were made to section 10.12, Sulfur Compounds, with regard to realigning 10.12(1) into the separate sections of 10.12(1)(a) and (b). Section 10.12(1)(c) was added and stated that no person shall allow, cause or permit the combustion of number 1 or number 2 fuel oil that exceeds a sulfur content of 0.5 percent by weight.

Fugitive Dust. Section 10.13(1) discusses Attainment and Unclassified Areas and addresses dust caused by ordinary travel on unpaved roads. The term ''minimize atmospheric pollution'' was deleted and replaced with verbiage to address the prevention of particulate matter from becoming airborne. A section was added to this rule (10.13(2)) that added information about fugitive dust emissions in nonattainment areas to be consistent with state and Federal rules.

Testing and Sampling of New and Existing Equipment. The first paragraph of this section (10.17) was revised to include current revisions from the CFR and the state Compliance Sampling Manual. Section 10.17(8) entitled ''Exemptions from Continuous Monitoring Requirements'' was revised to include current revisions to the CFR, and to include an update to the exemption for affected steam generators. This update was reworded to include an affected steam generator that had an annual capacity factor of less that 30 percent for the calendar year 1974. A provision was added as 10.17(8)(c) stating that the Air Pollution Control Officer may provide a temporary exemption from the monitoring and reporting requirements during any period of monitoring system malfunction provided certain provisions are met. Provisions include that the source owner or operator shows that the malfunction was unavoidable and is being repaired as expeditiously as possible. This temporary exemption is consistent with the approved state rule and with 40 CFR part 51, appendix P.

Open Burning Penalties. This section added Trade Waste Materials to the list of materials that cannot be burned (10.24(2)(b)(5)).

The following is a description of changes to the Linn County Air Quality Ordinance which are not part of the EPA-approved SIP, and therefore, are not addressed in this rulemaking: 10.2, Definition of Federally Enforceable; 10.2, Definition of Maximum Achievable Control Technology (MACT); definition of MACT floor; 10.4(1), Title V Permits; 10.9(2), NSPS; 10.9(3), Emission Standards for HAPs; 10.9(4), Emission Standards for HAPs for Source Categories; 10.11, Emission of Objectionable Odors, and, 10.15, Variances.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

EPA is approving a revision to the SIP submitted by the state of Iowa to approve the 2001 and 2004 updates to the Linn County Air Quality Ordinance. This revision will ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

We are taking direct final action to approve this revision because this revision makes routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not

contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 3, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. In § 52.820 the table in paragraph (c) is amended by revising the entry for ''Chapter 10'' under the heading ''Linn County'' to read as follows:

§ 52.820 Identification of plan

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources, Environmental Protection Commission [567]				
*	*	*	* *	* *
Linn County				
Chapter 10	Linn County Air Quality Ordinance, Chapter 10.	03/01/05	08/16/05 [insert FR page number where the document begins].	10.2, Definitions of Federally Enforceable, Maximum Achievable Control Technology (MACT), and MACT floor; 10.4(1), Title V Permits; 10.9(2), NSPS; 10.9(3), Emission Standards for HAPs; 10.9(4), Emission Standards for HAPs for Source Categories; 10.11, Emission of objectionable odors; and, 10.15, Variances are not a part of the SIP.

* * * * *

[FR Doc. 05–16224 Filed 8–15–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–OK–0001; FRL–7953–8]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Attainment Demonstration for the Central Oklahoma Early Action Compact Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a revision to the Oklahoma State Implementation Plan (SIP) submitted by the Secretary of the Environment on December 22, 2004 for Central Oklahoma. This revision will incorporate a Memorandum of Agreement (MOA) between the Oklahoma Department of Environmental Quality (ODEQ) and the Association of Central Oklahoma Governments (ACOG) into the Oklahoma SIP and includes a demonstration of attainment and maintenance for the 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. The MOA outlines duties and responsibilities of each party for implementation of pollution control measures for the Central Oklahoma Early Action Compact (EAC) area. EPA is approving the photochemical modeling in support of the attainment demonstration for the 8-hour ozone standard within the Central Oklahoma EAC area and is approving the associated control measures. These actions strengthen the SIP in accordance with the requirements of sections 110 and 116 of the Federal Clean Air Act (the Act) and will result in emission reductions needed to help ensure attainment and maintenance of the 8-hour NAAQS for ozone.

DATES: This final rule is effective on September 15, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) ID No. R06–OAR–2005–OK–0001. All documents in the docket are listed in the RME index at *http://docket.epa.gov/rmepub/;* once in the system, select ''quick search,'' then type in the appropriate RME docket identification number. Although listed in the index, some information is not publicly available, i.e., confidential business information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cents per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Oklahoma Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City, OK 73101–1677.

FOR FURTHER INFORMATION CONTACT: Carrie Paige, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6521, *paige.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''our,'' and ''us'' is used, we mean EPA.

Outline

I. Background

On May 13, 2005, EPA proposed approval of the Central Oklahoma EAC area's clean air action plan (Plan), the photochemical modeling in support of the attainment demonstration and related control measures as revisions to the SIP submitted to EPA by the State of Oklahoma. The proposal provides a detailed description of these revisions and the rationale for EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on June 13, 2005. See the Technical Support Documents or our proposed rulemaking at 70 FR 25516 for more information. One adverse comment was received on EPA's proposed approval of the Central Oklahoma EAC Plan and 8-hour ozone attainment demonstration for the EAC area.

II. What Action Is EPA Taking?

Today we are approving revisions to the Oklahoma SIP under sections 110 and 116 of the Act. The revisions demonstrate continued attainment and maintenance of the 8-hour ozone standard within the Central Oklahoma EAC area. The revisions include the Central Oklahoma EAC Plan, photochemical modeling and related control measures. The intent of the SIP revisions is to reduce ozone pollution and thereby maintain the 8-hour ozone standard.

III. What Comments Did EPA Receive on the May 13, 2005 Proposed Rulemaking for Central Oklahoma?

We received one comment letter on the May 13, 2005 proposed rulemaking. The letter provided both supportive and adverse discourse, commending the State of Oklahoma for steps it has taken to improve air quality. The commenter opposes approval of the SIP revision because, should the area experience a violation of the 8-hour ozone standard, the SIP revision (1) provides for the deferment of the area's nonattainment designation to as late as December 31, 2007, and (2) relieves the area of its obligations under Title I, Subpart D of the Act. The commenter contends that EPA does not have the legal authority to defer the effective date of an area's nonattainment designation nor to relieve areas of the obligations of Part D of Title I of the Act when areas are violating the standard and designated nonattainment.

Response: We appreciate the support expressed towards the State of Oklahoma and towards the efforts made to ensure that the citizens in the Central Oklahoma EAC area continue to breathe clean air. We continue to believe that the EAC program, as designed, gives Central Oklahoma the flexibility to develop their own approach to maintaining the 8-hour ozone standard and believe Central Oklahoma is serious in their commitment to control emissions from local sources. By involving diverse stakeholders, including representatives from industry, local and State governments, and local environmental and citizen groups, Central Oklahoma is implementing regional cooperation in solving air quality problems that affect the health

and welfare of its citizens. People living in the Central Oklahoma EAC area will realize reductions in pollution levels and enjoy the health benefits of cleaner air sooner than might otherwise occur.

In the April 2004 designation rule (69 FR 23858), the Central Oklahoma EAC area was designated as attainment for the 8-hour ozone NAAQS. The commenter incorrectly asserts that this SIP revision provides for deferment of the designation of the area as nonattainment should the area experience a violation of the 8-hour ozone standard. Additionally, EPA's approval of this SIP does not alter the applicability of the redesignation provision of the Act should the Central Oklahoma EAC area experience a violation of the 8-hour ozone NAAQS in the future. Section 107(d)(3)(A) provides that EPA may redesignate an area ''on the basis of air quality data, planning and control considerations, or any other air quality-related considerations.'' Should the Central Oklahoma EAC area experience a violation of the 8-hour ozone NAAQS in the future, EPA would consider these statutory factors in determining whether to redesignate the area to nonattainment for the 8-hour ozone NAAQS. The commenter is also incorrect that this SIP approval relieves the Central Oklahoma EAC area of the requirements of Part D of Title I of the Act. These provisions apply to areas designated nonattainment. Because the Central Oklahoma EAC area is designated attainment for the 8-hour ozone NAAQS, these provisions do not apply in the Central Oklahoma EAC area.

IV. Final Action

EPA is approving the attainment demonstration, the Central Oklahoma EAC Plan, and the related control measures. We are incorporating these revisions, as well as the MOA, into the Oklahoma SIP. We have determined that the control measures included in the attainment demonstration are quantified, surplus, permanent, and are Federally enforceable once approved into the SIP. The modeling of ozone and ozone precursor emissions from sources in the Central Oklahoma EAC area demonstrate that the specified control strategies will provide for continued attainment of the 8-hour ozone NAAQS through December 31, 2007 and maintenance of that standard through 2012. We have reviewed the Plan and the attainment and maintenance demonstration and determined that they are consistent with the requirements of the Act, EPA's policy, and the EAC protocol.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 8, 2005.

Richard E. Greene,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart LL—Oklahoma

■ 2. The first table in § 52.1920(e) entitled ''EPA approved nonregulatory provisions and quasi-regulatory measures'' is amended by adding a new entry, immediately following the last entry under Chapter 4, to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED OKLAHOMA NONREGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* *	* *	*	* *	*
Chapter 4, Control Strategy	Statewide	10/16/1972	05/14/1973, 38 FR 12696	Ref: 52.1960(c)(6).
* *	* *	*	* *	*
J. Central Oklahoma EAC area 8-hour ozone standard attainment demonstration, Emission Reduction Strategies, Clean Air Plan, and Memorandum of Agreement between the ODEQ and ACOG defining duties and responsibilities of each party for implementation of the Central Oklahoma EAC area Emission Reduciton Strategies.	Canadian, Cleveland, Grady, Lincoln, Logan, McClain, and Oklahoma Counties.	12/22/2004	8/16/05 [Insert FR page number where document begins]	
* *	* *	*	* *	*

[FR Doc. 05–16192 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 70, No. 157
Tuesday, August 16, 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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Proposed Amendment to the Rule Regarding the Filing of Constructive Removal Complaints by Administrative Law Judges

AGENCY: Merit Systems Protection Board.

ACTION: Proposed rule with request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB or ''the Board'') is revising its regulation governing actions filed by an administrative law judge (ALJ) who alleges a constructive removal under 5 U.S.C. 7521. The revision repeals the standard stated by the regulation for establishing such a removal in light of the Board's determination in recent cases that the ALJ must show involuntary separation from the position of ALJ. As discussed below, the revised standard for establishing the constructive removal of an ALJ is addressed in the Board's cases and will not be incorporated in the revised regulation, which is retained solely to provide procedural guidance for ALJ-initiated actions alleging violation of section 7521.

DATES: Written comments should be submitted on or before October 17, 2005.

ADDRESSES: Send or deliver comments to the Office of Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653–7200; fax: (202) 653–7130; or e-mail: *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: Bentley M. Roberts, Jr., Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653–7200; fax: (202) 653–7130; or e-mail: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION: The Board added 5 CFR 1201.142 to its regulations governing actions against ALJs ''to cover the situation in which a complaint is filed by an administrative law judge rather than an agency.'' 62 FR 48450 (Sept. 16, 1997). As promulgated, section 1201.142 provides that an ALJ ''who alleges that an agency has interfered with the judge's qualified decisional independence so as to constitute an unauthorized action under 5 U.S.C. 7521 may file a complaint with the Board under this subpart.'' The regulation reflects the Board's holding in *In re Doyle,* 29 M.S.P.R. 170 (1985), that an ALJ may be constructively removed for purposes of 5 U.S.C. 7521 by agency actions that interfere with the ALJ's qualified decisional independence.

In *Tunik* v. *Social Security Administration,* 93 M.S.P.R. 482 (2003), the Board held that to establish a constructive removal on this basis the ALJ must also be separated from the position of ALJ. The Board based its decision on the ordinary meaning of ''removal'' and the need to read this term consistently with the interpretation given by the case law to the same term in 5 U.S.C. 7512. The *Tunik* holding was followed by the Board in *Dethloff* v. *Social Security Administration,* 93 M.S.P.R. 574 (2003), and *Schloss* v. *Social Security Administration,* 93 M.S.P.R. 578 (2003).

The U.S. Court of Appeals for the Federal Circuit reviewed the Board's *Tunik*, *Dethloff*, and *Schloss* decisions in a consolidated appeal, *Tunik* v. *Merit Systems Protection Board*, Nos. 03–3286, –3330, –3331 (Fed. Cir. May 11, 2005). The court agreed with the Board's conclusion that the plain language of section 7521 reasonably can be read to apply only to cases of actual separation from employment as an ALJ. However, the court found that because 5 CFR 1201.142 was issued pursuant to the notice and comment requirements of 5 U.S.C. 553, the Board lacked authority to overrule the regulation in an adjudication, outside the procedural requirements of section 553(b). The court reversed in part, vacated in part, and remanded the case, finding that the regulation incorporating the *Doyle* standard applied to the petitioners whose claims were not moot. However, the court stated that its conclusion did not foreclose the Board from repealing the rule in accordance with section 553(b).

Accordingly, the Board is proposing to revise section 1201.142 to delete the stated standard for establishing constructive removal of an ALJ and thereby to repeal the *Doyle* rule. The revised regulation will be retained solely to provide procedural guidance for an ALJ who wishes to file a complaint alleging constructive removal or other violation of section 7521. The standard for establishing a constructive removal claim is set forth in *Tunik* v. *Social Security Administration*, 93 M.S.P.R. at 493: the ALJ must establish ''that his decision to leave the position of ALJ was involuntary under the test for involuntariness used for appeals implicating section 7512.'' Reference should be made to the Board's developing case law for further elaboration of this standard in connection with claims based on interference with an ALJ's qualified decisional independence.

List of Subjects in 5 CFR Part 1201

Administrative personnel, Actions against administrative law judges, Actions filed by administrative law judges.

For the reasons set forth in the Preamble, the MSPB proposes to amend 5 CFR 1201.142 as follows:

PART 1201—PRACTICES AND PROCEDURES

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 4331, unless otherwise noted.

Subpart D—Procedures for Original Jurisdiction Cases

2. Revise § 1201.142 to read as follows:

§ 1201.142 Actions filed by administrative law judges.

An administrative law judge who alleges a constructive removal or other action by an agency in violation of 5 U.S.C. 7521 may file a complaint with the Board under this subpart. The filing and serving requirements of § 1201.37 apply. Such complaints shall be adjudicated in the same manner as agency complaints under this subpart.

Bentley M. Roberts, Jr.,
Clerk of the Board.

[FR Doc. 05–16217 Filed 8–15–05; 8:45 am]
BILLING CODE 7400–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV05–920–2 PR]

Kiwifruit Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate and change the assessable unit established for the Kiwifruit Administrative Committee (Committee) for the 2005–06 and subsequent fiscal periods from $0.002 per pound of kiwifruit to $0.045 per 9-kilo volume-fill container or equivalent of kiwifruit. The Committee locally administers the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by September 6, 2005.

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

FOR FURTHER INFORMATION CONTACT: Shereen Marino, Marketing Specialist, California Marketing Field Office, 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. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable kiwifruit beginning on August 1, 2005, and continue until amended, suspended, or terminated. 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.

Such 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 would increase the assessment rate and change the assessable unit established for the Committee for the 2005–06 and subsequent fiscal periods from $0.002 per pound of kiwifruit to $0.045 per 9-kilo volume-fill container or equivalent of kiwifruit.

The California kiwifruit marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of California kiwifruit. They are familiar with the Committee's needs and the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2004–05 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 28, 2005, and unanimously recommended 2005–06 expenditures of $91,989 and an assessment rate of $0.045 per 9-kilo volume-fill container or equivalent of kiwifruit. In comparison, last year's budgeted expenditures were $91,839. The assessment rate of $0.045 per 9-kilo volume-fill container or equivalent is about $0.0003 per pound higher than the rate currently in effect. The higher assessment rate is needed because the 2004–2005 crop was smaller than expected and assessment income fell short of expenses. Reserve funds were used to meet the shortfall. The higher assessment rate should generate sufficient income to cover anticipated 2005–06 expenses and maintain an adequate reserve.

The following table compares major budget expenditures recommended by the Committee for the 2004–05 and 2005–06 fiscal periods:

Budget expense categories	2004–05	2005–06
Administrative Staff & Field Salaries	$61,000	$61,000
Travel	6,500	6,500
Office Costs/Annual Audit	14,555	14,705

Budget expense categories	2004–05	2005–06
Vehicle Expense Account	9,784	9,784

The assessment rate recommended by the Committee was derived by the following formula: Anticipated expenses ($91,989), plus the desired 2006 ending reserve ($35,010), minus the 2005 beginning reserve ($15,524), divided by the total estimated 2005–06 shipments (2,475,000 9-kilo volume-fill containers). An additional $100 in interest income is also anticipated, bringing the total projected 2005–06 revenue to $111,475. This calculation requires the $0.045 per 9-kilo volume-fill container assessment rate. This rate should provide sufficient funds to meet the anticipated expenses of $91,839 and result in a July 2006 ending reserve of $35,010, which is within the authorized reserve permitted by the order. The authorized reserve is approximately one fiscal period's expenses (§ 920.41).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2005–06 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

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 rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 45 handlers of California kiwifruit subject to regulation under the marketing order and approximately 275 growers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $6,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000.

None of the 45 handlers subject to regulation have annual kiwifruit sales of at least $6,000,000. In addition, six growers subject to regulation have annual sales exceeding $750,000. Therefore, a majority of the kiwifruit handlers and growers may be classified as small entities.

This rule would increase the assessment rate and change the assessable unit established for the Committee and collected from handlers for the 2005–06 and subsequent fiscal periods from $0.002 per pound of kiwifruit to $0.045 per 9-kilo volume-fill container or equivalent of kiwifruit. The Committee unanimously recommended 2005–06 expenditures of $91,989 and an assessment rate of $0.045 per 9-kilo volume-fill container or equivalent of kiwifruit. The proposed assessment rate of $0.045 is $0.0003 higher than the 2004–05 rate. The quantity of assessable kiwifruit for the 2005–06 fiscal period is estimated at 2,475,000 9-kilo volume-fill containers or equivalent of kiwifruit. Thus, the $0.045 rate should provide $111,375 in assessment income and be adequate to meet this year's expenses.

The following table compares major budget expenditures recommended by the Committee for the 2004–05 and 2005–06 fiscal years:

Budget expense categories	2004–05	2005–06
Administrative Staff & Field Salaries	$61,000	$61,000
Travel	6,500	6,500
Office Costs/Annual Audit	14,555	14,705
Vehicle Expense Account	9,784	9,784

The Committee reviewed and unanimously recommended 2005–06 expenditures of $91,989, which included an increase in audit expenses. Prior to arriving at this budget, the Committee considered alternative expenditure levels, but ultimately decided that the recommended levels were reasonable to properly administer the order. The assessment rate recommended by the Committee was derived by the following formula: Anticipated expenses ($91,989), plus the desired 2006 ending reserve ($35,010), minus the 2005 beginning reserve ($15,524), divided by the total estimated 2005–06 shipments (2,475,000 9-kilo volume-fill containers). This calculation resulted in the $0.045 per 9-kilo volume-fill container assessment rate. This rate would provide sufficient funds to meet the anticipated expenses of $91,989 and result in a July 2006 ending reserve of $35,010, which is within the authorized reserve permitted by the order. The authorized reserve is approximately one fiscal period's expenses (§ 920.41). An additional $100 in interest income is also anticipated, bringing the total projected 2005–06 revenue to $111,475.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2005–06 season could be about $8.09 per 9-kilo volume-fill container or equivalent of kiwifruit. Therefore, the estimated assessment revenue for the 2005–06 fiscal period as a percentage of total grower revenue is estimated at about 0.56 percent.

This action would increase the assessment obligation imposed on

handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 28, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

A 20-day comment period is provided to allow interested persons to respond to this proposed rule. Twenty days is deemed appropriate because: (1) The 2005–06 fiscal period began on August 1, 2005, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable kiwifruit handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis and; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 7 CFR part 920 is proposed to be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 920.213 is revised to read as follows:

§ 920.213 Assessment rate.

On and after August 1, 2005, an assessment rate of $0.045 per 9-kilo volume-fill container or equivalent of kiwifruit is established for kiwifruit grown in California.

Dated: August 11, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–16207 Filed 8–15–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–31–AD]

Airworthiness Directives: Rolls-Royce plc RB211–535 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM). That NPRM proposed a new airworthiness directive (AD) that applies to certain Rolls-Royce plc (RR) models RB211–535C–37, RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines. The NPRM had applied to those engines with radial drive steady bearing part number (P/N) LK76084 installed, with fewer than 3,000 engine operating hours on the bearing. That proposed action would have required initial and repetitive visual inspections of the engine oil scavenge filter for evidence of radial drive steady bearing failure. If after finding evidence, the proposed action would have required a visual inspection of the radial drive steady bearing for damage and evidence of bearing debris. Since we issued that NPRM, RR notified us that all at-risk radial drive steady bearings are removed from service. RR also notified us that remaining bearings in service are now well over the 3,000-engine-operating-hour threshold and are no longer at risk. Accordingly, we withdraw the proposed rule.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to Rolls-Royce plc (RR) models RB211–535C–37, RB211–535E4–37, RB211–535E4-B–37, and RB211–535E4-B–75 turbofan engines. The proposed AD would have applied to those engines with radial drive steady bearing, P/N LK76084 installed, with fewer than 3,000 engine-operating-hours on the bearing. We published the proposed AD in the **Federal Register** on October 9, 2003, (68 FR 58291). That proposed action would have required initial and repetitive visual inspections of the engine oil scavenge filter for evidence of radial drive steady bearing failure. If evidence was found, that proposed action would have required a visual inspection of the radial drive steady bearing for damage and evidence of bearing debris. That proposed action was prompted by notification from the Civil Aviation Authority (CAA), which is the airworthiness authority for the U.K. The CAA notified us that an unsafe condition may exist on RR models RB211–535C–37, RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines. The unsafe condition had applied to those engines with radial drive steady bearing P/N LK76084 installed with fewer than 3,000 engine operating hours on the bearing. The CAA received reports of seven low time failures of radial drive steady bearings within a four-month period. These failures were not detected through routine magnetic chip detector monitoring because the failed bronze bearing cages are nonmagnetic, and the cage failure mode is rapid. The proposed actions intended to prevent a possible dual-engine in-flight shutdown caused by radial drive steady bearing failure.

Since the issuance of that NPRM, RR notified us that all at-risk radial drive steady bearings are removed from service. RR also notified us that the remaining bearings in service are now well over the 3,000-engine-operating-hour threshold and are no longer at risk.

Upon further consideration, we hereby withdraw the proposed rule for the following reasons:

- After RR notifying us of the removal from service and bearing threshold information, stated previously.

• AD 2000–09–14 (65 FR 30527, May 12, 2000) and AD 2001–19–05 (66 FR 49099, September 26, 2001) currently address the same radial drive steady bearing, P/N LK76084.

• AD 2000–09–14 and AD 2001–19–05 mandate replacing low-time bearings that are at risk.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule. Therefore, Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) do not cover this withdrawal.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 2003–NE–31–AD, published in the **Federal Register** on October 9, 2003, (68 FR 58291), is withdrawn.

Issued in Burlington, Massachusetts, on August 9, 2005.

Francis A. Favara,

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

[FR Doc. 05–16167 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22110; Directorate Identifier 2004–NM–205–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600 and A300 B4–600R Series Airplanes; and A300 F4–605R and A300 C4–605R Variant F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Model A300 B4–600 and A300 B4–600R series airplanes, and all Model A300 F4–605R airplanes. The existing AD currently requires repetitive inspections to detect cracks of certain attachment holes, installation of new fasteners, follow-on inspections or repair if necessary, and modification of the angle fittings of fuselage frame FR47. This proposed AD would revise certain inspection thresholds and intervals. This proposed AD would also add inspections to detect cracks of additional attachment holes. This proposed AD is prompted by reports of cracks found before the inspection thresholds in the existing AD and cracks found in nearby areas not inspected by the existing AD. We are proposing this AD to prevent fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame.

DATES: We must receive comments on this proposed AD by September 15, 2005.

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

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

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

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

• Fax: (202) 493–2251.

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–22110; the directorate identifier for this docket is 2004–NM–205–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:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–22110; Directorate Identifier 2004–NM–205–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On May 22, 2002, we issued AD 2002–11–04, amendment 39–12765 (67 FR 38193, June 3, 2002), for all Model A300 B4–600 and A300 B4–600R series airplanes, and all Model A300 F4–605R airplanes. That AD requires repetitive inspections to detect cracks of certain attachment holes, installation of new fasteners, follow-on inspections or repair if necessary, and modification of the angle fittings of fuselage frame FR47. That AD was prompted by reports of cracks found in the internal angle fittings of the wing center box at fuselage frame FR47 on airplanes that

had not reached the threshold of the fastener hole inspections required by AD 97–16–06, amendment 39–10097, and cracks found in additional fastener holes that were not required to be inspected by AD 97–16–06. We issued that AD to prevent fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame.

Actions Since Existing AD Was Issued

Since we issued AD 2002–11–04, Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, issued French airworthiness directive F–2004–159, dated September 29, 2004. That airworthiness directive mandates a new repetitive inspection program for fuselage frame FR47 at certain fasteners of the center wing box angle fitting. Fatigue cracking on the forward fitting of fuselage frame FR47 at the level of the last fastener of the external angle fitting, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airframe.

Relevant Service Information

Airbus has issued Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004. Revision 06 of the service bulletin describes the same procedures specified in Airbus Service Bulletin A300–57–6049, Revision 04, dated July 27, 2000 (Revision 04 was referenced as the appropriate source of service information for performing repetitive rotating probe inspections to detect cracking of the applicable attachment holes on the left and right internal angles of the wing center box; and for doing corrective actions; required by AD 2002–11–04). Revision 06 also specifies performing an inspection to detect cracking of additional holes. In addition, Revision 06 revises certain inspection thresholds and intervals. The service bulletin specifies thresholds ranging approximately from 10,400 flight cycles or 22,450 flight hours, whichever comes first, to 15,350 flight cycles or 23,000 flight hours, whichever comes first, depending on the configuration of the airplane. The service bulletin also specifies repetitive inspection intervals ranging approximately from 4,500 flight cycles or 9,700 flight hours, whichever comes first, to 4,850 flight cycles or 7,300 flight hours, whichever comes first. The service bulletin specifies a grace period of 1,400 flight cycles or 3,500 flight hours for airplanes having between 1,400 flight cycles or 3,500 flight hours below the threshold and 1,900 flight cycles or 4,600 flight hours above the threshold. The service bulletin also specifies a grace period of 700 flight cycles or 1,700 flight hours for airplanes that have exceeded the threshold by more than 1,900 flight cycles or 4,600 flight hours.

Airbus has also issued Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002. Revision 01 of the service bulletin describes the same procedures specified in the original issue of Airbus Service Bulletin A300–57–6086, dated June 6, 2000 (the original issue was referenced as the appropriate source of service information for doing repetitive inspections to detect cracking of the applicable attachment holes in the horizontal flange of the internal corner angle fitting of fuselage frame FR47, and for doing corrective actions, required by AD 2002–11–04). Revision 01 of the service bulletin also revises a grace period for a threshold. Revision 01 of the service bulletin specifies a threshold of 13,400 flight cycles or 34,600 flight hours, whichever occurs first. The service bulletin also specifies repetitive intervals of 6,900 flight cycles or 17,700 flight hours, whichever occurs first. The service bulletin specifies a grace period of 1,400 flight cycles or 3,500 flight hours for airplanes having between 1,400 flight cycles or 3,500 flight hours below the threshold and 2,000 flight cycles or 5,000 flight hours above the threshold. The service bulletin specifies a grace period of 750 flight cycles or 1,700 flight hours for airplanes having exceeded the threshold by more than 2,000 flight cycles or 5,000 flight hours.

Airbus has also issued Service Bulletin A300–57–6050, Revision 03, dated May 31, 2001. Revision 03 describes the same procedures specified in Airbus Service Bulletin A300–57–6050, Revision 02, dated February 10, 2000 (Revision 02 was referenced as the appropriate source of service information for doing the modification of the left and right internal angle fittings of the wing center box required by AD 2002–11–04). Revision 03 of the service bulletin specifies a threshold of 15,100 flight cycles or 38,900 flight hours.

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

The DGAC mandated the service information and issued French airworthiness directive F–2004–159, dated September 29, 2004, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that AD action is necessary for airplanes of this type design that are certificated for operation in the United States. This proposed AD would supersede AD 2002–11–04. This proposed AD would require accomplishing the actions specified in the service bulletins described previously, except as described in ''Differences Between the Proposed AD, Relevant Service Information, and French Airworthiness Directive.''

Differences Between the Proposed AD, Relevant Service Information, and French Airworthiness Directive

As stated previously in AD 2002–11–04, we find that for this proposed AD that all touch-and-go landings must be counted in determining the total number of landings between two consecutive inspections. Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004, and Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002, specify that operators need not count touch-and-go landings in determining the total number of landings between two consecutive inspections, when those landings are less than five percent of the landings between inspection intervals. Since fatigue cracking on the forward fitting of fuselage frame FR47 at the level of the last fastener of the external angle fitting is aggravated by landing, all touch-and-go landings must be counted.

Although Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004; and Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002; specify to submit certain information to the manufacturer, this proposed AD would not require those actions. We do not need this information from operators.

Where any of the service bulletins specify to contact the manufacturer for disposition of certain corrective actions, this proposed AD would require repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport

Airplane Directorate, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the DGAC approve would be acceptable for compliance with this proposed AD.

These differences have been coordinated with the DGAC.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection Airbus per Service Bulletin A300–57–6049.	13	$65	$0	$845	74	$62,530, per inspection cycle.
Inspection per Airbus Service Bulletin A300–57–6086.	30	$65	$6,637–$19,091	$8,587–$21,041, per inspection cycle.	74	$635,438–$1,557,034, per inspection cycle.
Modification per Airbus Service Bulletin A300–57–6050.	65–365	$65	$3,370	$7,595–$27,095	74	$562,030–$2,005,030.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing amendment 39–12765 (67 FR 38193, June 3, 2002) and adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2005–22110; Directorate Identifier 2004–NM–205–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by September 15, 2005.

Affected ADs

(b) This AD supersedes AD 2002–11–04, amendment 39–12765.

Applicability

(c) This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; A300 F4–605R airplanes; and A300 C4–605R Variant F airplanes; certificated in any category; except airplanes on which Airbus modification 12171 or 12249 has been accomplished or on which Airbus Service Bulletin A300–57–6069 has been accomplished.

Unsafe Condition

(d) This AD was prompted by reports of cracks found before the inspection thresholds in the existing AD and cracks found in nearby areas not inspected by the existing AD. We are issuing this AD to prevent fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame.

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 for Attachment Holes on the Internal Angles of the Wing Center Box, and Corrective Action

(f) Perform a rotating probe inspection to detect cracking of the applicable attachment holes on the left and right internal angles of the wing center box in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004. Do the inspection at the applicable time specified by paragraph 1.E.(2), Accomplishment Timescale, of Revision 06 of the service bulletin, except as required by paragraph (m) of this AD. Repeat the rotating probe inspection specified in this paragraph thereafter at intervals not to exceed the applicable interval specified in Revision 06 of the service bulletin, except that all touch-and-go landings must be counted in determining the total number of flight cycles between consecutive inspections.

(g) If no cracking is found during any inspection required by paragraph (f) of this AD: Prior to further flight, install new fasteners in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004.

(h) If any cracking is found during any inspection required by paragraph (f) of this AD: Prior to further flight, perform applicable corrective actions (including reaming, drilling, drill-stopping holes, chamfering, performing follow-on inspections, and installing new or oversize fasteners) in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004, except as required by paragraph (n) of this AD.

Inspections for Attachment Holes in the Horizontal Flange of the Internal Corner Angle Fitting of Fuselage Frame FR47, and Corrective Action

(i) Perform a rotating probe inspection to detect cracking of the applicable attachment holes in the horizontal flange of the internal corner angle fitting of fuselage frame FR47, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002. Do the inspection at the applicable time specified in paragraph 1.E., Compliance, of Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002, except as provided by paragraph (m) of this AD; or within 1,500 flight cycles after July 8, 2002 (the effective date of AD 2002–11–04, amendment 39–12765); whichever occurs later. Repeat the rotating probe inspection specified in this paragraph thereafter at intervals not to exceed the applicable interval specified in Airbus Service Bulletin A300–57–6086, dated June 6, 2000, except that all touch-and-go landings must be counted in determining the total number of flight cycles between consecutive inspections.

(j) If no cracking is found during any inspection required by paragraph (i) of this AD: Prior to further flight, install new fasteners in accordance with the service bulletin.

(k) If any cracking is found during any inspection required by paragraph (i) of this AD: Prior to further flight, perform applicable corrective actions (including inspecting hole T, reaming the holes, and installing oversize fasteners) in accordance with the service bulletin, except as required by paragraph (n) of this AD.

Modification of Angle Fittings of the Wing Center Box

(l) Modify the left and right internal angle fittings of the wing center box. The modification includes performing a rotating probe inspection to detect cracking, repairing cracks, cold expanding holes, and installing medium interference fitting bolts. Perform the modification in accordance with Revision 03, dated May 31, 2001; and at the applicable time specified by paragraph 1.B.(4), Accomplishment Timescale, of Airbus Service Bulletin A300–57–6050, Revision 03, dated May 31, 2001; except as required by paragraphs (m) and (n) of this AD.

Exceptions to Specifications in Service Bulletins

(m) Where the service bulletins specified in paragraphs (f), (i), and (l) of this AD specify a grace period relative to receipt of the service bulletin, this AD requires compliance within the applicable grace period following the effective date of this AD, if the threshold has been exceeded.

(n) If any crack is detected during any inspection required by this AD, and the applicable service bulletin specifies to contact the manufacturer for disposition of certain corrective actions: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Actions Accomplished According to Previous Issue of Service Bulletins

(o) Actions accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A300–57–6086, dated June 6, 2000, are acceptable for compliance with the requirements of paragraph (i) of this AD.

(p) Modifications accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A300–57–6050, Revision 02, dated February 10, 2000; are acceptable for compliance with the requirements of paragraph (l) of this AD.

No Reporting Requirement

(q) Although Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004; and Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002; specify to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

(2) AMOCs approved previously according to AD 2002–11–04, amendment 39–12765, are not approved as AMOCs with this AD.

Related Information

(s) French airworthiness directive F–2004–159, dated September 29, 2004, also addresses the subject of this AD.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–16178 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–04–136]

RIN 1625–AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Broward County, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of 10 drawbridges, and establish operating regulations for 2 drawbridges, all of which cross the Atlantic Intracoastal Waterway in Broward County, FL. The proposed rule would require all of these drawbridges to open twice an hour. The proposed schedule is based on a request from Broward County officials, a test the Coast Guard conducted from December, 2004, until February, 2005, and comments received from the public based on the test. The proposed schedule meets the reasonable needs of navigation while accommodating increased vehicular traffic throughout the county.

DATES: Comments and related material must reach the Coast Guard on or before October 1, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, Florida 33131–3050. Commander (obr) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket, (CGD07–04–136) and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, Florida 33131–3050 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gwin Tate, Seventh Coast Guard District, Bridge Branch, telephone number 305–415–6747.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for

this rulemaking (CGD07–04–136), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We are maintaining the comments that were previously submitted as a result of the prior temporary deviation and it is unnecessary to resubmit the same comments. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

At the request of Broward County, the Coast Guard published a temporary deviation, effective from December 1, 2004 to February 28, 2005, as a test regulation for 11 Broward County drawbridges (69 FR 67055, Nov. 16, 2004). The following bridges were covered by the temporary deviation: NE 14th Street, mile 1055.0, Atlantic Boulevard (SR 814), mile 1056.0, Commercial Boulevard (SR 870), mile 1059.0, Oakland Park Boulevard, mile 1060.5, East Sunrise Boulevard (SR 838), mile 1062.6, East Las Olas Boulevard, mile 1064.0, SE. 17th Street Causeway, mile 1065.9, Dania Beach Boulevard, mile 1069.4, Sheridan Street, mile 1070.5, Hollywood Beach Boulevard (SR 820), mile 1072.2, and Hallandale Beach Boulevard (SR 824), mile 1074.0. The Dania Beach Boulevard and Sheridan Street bridges currently do not have codified operating regulations. The Hillsboro Boulevard Bridge was not covered by the temporary deviation.

The test was conducted for approximately 90 days to collect data to determine the feasibility of changing the regulations on all drawbridges in Broward County crossing the Atlantic Intracoastal Waterway, to meet the increased demands of vehicular traffic and still provide for the reasonable needs of navigation. The test results indicated that the proposed schedule allowed both vehicular and vessel traffic the opportunity to predict, on a scheduled basis, when the bridges might be in the open position. We received 205 comments, 182 were in favor of the test schedules, 13 were in favor of keeping the existing schedules, 8 comments provided other recommended opening schedules, and 2 were general in nature. Those comments are being maintained in the docket and will be incorporated in the final rulemaking.

Public officials in Broward County requested the change in operating regulations to reduce burdens on county roadways and to standardize drawbridge openings throughout the county. The proposed rule would allow all drawbridges crossing the Atlantic Intracoastal Waterway in Broward County to operate on a standardized schedule that would meet the reasonable needs of navigation and address vehicular traffic congestion.

Discussion of Proposed Rule

The Coast Guard proposes to change the operating regulations of 10 drawbridges, and establish operating regulations for the Dania Beach Boulevard and Sheridan Street drawbridges, all of which cross the Atlantic Intracoastal Waterway in Broward County. The existing regulations that govern the operation of the Broward County drawbridges are published in 33 CFR 117.5 and 33 CFR 117.261.

The proposed rule would stagger the bridge openings from north to south and allow a vessel traveling south at five knots to significantly reduce wait times to pass through open drawbridges. Drawbridges will either open on the hour and half hour or on the quarter and three-quarter hour. The results are that the following bridges will operate on the schedules below:

Open on the hour and half hour—
- Hillsboro Boulevard (SR 810), mile 1050.0
- Atlantic Boulevard (SR 814), mile 1056.0
- Commercial Boulevard (SR 870), mile 1059.0
- East Sunrise Boulevard (SR 838), mile 1062.6
- SE. 17th Street Causeway, mile 1065.9
- Dania Beach Boulevard, mile 1069.4
- Hollywood Beach Boulevard (SR 820), mile 1072.2

Open on the quarter hour and three-quarter hour—
- NE. 14th Street, mile 1055.0
- Oakland Park Boulevard, mile 1060.5
- East Las Olas Boulevard, mile 1064.0
- Sheridan Street, mile 1070.5
- Hallandale Beach Boulevard (SR 824), mile 1074.0

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The proposed rule would provide timed openings for vehicular traffic and sequenced openings for vessel traffic and should have little economic impact.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels needing to transit the Intracoastal Waterway in the vicinity of the Broward County bridges.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for

compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.** The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

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

2. In § 117.261, revise paragraph (bb) and remove and reserve paragraphs (cc), (dd), (ee), (ff), (gg), (hh), (jj), and (kk).

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

(bb) *Broward County.* (1) Hillsboro Boulevard bridge (SR 810), mile 1050.0 at Deerfield Beach. The draw shall open on the hour and half-hour.

(2) NE. 14th Street bridge, mile 1055.0 at Pompano. The draw shall open on the quarter-hour and three-quarter hour.

(3) Atlantic Boulevard (SR 814) bridge, mile 1056.0 at Pompano. The draw shall open on the hour and half-hour.

(4) Commercial Boulevard (SR 870) bridge, mile 1059.0, at Lauderdale-by-the-Sea. The draw shall open on the hour and half-hour.

(5) Oakland Park Boulevard bridge, mile 1060.5 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(6) East Sunrise Boulevard (SR 838) bridge, mile 1062.6, at Fort Lauderdale. The draw shall open on the hour and half-hour.

(7) East Las Olas bridge, mile 1064 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(8) SE. 17th Street (Brooks Memorial) bridge, mile 1065.9 at Fort Lauderdale. The draw shall open on the hour and half-hour.

(9) Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach. The draw shall open on the hour and half-hour.

(10) Sheridan Street bridge, mile 1070.5, at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(11) Hollywood Beach Boulevard (SR 820) bridge, mile 1072.2 at Hollywood. The draw shall open on the hour and half-hour.

(12) Hallandale Beach Boulevard (SR 824) bridge, mile 1074.0 at Hallandale.

The draw shall open on the quarter-hour and three-quarter hour.

Dated: August 2, 2005.

D.B. Peterman,

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

[FR Doc. 05–16180 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–05–097]

RIN 1625–AA09

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Anna Maria, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating regulations governing the Cortez (SR 684) bridge and the Anna Maria (SR 64) bridge across the Gulf Intracoastal Waterway, mile 89.2 in Anna Maria, Manatee County, Florida. This proposed rule would require the drawbridges to open on a 30-minute schedule if vessels are present. However, the drawbridges are not required to open during the morning and afternoon rush hours. This proposed action may improve the movement of vehicular traffic while not unreasonably interfering with the movement of vessel traffic.

DATES: Comments and related material must reach the Coast Guard on or before October 17, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL, 33131, who maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and are available for inspection or copying at the Seventh Coast Guard District Bridge Branch, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6744.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD07–05–097), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

The existing regulations of the Cortez (SR 684) bridge, mile 87.4, and Anna Maria (SR 64) bridge, mile 89.2 at Anna Maria, published in 33 CFR 117.287(d)(1) and (2) require the draw to open on signal, except that from 7 a.m. to 6 p.m., the draw need open only on the hour, twenty minutes past the hour and forty minutes past the hour if vessels are present.

On June 1, 2005, the City officials of Holmes Beach in cooperation with the cities of Anna Maria and Bradenton Beach and the Town of Longboat Key requested that the Coast Guard review the existing regulations governing the operation of the Cortez and Anna Maria bridges, because they think the current drawbridge regulations are not meeting the needs of vehicle traffic.

Discussion of Proposed Rule

This proposed rule would require the Cortez (SR 684) and Anna Maria (SR 64) bridges, miles 87.4 and 89.2, at Anna Maria to open on the hour and half-hour if vessels are present, except that the draws need not open from 7:35 a.m. to 8:29 a.m. and from 4:35 p.m. to 5:29 p.m. The objective of this revision is to improve vehicle traffic flow on SR 684 and SR 64, especially during peak periods of increased road congestion.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This proposed rule would revise the existing bridge schedule to allow for improved vehicle traffic flow, while still providing ample scheduled openings for vessel traffic.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: The owners or operators of vessels needing to transit the Intracoastal Waterway in the vicinity of the Cortez and Anna Maria bridges, persons intending to drive over the bridge, and nearby business owners. The revision to the openings schedule would not have a significant impact on a substantial number of small entities for the following reasons. Vehicle traffic and small business owners in the area might benefit from the improved traffic flow that regularly scheduled openings will offer this area. Although bridge openings will be less frequent, vessel traffic will still be able to transit the Intracoastal Waterway in the vicinity of the Cortez and Anna Maria bridges pursuant to the revised openings schedule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it,

please submit a comment to the Seventh Coast Guard District Bridge Branch at the address under **ADDRESSES** explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

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

2. Revise § 117.287(d)(1) and (2) to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(d)(1) The draw of the Cortez (SR 684) bridge, mile 87.4, need open only on the hour and half-hour; except that from 7:35 a.m. to 8:29 a.m. and 4:35 p.m. and 5:29 p.m. the draw need not open.

(2) The draw of the Anna Maria (SR 64) bridge, mile 89.2, need open only on the hour and half-hour; except that from 7:35 a.m. to 8:29 a.m. and 4:35 p.m. to 5:29 p.m. the draw need not open.

* * * * *

Dated: August 3, 2005.

D.B. Peterman,

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

[FR Doc. 05–16229 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2005–IA–0003; FRL–7953–6]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of approving the 2001 and 2004 updates to the Linn County Air Quality Ordinance, Chapter 10, Air Quality. These revisions will help to ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

DATES: Comments on this proposed action must be received in writing by September 15, 2005.

ADDRESSES: Comments may be mailed to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the Addresses section of the direct final rule which is located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: August 3, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 05–16223 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List a Karst Meshweaver, *Cicurina cueva*, as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the status review initiated by the 90-day finding on a petition to list *Cicurina cueva* as an endangered species. This action will allow all interested parties an opportunity to provide information on the status of the species under the Endangered Species Act of 1973, as amended (Act).

DATES: Comments must be submitted directly to the Service (see **ADDRESSES** section) on or before August 30, 2005. Any comments received after the closing date may not be considered in the 12-month finding for this petition.

ADDRESSES: If you wish to comment, you may submit your comments and materials by any one of the following methods:

1. You may submit written comments and information by mail or hand-delivery to Robert Pine, Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

2. Written comments may be sent by facsimile to 512/490–0974.

3. You may send your comments by electronic mail (e-mail) to *cicurinacomments@fws.gov*.

All comments and materials received, as well as supporting documentation used in preparation of the 90-day finding, will be available for public inspection, by appointment, during normal business hours at our Austin Ecological Services Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Pine, Field Supervisor, Austin Ecological Services Office (telephone 512/490–0057, facsimile 512/490–0974).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et. seq.*) requires that for any petition to revise the List of Threatened or Endangered Wildlife and Plant Species that contains substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but the immediate proposal of a regulation is precluded by other pending proposals to determine whether any species is threatened or endangered.

On July 8, 2003, we received a petition requesting that we list *Cicurina cueva* (no common name) as an endangered species with critical habitat. On May 25, 2004, Save Our Springs Alliance (SOSA) filed a complaint against the Secretary of the Interior and the Service for failure to make a 90-day petition finding under section 4 of the Act for *Cicurina cueva*. In our response to Plaintiff's motion for summary judgment on October 15, 2004, we informed the court that we believed that we could complete a 90-day finding by January 20, 2005, and if we determined that the 90-day finding provided substantial information indicating that listing may be warranted, we could make a 12-month finding by December 8, 2005. On March 18, 2005, the District Court for the Western District of Texas, Austin Division, adopted our schedule and ordered the Service to issue a 12-month finding on or before December 8, 2005.

On February 1, 2005, we published our 90-day finding on the petition to list *Cicurina cueva* as an endangered species (70 FR 5123). Our 90-day finding stated that we found the petition presented substantial scientific and commercial information indicating that listing *Cicurina cueva* may be warranted. Threrefore, we initiated a status review to determine if listing the species is warranted. The original comment period for providing information for our status review closed on May 15, 2005.

Pursuant to 50 CFR 424.16(c)(2), we may extend or reopen a comment period upon finding that there is good cause to do so. We are currently gathering

information that will be used in making a determination whether *Cicurina cueva* should be listed as endangered. We reopened the comment period from May 23 to June 22, 2005 (70 FR 29471), as additional information from a genetic analysis and additional survey work for *Cicurina* species in southern Travis County became available near the end of the original comment period. We were also expecting a biological evaluation from the Texas Department of Transportation (TxDOT) on (SH) State Highway 45 South that will evaluate biological effects of proposed highway construction and how they will avoid or minimize any negative effects to Flint Ridge Cave. In addition, we were expecting a draft Candidate Conservation Agreement with Assurances (CCAA) and enhanced management plan for Cave X from the Regents School of Austin. These documents are in progress, and it is our understanding that they were almost complete by the June 22, 2005, deadline.

With this document, we are reopening the public comment period on the 90-day finding and initiation of status review to complete and make available the results of our peer review on the report titled, ''Genetic and morphological analysis of species limits in *Cicurina* spiders (Araneae, Dictynidae) from southern Travis and northern Hays counties, with emphasis on *Cicurina cueva* Gertsch and relatives'' and to receive additional information that was in progress and almost complete at the time the last comment period closed including, but not limited to, TxDOT's biological evaluation of SH 45, the Regents School's draft CCAA and enhanced management plan, information from the City of Austin, and possibly information from a number of other parties who requested an extension of the comment period. This document and the results of the peer review are available to the public by contacting the Austin Ecological Services Office (see **ADDRESSES** section above). We believe these documents may contain significant information that may affect our determination of the species' status and allowing the comment period to expire before they are available could result in hurried and incomplete comments. We deem these considerations as sufficient cause to reopen the comment period. This reopening of the comment period will not result in an extension of the court-ordered date by which the Service must make its 12-month finding.

Public Comments Solicited

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which we will honor to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. To the extent consistent with applicable law, 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.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 2, 2005.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 05–16150 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT89

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Pacific Coast Population of the Western Snowy Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis for the proposal to designate critical habitat for the Pacific coast distinct population segment of the western snowy plover (*Charadrius alexandrinus nivosus*) under the Endangered Species Act of 1973 (Act), as amended. The draft economic analysis finds that, over the next 20 years, costs associated with western snowy plover conservation activities are forecast to range from $272.8 to $645.3 million. In constant dollars, the draft economic analysis estimates there will be an economic impact of $514.9 to $1,222.7 million over the next 20 years. The greatest economic impact (approximately 90 to 95 percent of total future impact using 3 and 7 percent discount rates) is expected to occur to recreation; other activities impacted include plover management, real estate development, military base operations, and gravel extraction. Comments previously submitted on the December 17, 2004, proposed rule (69 FR 75608) during the initial comment period need not be resubmitted as they have been incorporated into the public record and will be fully considered in preparation of the final rule.

DATES: Comments must be submitted directly to the Service (see **ADDRESSES** section) on or before 30 days after publication of this notice.

ADDRESSES: If you wish to comment on the proposed rule or draft economic analysis, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information by mail or hand-delivery to the Arcata Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, California 95521.

2. Written comments may be sent by facsimile to 707–822–8411.

3. You may send your comments by electronic mail (e-mail) to *fw8snowyplover@fws.gov*. For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section below.

You may obtain copies of the draft economic analysis by mail or by visiting our Web site at *http://www.fws.gov/pacific/sacramento/default.htm*. You may review comments and materials received, and review supporting documentation used in preparation of this proposed rule, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Michael Long, Field Supervisor, Arcata Fish and Wildlife Office (telephone 707–822–7201; facsimile 707–822–8411).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule and the draft economic analysis. On the basis of public comment, during the development of our final determination, we may find that areas proposed are not essential, are appropriate for exclusion under section

4(b)(2) of the Act, or are not appropriate for exclusion. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh benefits of exclusion;

(2) Specific information on the distribution of the western snowy plover, the amount and distribution of the species' habitat, and which habitat is essential to the conservation of the species, and why;

(3) Land-use designations and current or planned activities in the subject area and their possible impacts on the species or proposed critical habitat;

(4) Whether our approach to listing or critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments;

(5) Any foreseeable economic, environmental, or other impacts resulting from the proposed designation of critical habitat or coextensively from the listing, and in particular, any impacts on small entities or families;

(6) Whether the draft economic analysis identifies all State and local costs. If not, what other costs should be included;

(7) Whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the listing of the species or the proposed designation of critical habitat;

(8) Whether the draft economic analysis correctly assesses the effect on regional costs associated with the proposed designation;

(9) Whether the proposed designation will result in disproportionate economic impacts to specific areas that should be evaluated for possible exclusion from the final designation;

(10) Whether the draft economic analysis appropriately identifies all costs that could result from the designation or coextensively from the listing;

(11) Specific information that would help us further understand the effects of designation on small businesses that depend on recreation and tourism. Based on the information we receive on small business that depend on recreation and tourism, we are considering excluding areas based on disproportionate costs from the final designation per our discretion under section 4(b)(2) of the Act. We are specifically seeking comment along with additional information concerning our final determination for these three areas; and

(12) We are also considering excluding areas from the final designation, and are requesting comments on the benefits of excluding or including in critical habitat the areas as discussed in our proposed rule.

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

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit electronic comments to *fw8snowyplover@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: Western snowy plover'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Arcata Fish and Wildlife Office at phone number 707–822–7201. Please note that the e-mail address *fw8snowyplover@fws.gov* will be closed out at the termination of the public comment period.

Background

On December 17, 2004 (69 FR 75608), we proposed to designate as critical habitat a total of approximately 17,299 acres (ac) (7,001 hectares (ha)) within 35 units along the coasts of California, Oregon, and Washington. In developing this proposal, we evaluated those lands determined to contain habitat features essential to the conservation of the Pacific coast population of the western snowy plover to ascertain if any specific areas are appropriate for exclusion from critical habitat pursuant to section 4(b)(2) of the Act. Section 4(b)(2) requires us to take into account economic and other impacts resulting from designation, and allows us to exclude areas with essential habitat features if the benefits of exclusion outweigh those of designation. Additionally, the newly amended section 4(a)(3) requires exclusion of military lands subject to an Integrated Natural Resources Management Plan (INRMP) that benefits the species. We have excluded several units based on these provisions. Additionally, we have considered, but are not proposing, several areas that were either unoccupied at the time of listing (1993) or are unoccupied now.

For a discussion of previous Federal actions regarding the Pacific coast population of the western snowy plover, please see the December 7, 1999, final rule (64 FR 68508) and December 17, 2004, proposed rule (69 FR 75608) to designate critical habitat for the Pacific coast population of the western snowy plover. The December 7, 1999, final rule was remanded and partially vacated by the United States District Court for the District of Oregon on July 2, 2003, in order for us to conduct a new analysis of economic impacts (*Coos County Board of County Commissioners et al.* v. *Department of the Interior et al.*, CV 02–6128, M. Hogan). The court set a deadline of December 1, 2004, for submittal of a new proposed critical habitat designation to the **Federal Register**. The court-established deadline for submittal of the final designation is September 20, 2005.

Critical habitat identifies specific areas that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Act will prohibit adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. We are announcing the availability of a draft economic analysis for the proposal to designate certain areas as critical habitat for the Pacific coast population of the western snowy plover. We may revise the proposal, or

its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

Costs related to conservation activities for the proposed western snowy plover critical habitat pursuant to sections 4, 7, and 10 of the Act are estimated to be approximately $272.8 to $645.3 million over the next 20 years on a present value basis. In constant dollars, the draft economic analysis estimates there will be an economic impact of $514.9 to $1,222.7 million expressed in constant dollars over the next 20 years. The activities affected by plover protection may include recreation, plover management, real estate development, military base operations, and gravel extraction. Over three quarters of all future costs are associated with five central and southern California units, which include the following: Monterey to Moss Landing (CA–12C), Pismo Beach/Nipomo (CA–16), Morro Bay Beach (CA–15C), Jetty Road to Aptos (CA–12A), and Silver Strand (CA–27C). For further information, see the draft economic analysis; exhibits ES–6 and ES–7 provide detailed cost information for all activities on a unit-by-unit basis.

Required Determinations—Amended

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. However, based on our draft economic analysis, it is not anticipated that the proposed designation of critical habitat for the Pacific coast population of the western snowy plover will result in an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed the proposed rule or accompanying draft economic analysis.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for the Pacific coast population of the western snowy plover would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (*e.g.*, recreation, residential and related development, and commercial gravel mining). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted or authorized by Federal agencies; non-Federal activities are not affected by the designation.

If this proposed critical habitat designation is made final, Federal agencies must consult with us if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our draft economic analysis of this proposed designation, we evaluated the potential economic effects on small business entities and small governments resulting from conservation actions related to the listing of this species and proposed designation of its critical habitat. We evaluated small business entities in five categories: Habitat and plover management activities, beach-related recreation activities, residential and related development, activities on military lands, and commercial mining. Of these five categories, impacts of plover conservation to habitat and plover management, and activities on military lands are not anticipated to affect small entities as discussed in Appendix A of our draft economic analysis. The following summary of the information contained in Appendix A of the draft economic analysis provides the basis for our determination.

On the basis of our analysis of western snowy plover conservation measures, we determined that this proposed designation of critical habitat for the western snowy plover would result in potential economic effects to recreation. Section 4 of the draft economic analysis discusses impacts of restrictions on recreational activity at beaches containing potential critical habitat for the plover. Individual recreators may experience welfare losses as a result of foregone or diminished trips to the beach. If fewer trips are taken by recreators, then some local businesses serving these visitors may be indirectly affected. The scope of our analysis makes identification of the exact businesses that may be affected difficult. Presently, we do not believe that this proposed designation will have an effect on a substantial number of small businesses and would also not result in a significant effect to impacted small businesses; however, we are requesting additional information on the effects of this proposed designation for our determination in our final rule.

For development activities, a detailed analysis of impacts to these activities is presented in Section 5 of the draft economic analysis. For this analysis, we determined that two development projects occurring within the potential

critical habitat are expected to incur costs associated with plover conservation efforts. One of these projects is funded by Humboldt County, which does not qualify as a small government, and is therefore not relevant to this small business analysis. The economic impact to the one project that qualifies as a small business is estimated to be 2.5 percent of the tax revenue. Because only one small business is estimated to be impacted by this proposal and only 2.5 percent of revenues are estimated to be incurred, we have determined that this proposed designation will not have an effect on a substantial number of small businesses.

For gravel mining activities, we have determined that five gravel mining companies exist within Unit CA–4D of the proposed designation of critical habitat. We determined that the annualized impact from plover conservation activities to these small businesses was approximately 0.5 percent of the total sales of these five mining companies. From this analysis, we have determined that this proposed designation would also not result in a significant effect to the annual sales of these small businesses impacted by this proposed designation.

Based on this data we have determined that this proposed designation would not affect a substantial number of small businesses involved in residential and related development and commercial gravel mining. Further, we have determined that this proposed designation would also not result in a significant effect to the annual sales of those small businesses impacted by this proposed designation. We also believe that this proposed designation would not affect a substantial number of small businesses involved in recreation and would not result in a significant effect to these businesses; however, we request further information on the impacts of this proposed designation to this economic sector for our final rulemaking. As such, we are certifying that this proposed designation of critical habitat would not result in a significant economic impact on a substantial number of small entities. Please refer to Appendix A of our draft economic analysis of this designation for a more detailed discussion of potential economic impacts to small business entities.

Executive Order 13211

On May 18, 2001, the President issued Executive Order (E.O.) 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The proposed rule is considered a significant regulatory action under E.O. 12866 due to it potentially raising novel legal and policy issues, but it is not expected to significantly affect energy supplies, distribution, or use. Appendix A of the draft economic analysis provides a detailed discussion and analysis of this determination. The draft economic analysis determines that none of the impacts of this proposed designation are relevant to energy supply, distribution, or use. Therefore we have determined that this proposed designation is not likely to produce ''a significant adverse effect'' as a result of western snowy plover conservation activities. Therefore, this action is not a significant action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' with two exceptions. It excludes ''a condition of federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. Non-Federal entities that receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) The economic analysis discusses potential impacts of critical habitat designation for the western snowy plover including administrative costs, water management activities, oil and gas activities, concentrated animal feeding operations, agriculture, and transportation. The analysis estimates that costs of the rule could range from $272.8 to $645.3 million over the next 20 years. In constant dollars, the draft economic analysis estimates there will be an economic impact of $514.9 to $1,222.7 million over the next 20 years. Recreational activities are expected to experience the greatest economic impacts related to western snowy plover conservation activities. Impacts on small governments are not anticipated. For example, costs to recreators would not be expected to be passed on to entities that qualify as small governments. Consequently, for the reasons discussed above, we do not believe that the designation of critical habitat for the western snowy plover will significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing critical

habitat for western snowy plover. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the designation of critical habitat for the western snowy plover does not pose significant takings implications.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: August 1, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–16149 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

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Tuesday, August 16, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be sent via e-mail to *David Rostker@omb.eop.gov* or fax to (202) 395–7285. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0004.

Form Number: AID 11.

Title: Application for Approval of Commodity Eligibility.

Type of Submission: Renewal of Information Collection.

Purpose: USAID provides loans and grants to some developing countries in the form of Commodity Import Program (CIPs). These funds are made available to host countries to be allocated to the public and private sectors for purchasing various commodities from the U.S., or in some cases, from other developing countries. In accordance with Section 604(f) of the Foreign Assistance Act of 1961, as amended, USAID may finance only those commodities which are determined eligible and suitable in accordance with various statutory requirements and agency policies. Using the Application for Approval of Commodity Eligibility (Form AID 11), the supplier certifies to USAID information about the commodities being supplied, as required in section 604(f), so that USAID may determine eligibility.

Annual Reporting Burden:

Respondents: 260.

Total annual responses: 850.

Total annual hours requested: 425 hours.

Dated: August 10, 2005.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 05–16145 Filed 8–15–05; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be sent via e-mail to *David Rostker@omb.eop.gov* or fax to (202) 395–7285. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0012.

Form Number: 282.

Title: Supplier's Certificate Agreement with the U.S. Agency for International Development Invoice-and-Contract Abstract.

Type of Submission: Renewal of Information Collection.

Purpose: The U.S. Agency for International Development (USAID) finances goods and related services under its Commodity Import Program which are contracted for by public and private entities in the countries receiving the USAID Assistance. Since USAID is not a party to these contracts, USAID needs some means to collect information directly from the suppliers of the goods and related services and to enable USAID to take an appropriate action against them in the event they do not comply with the applicable regulations. USAID does this by securing from the suppliers, as a condition for the disbursement of funds a certificate and agreement with USAID which contains appropriate representations by the suppliers.

Annual Reporting Burden:

Respondents: 800.

Total annual responses: 2,400.

Total annual hours requested: 1,200 hours (½hour per response).

Dated: August 10, 2005.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 05–16146 Filed 8–15–05; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Availability of a Finding of No Significant Impact for the Sallisaw Creek Watershed Site Nos. 32, 33, and 34 in Sequoyah County, OK

AGENCY: Natural Resources Conservation Service (NRCS) in Oklahoma. U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Sallisaw Creek Watershed Site Nos. 32, 33, and 34 Sequoyah County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: M. Darrel Dominick, State Conservationist, Natural Resources Conservation Service, 100 USDA, Suite 206, Stillwater, Oklahoma 74074, (405) 742–1206.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, M. Darrel Dominick, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project. The project purpose is flood control. The planned works of improvement include the

rehabilitation of three aging floodwater retarding structures to meet current safety criteria and performance standards for a high hazard dam.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting M. Darrel Dominick. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

M. Darrel Dominick,

State Conservationist, Oklahoma.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

[FR Doc. 05–16202 Filed 8–15–05; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by October 17, 2005.

FOR FURTHER INFORMATION CONTACT: Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 5818, South Building, Washington, DC 20250–1522. Telephone: (202) 720–0784. Fax: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. Fax: (202) 720–4120.

Title: Advance of Loan Funds and Budgetary Control and Other Related Burdens.

OMB Control Number: 0572–0015.

Type of Request: Extension of a currently approved collection.

Abstract: This collection is necessary to comply with the applicable provisions of the RUS loan contract. Borrowers submit requisitions to RUS for funds for project costs incurred. Insured loan funds will be advanced only for projects which are included in the RUS approved borrower's construction workplan or approved amendment and in an approved loan, as amended. The process of loan advances establishes the beginning of the audit trail of the use of loan funds which is required for subsequent RUS compliance audits.

The RUS Form 595 is used as a requisition for advances of funds. The form helps to assure that loan funds are advanced only for the budget purposes and amount approved by RUS. According to the applicable provisions of the RUS loan contract, borrowers must certify with each request for funds to be approved for advance, which such funds are for projects previously approved.

When a prospective borrower requests and is granted an RUS loan, a loan contract is established between the Federal Government, acting through the RUS Administrator, and the borrower. At the time this contract is entered into, the borrower must provide RUS with a list of projects for which loan funds will be spent, along with an itemized list of the estimated costs of these projects. Thus, the borrower receives a loan based upon estimated cost figures.

RUS Form 219, Inventory of Work Orders, is one of the documents the borrower submits to RUS to support actual expenditures and an advance of loan funds. The form also serves as a connecting link and provides an audit trail that originates with the advance of funds and terminates with evidence supporting the propriety of expenditures for construction or retirement projects.

Estimate of Burden: The Public reporting burden for this collection of information is estimated to average 1.48 hours per response.

Respondents: Not-for-profit institutions; Business or other for profit.

Estimated Number of Respondents: 700.

Estimated Number of Responses per Respondent: 14.31.

Estimated Total Annual Burden on Respondents: 14,820.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853. Fax: (202) 720–4120.

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

Dated: August 5, 2005.

Michael P. Thieman,

Acting Administrator, Rural Utilities Service.

[FR Doc. 05–16182 Filed 8–15–05; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by October 17, 2005.

FOR FURTHER INFORMATION CONTACT: Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 5818, South Building, Washington, DC 20250–1522. Telephone: (202) 720–0784. Fax: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that RUS is submitting to OMB for reinstatement.

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. Fax: (202) 720–0784.

Title: 7 CFR Part 1724, Electric Engineering, Architectural Services and Design Policies and Procedures.

OMB Control Number: 0572–0118.

Type of Request: Extension of a previously approved collection.

Abstract: The rule requires borrower to use three RUS contract forms under certain circumstances. The use of standard forms helps assure RUS that:

- Appropriate standards and specifications are maintained;
- RUS loan security is not adversely affected; and
- Loan and loan guarantee funds are used effectively and for the intended purpose.

Standardization of forms by RUS results in substantial savings to:

- Borrowers—If standard forms were not used, borrowers would need to prepare their own documents at significant expense; and
- Government—If standard forms were not used, each document submitted by a borrower would require extensive and costly review by both RUS and the Office of General Counsel.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Businesses, not-for-profit institutions and others.

Estimated Number of Respondents: 155.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 155 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853. Fax: (202) 720–4120.

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

Dated: August 5, 2005.

Michael P. Thieman,

Acting Administrator, Rural Utilities Service.

[FR Doc. 05–16183 Filed 8–15–05; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by October 17, 2005.

FOR FURTHER INFORMATION CONTACT: Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 5818 South Building, Washington, DC 20250–1522. Telephone: (202) 720–0784. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for reinstatement.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) 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) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

Title: RUS Specification for Quality Control and Inspection of Timber Products.

OMB Control Number: 0572–0076.

Type of Request: Extension of a currently approved collection.

Abstract: 7 CFR 1728.202 and RUS Bulletin 1728H–702 describe the responsibilities and procedures pertaining to the quality control by producers and pertaining to inspection of timber products produced in accordance with RUS specifications. In order to ensure the security of loan funds, adequate quality control of timber products is vital to loan security on electric power systems where hundreds of thousands of wood poles and cross-arms are used. Since RUS and its borrowers do not have the expertise or manpower to quickly determine imperfections in the wood products or their preservatives treatments, they must obtain service of an inspection agency to insure that the specifications for week poles and cross-arms are being met.

Estimate of Burden: This collection of information is estimated to average 1 hour per response.

Respondents: Not-for-profit institutions; Business or other for profit.

Estimated Number of Respondents: 700.

Estimated Number of Responses per Respondent: 58.

Estimated Total Annual Burden on Respondents: 40.763 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853. FAX: (202) 720–4120. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 5, 2005.

Michael P. Thieman,

Acting Administrator, Rural Utilities Service.

[FR Doc. 05–16184 Filed 8–15–05; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–201–817)

Oil Country Tubular Goods from Mexico: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 16, 2005.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0193.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2005, the Department of Commerce (''the Department'') published the preliminary results of the administrative review of the antidumping duty order on oil country tubular goods (''OCTG'') from Mexico covering the period August 1, 2003, through July 31, 2004. *See Certain Oil Country Tubular Goods from Mexico; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission*, 70 FR 24517 (May 10, 2005). The final results for the antidumping duty administrative review of OCTG from Mexico are currently due no later than September 7, 2005.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an antidumping duty order for which a review is requested and issue the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Due to the complexity of issues present in this administrative review, such as universe of sales issues and constructed value calculations, as well as the Department's current demands of other proceedings, the Department has determined that it is not practicable to complete this review within the original time period. Accordingly, the Department is extending the time for completion of the final results, until no later than October 7, 2005, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 10, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–4449 Filed 8–15–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–351–826)

Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 16, 2005.

FOR FURTHER INFORMATION CONTACT: Patrick Edwards, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–8029.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2005, the Department of Commerce (''the Department'') published the preliminary results of the administrative review of the antidumping duty order on small diameter seamless carbon and alloy steel standard, line and pressure pipe (''line and pressure pipe'') from Brazil covering the period August 1, 2003, through July 31, 2004. *See Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil; Preliminary Results of Antidumping Administrative Review*, 70 FR 24524 (May 10, 2005). The final results for the antidumping duty administrative review of line and pressure pipe from Brazil are currently due no later than September 7, 2005.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an antidumping duty order for which a review is requested and issue the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Due to the complexity of issues present in this administrative review, such as model match characteristics and establishing the appropriate foreign like product, as well as the Department's current demands of other proceedings, the Department has determined that it is not practicable to complete this review within the original time period. Accordingly, the Department is extending the time limit for completion of the final results until no later than October 7, 2005, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 10, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–4450 Filed 8–15–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Notice of Completion of the Extraordinary Challenge Committee

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision and completion of the Extraordinary Challenge Committee.

SUMMARY: On August 10, 2005, the Extraordinary Challenge Committee (ECC) issued its decision in the matter of Certain Softwood Lumber Products from Canada, Secretariat File No. ECC–2004–1904–01USA.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

Background Information: On November 24, 2004, the Office of the United States Trade Representative filed a Request for an Extraordinary Challenge Committee to review the binational NAFTA Panel decisions of September 5, 2003, April 19, 2004 and August 31, 2004 in the matter of Certain Softwood Lumber Products from Canada—Final Affirmative Threat of Material Injury Determination. These determinations were published in the **Federal Register**. The NAFTA Secretariat assigned Secretariat File Number ECC–2004–1904–01USA to this request.

Committee Decision: (a) The Panel did not manifestly exceed its powers, authority or jurisdiction in refusing to permit the Commission to reopen the record in preparing its responses, in setting the time limits within which the Commission had to respond to *Panel Decision II*, or in ordering the Commission to enter a negative threat determination;

(b) Except on the issue of export orientation, the Panel did not exceed its powers, authority or jurisdiction by failing to apply the appropriate standard of review;

(c) On the issue of export orientation, the Panel's failure to apply the appropriate standard of review was not material; and

(d) The conduct of Panelist Mastriani did not create a reasonable apprehension of bias.

In light of these conclusions (except with regard to the Panel's finding of no substantial evidence on the finding on issue export orientation), it is not necessary for us to determine whether, if the Panel had committed any of the errors alleged, they would have been material to the Panel's decision or threatened the integrity of the binational panel review process.

Accordingly, pursuant to NAFTA Annex 1904.13, this challenge is denied and the challenged decision of the Panel stands affirmed.

The Committee Members are hereby discharged from their duties effective August 11, 2005.

Dated: August 10, 2005.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E5–4411 Filed 8–15–05; 8:45 am]

BILLING CODE 3510–GT–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., Thursday, August 25, 2005.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, (202) 418–5100.

Catherine D. Daniels,

Assistant Secretary of the Commission.

[FR Doc. 05–16289 Filed 8–12–05; 1:05 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 17, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the

Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 10, 2005.

Leo Eiden,

Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: State Agency Use of Alternative Method to Distribute Title I Funds to LEAs with Fewer Than 20,000 Total Residents.

Frequency: Guidance issued on an as needed basis.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 25.

Burden Hours: 200.

Abstract: Guidance for State educational agencies seeking to use an alternative method to distribute Title I Basic and Concentration Grants to local educational agencies.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2842. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–16204 Filed 8–15–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by August 24, 2005.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: August 10, 2005.

Leo Eiden,

Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Reinstatement.

Title: William D. Ford Federal Direct Loan Program Deferment Request Forms.

Frequency: On occasion.

Affected Public: Individuals or households.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 737,209.

Burden Hours: 147,443.

Abstract: These forms serve as the means by which the U.S. Department of Education collects the information needed to determine whether a Direct Loan borrower qualifies for a loan deferment.

Additional Information: This collection needs special handling so that students and alumni are not penalized by not having proper deferments available to them.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2738. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–16205 Filed 8–15–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 17, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 10, 2005.

Leo Eiden,

Acting Director, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: SEA Procedures for Adjusting ED-Determined Title I Allocations to Local Education Agencies (LEAs).

Frequency: Guidance issued on an as needed basis.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 2,080.

Abstract: Guidance for State educational agencies (SEAs) on procedures for adjusting ED-determined Title I Basic and Concentration Grants allocations to local educational agencies (LEAs) to account for newly created LEAs and LEA boundary changes.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2843. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–16206 Filed 8–15–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–144]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rates

August 10, 2005.

Take notice that on August 3, 2005, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 884, and Second Revised Sheet No. 885, to be effective March 31, 2005.

CEGT states that the purpose of this filing is to reflect the termination of negotiated rates with respect to a transaction.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4453 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1688–000, ER02–1688–001, and ER02–1688–002]

Central Illinois Generation, Inc.; Notice of Issuance of Order

August 10, 2005.

Central Illinois Generation, Inc. (CIGI) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. CIGI also requested waiver of various Commission regulations. In particular, CIGI requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by CIGI.

On October 25, 2002, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by CIGI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is August 19, 2005.

Absent a request to be heard in opposition by the deadline above, CIGI is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of CIGI, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of CIGI's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4438 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–500–005]

Chandeleur Pipe Line Company; Notice of Negotiated Rates

August 10, 2005.

Take notice that on July 29, 2005, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Tariff Sheet No. 73, to become effective September 1, 2005.

Chandeleur states the filing is being made to reflect current negotiated rate transaction information as required by section 24.3 of Chandeleur's tariff. Chandeleur also states that the proposed change is necessary to delete the information for a contract reflecting a termination date of August 31, 2005.

Chandeleur states that it has served copies of the filing on its customers, State Commissions and interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4439 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of Exemption and Soliciting Comments, Motions To Intervene, and Protests

August 9, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Exemption.

b. *Project No: 8929–003.*

c. *Date filed:* June 27, 2005.

d. *Applicant:* Cherkenkill, Inc.

e. *Name of Project:* Tierckenkill Falls Project.

f. *Location:* The project is located on Mill Creek in Rensselaer County, New York.

g. *Filed Pursuant to:* License Article 418; Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert Fraser, 22 High St., Rensselaer, NY 12144, (518) 463–4400.

i. *FERC Contact:* Hillary Berlin at 202–502–8915, or e-mail *hillary.berlin@ferc.gov.*

j. *Deadline for filing comments and or motions:* September 12, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–8929–003) 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 under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Application:* The licensee filed an application to surrender the exemption because the utility power purchase agreement was terminated and substantial investment would be needed for new utility interconnection and operating requirements.

l. *Location of Application:* The filing is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at *FERCOnlineSupport@ferc.gov* or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov.* under the ''e-Filing'' link.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4431 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–398–000]

Dominion Transmission, Inc.; Notice of Application

August 10, 2005.

On August 3, 2005, Dominion Transmission, Inc. (Dominion), pursuant to section 7(b) of the Natural Gas Act, and Part 157 of the regulations of the Federal Energy Regulatory Commission (Commission) filed an abbreviated application for emergency abandonment of three wells at its Oakford Storage Complex located in Westmoreland County, Pennsylvania. Dominion states that deteriorated conditions of the wells' production casings necessitate this action to prevent rupture and gas leakage. Construction and operation of the storage field was originally authorized in 1950. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* by using the eLibrary (FERRIS) 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 FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or for TTY, contact (202) 502–8659.

Questions concerning the application may be directed to Matthew R. Bley, Certificates Manager, Dominion Transmission, Inc., 120 Tredegar Street, Richmond, Virginia 23219, by calling (804) 819–2877, or facsimile (804) 819–2064.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. 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.

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.

Comment Date: August 22, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4435 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–537–000]

Eastern Shore Natural Gas Company; Notice of Cash Out Report

August 10, 2005.

Take notice that on August 5, 2005, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing revised tariff sheets, proposed to be effective July 1, 2005, to eliminate its Cash Out Surcharge rate for the twelve-month period commencing July 1, 2005.

Eastern Shore states that, as a result of its Cash Out Account Balance at March 31, 2005 being in a refund position, Eastern Shore shall refund such balance of $386,237 to its customers. As a further result of such refund Eastern Shore shall also reduce its Cash Out Surcharge rate from $0.0033 to $0.0000 per dekatherm.

Eastern Shore states that section 35, of the General Terms & Conditions (GT & C) of its FERC Gas Tariff, entitled Cash Out Refund/Surcharge, provides that Eastern Shore will refund or surcharge for each annual billing period any difference between the revenues received and the costs incurred under the cash out provisions of its tariff.

The annual billing period referenced above shall be the twelve-month period commencing April 1st and ending the following March 31st. Subsequent to the end of each such annual billing period Eastern Shore shall compare the revenues received by it under the cash-out procedures to the costs incurred. If the revenues received exceed the costs incurred, then Eastern Shore shall refund the net overrecoveries to firm transportation customers on a pro rata basis in accordance with the transportation quantities Eastern Shore delivered during the annual billing period. If the revenues received are less than the costs incurred, then Eastern Shore shall recover the net under recoveries by means of a surcharge applicable to each dekatherm delivered to all firm and interruptible transportation customers. Such surcharge, to be effective July 1 of each year, shall be calculated by dividing the net under recovered balance by the total transportation quantities delivered by Eastern Shore during the annual billing period.

Eastern Shore states that copies of its filing has been mailed to its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4451 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–533–000]

El Paso Natural Gas Company; Notice of Tariff Filing

August 10, 2005.

Take notice that on August 3, 2005, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, Seventh Revised Sheet No. 210 and Fifth Revised Sheets No. 210.01, to become effective September 3, 2005.

EPNG states that the tariff sheets extend the nomination deadline by fifteen minutes.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4445 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration of Intention and Petition for Relief, and Soliciting Comments, Protests, and/or Motions To Intervene

August 10, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention and Petition for Relief.

b. *Docket No:* DI05–3–000.

c. *Date Filed:* July 11, 2005.

d. *Applicant:* Energetech America, L.L.C.

e. *Name of Project:* Green Wave Rhode Island Ocean Wave Energy Project.

f. *Location:* The proposed Green Wave Rhode Island Ocean Wave Energy Project will be located in the tidal waters near the Point Judith Harbor of Refuge in the Town of Narragansett, Washington County, Rhode Island.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Ms. Cynthia Rudge, Energetech Australia, 44 Jackes Avenue, Suite 1205, Toronto, Canada M4T 1E5; telephone and fax (416) 410–2900, e-mail address: *betsy@energetech.com.au*.

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or e-mail address: *henry.ecton@ferc.gov*.

j. *Deadline for filing comments, protests, and/or motions:* September 12, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov*.

Please include the docket number (DI05–3–000) on any comments, protests, or motions filed.

k. *Description of Project:* The proposed wave-to-energy prototype would include (1) an off-shore floating steel frame structure comprised of a parabolic shaped steel wall, an oscillating water column/wave chamber, and a 500-kW wave-induced air turbine-generator, moored to an array of twelve piles embedded into the seafloor; (2) an approximately 1.2-mile-long transmission cable to convey electricity to the on-shore transformer; and (3) appurtenant facilities. The power would be connected to an interstate grid. It will not occupy any tribal lands.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Petition for Declaratory Intent:* Energetech requested that it be allowed to install and operate the facilities listed above, and to deliver power from the project into the facilities of Narragansett Electric Company, without a license under part I of the Federal Power Act, because Energetech believes its proposal does not come under the definition of a hydropower project under the FPA.

If the prototype is determined to be required to be licensed, Energetech requests the Commission to issue a license on the basis of the Rhode Island Coastal Resource Management Council's (CRMC) decision and the record established in connection therewith, adopting the same or similar license conditions or provisions to avoid conflicts. Further, Energetech requests that the Commission waive all of its requirements relating to applications for exemption from licensing and accept the application to the CRMC in its entirety (once determined to be technically and administratively complete) as a complete application for exemption for licensing, waive the procedural requirements for consideration for such an application from exemption from licensing, and grant Energetech such an exemption from licensing for the project.

m. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and/or ''MOTIONS TO INTERVENE'', as applicable, and the Docket 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.

q. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4436 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–075]

Gas Transmission Northwest Corporation; Notice of Negotiated Rates

August 10, 2005.

Take notice that on July 29, 2005, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its

FERC Gas Tariff, Third Revised Volume No. 1–A, Twenty-Third Revised Sheet No. 15, to become effective August 1, 2005.

GTN states that this sheet is being filed to reflect the continuation of a negotiated rate agreement pursuant to evergreen provisions contained in the agreement.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4456 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–439–002]

High Island Offshore System, L.L.C.; Notice of Compliance Filing

August 10, 2005.

Take notice that on July 29, 2005, High Island Offshore System, L.L.C. (HIOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Eighth Revised Sheet No. 170, to be made effective September 1, 2005.

HIOS states that the tariff sheet is being filed to correct the pagination of the tariff sheet filed on July 21, 2005, in compliance with the Federal Energy Regulatory Commission's Order No. 587-S issued May 9, 2005, requiring pipelines to adopt the standards promulgated by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4443 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–376–001]

Northern Natural Gas Company; Notice of Compliance Filing

August 10, 2005.

Take notice that on July 29, 2005, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute Seventh Revised Sheet No. 146 and Original Sheet No. 146A, with an effective date of July 16, 2005.

Northern states that it is filing the above-referenced tariff sheets in compliance with the Commission's July 15, 2005 Order conditionally accepting Northern's revisions to its IDD Rate Schedule with respect to IDD Inventory Allocations.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the

''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4442 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–535–000]

Northern Natural Gas Company; Notice of Tariff Filing

August 10, 2005.

Take notice that on August 4, 2005, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective on May 1, 2005 and June 1, 2005 as follows:

3 Revised Substitute 70 Revised Sheet No. 53,
1 Revised Substitute 71 Revised Sheet No. 53,
2 Revised Substitute 71 Revised Sheet No. 53.

Northern states that the above tariff sheets are being filed to incorporate the tariff language addressing the rate treatment for the Waterville storage point, approved by the Commission in Docket No. RP05–229–000, effective May 1, 2005, into the tariff sheets containing the settlement rates in Docket Nos. RP03–398–000 and RP04–155–000, effective May 1, 2005, and the tariff sheets containing Northern's fuel and unaccounted for percentages approved by the Commission in Docket No. RP05–296–000, effective June 1, 2005.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4447 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–163–002]

Paiute Pipeline Company; Notice of Motion To Place Suspended Rates and Tariff Sheets Into Effect

August 10, 2005.

Take notice t hat on July 29, 2005, Paiute Pipeline Company (Paiute) filed a motion pursuant to section 4(e) of the Natural Gas Act and section 154.206(a) of the Commission's regulations to make effective on August 1, 2005 the rates and the tariff sheets that were previously accepted and suspended, subject to refund and hearing, in connection with Paiute's application for general rate relief in Docket No. RP05–163–000. As part of its motion, Paiute has tendered for acceptance Fourteenth Revised Sheet No. 10 of Second Revised Volume No. 1–A of its FERC Gas Tariff, to be effective August 1, 2005.

Paiute indicates that in order to comply with the requirements of section 4(e) of the Natural Gas Act and sections 154.206(a) and 154.303(c)(2) of the Commission's regulations, as well as the Commission's February 28, 2005 suspension order in this proceeding, Paiute is submitting its motion for filing (1) to revise the rates proposed in its application in this proceeding to reflect the exclusion of costs associated with facilities which will not be placed in service as of July 31, 2005; and (2) to move to place the revised rates and other previously accepted and suspended tariff sheets into effect.

Paiute states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding, and upon all affected customers and interested state regulatory commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. Eastern Time on August 17, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4441 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–139–000]

Public Utility District No. 1 of Snohomish County, Washington v. Enron Power Marketing, Inc.; Notice of Filing

August 9, 2005.

Take notice that on August 5, 2005, the Public Utility District No. 1 of Snohomish County, Washington filed a Petition for an Order Pursuant to the Commission's Exclusive Jurisdiction Declaring that a Termination Payment Charged by Enron Power Marketing, Inc. is Unjust, Unreasonable, Contrary to the Public Interest and/or Not Permitted under a Rate Schedule, or in the Alternative, Complaint Against Enron Power Marketing, Inc., pursuant to sections 205, 206, 306 and 309 of the Federal Power Act, 16 U.S.C. 824d, 824e, 825e and 825h, section 1290 (Relief For Extraordinary Violations) of the Energy Policy Act of 2005, and Rules 206 and 207 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.206 and 385.207.

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) on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Complainant. Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on September 6, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4429 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP04–91–005 and RP05–104–002]

Questar Pipeline Company; Notice of Compliance Filing

August 10, 2005.

Take notice that on August 4, 2005, Questar Pipeline Company (Questar), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 3, to be effective as indicated for each tariff sheet:

First Revised Volume No. 1

First Revised Thirty-Third Revised Sheet No. 5, effective June 1, 2005. First Revised Substitute Thirty-Fourth Revised Sheet No. 5, effective June 21, 2005. First Revised Substitute Thirty-Fifth Revised Sheet No. 5, effective July 25, 2005. First Revised Fifteenth Revised Sheet No. 5A, effective June 1, 2005. First Revised Sixteenth Revised Sheet No. 5A, effective June 21, 2005. First Revised Seventeenth Revised Sheet No. 5A, effective July 25, 2005.

Original Volume No. 3

First Revised Fortieth Revised Sheet No. 8, effective June 1, 2005. First Revised Forty-First Revised Sheet No. 8, effective August 15, 2005.

On June 17, 2005, Questar filed an uncontested offer of settlement to resolve all issued raised in these proceedings concerning Questar's Fuel Gas Reimbursement Percentage (FGRP). The Commission's July 26 order approved the settlement and directed Questar to file tariff sheets within ten days to implement the tariff provisions consistent with the settlement. Questar states that this filing was submitted in compliance with the Commission's directives.

In the intervening time period between the June 1, 2005, effective date of the settlement and the present time, additional tariff sheets have been filed in separate proceedings that contain the previous FGRP of 2.6 percent. This filing proposes to also submit conforming changes to those sheets consistent with the July 26 order. These revised tariff sheets will contain effective dates according to the proceedings in which they originated and will include the new FGRP of 2.1 percent and a corresponding footnote explaining the FGRP provisions.

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4440 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC05–74–000]

Southern California Edison Company and Mountainview Power Company LLC; Notice of Filing

August 3, 2005.

Take notice that on July 12, 2005, Southern California Edison Company (SCE) and Mountainview Power Company LLC (MVL) submitted a request for waiver of the application of the application of Financial Accounting Standards Board Emerging Issues Task Force Issue No. 01–8 (EITF 01–8) and related lease accounting literature to their respective Form 1 financial statements.

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 e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on August 15, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4428 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–136–022]

Southern Star Central Gas Pipeline, Inc.; Notice of Refund Report

August 10, 2005.

Take notice that on August 4, 2005, Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing its interruptible excess refund report for the one-month period ended October 2004.

Pursuant to Article V, section A of the November 27, 1996, Stipulation and Agreement (Settlement) in the above named docket, approved by order of the Commission dated March 7, 1997, and section 12 of the General Terms and Conditions (GT&C) of Southern Star's FERC Gas Tariff pertinent to the crediting of interruptible service revenues related to ITS/ISS and Authorized Overrun Service (ADS), Southern Star Central Gas Pipeline, Inc. (Southern Star) hereby files its interruptible excess refund report for the one-month period ended October 31, 2004.

Southern Star states that copies of the filing were served on all parties on the Commission's official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. Eastern Time on August 17, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4452 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–525–001]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

August 10, 2005.

Take notice that on August 2, 2005, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, to become effective July 1, 2005:

Sub Thirty-Third Revised Sheet No. 21A,
Sub Thirty-Ninth Revised Sheet No. 22,
Sub Thirty-Third Revised Sheet No. 22A,
Sub Fifth Revised Sheet No. 23A.01,
Sub Fifth Revised Sheet No. 23C.01,
Sub Fifth Revised Sheet No. 23E.01.

Tennessee states that these tariff sheets are being filed to correct calculation errors made during the preparation of, and included in, the July 29, 2005, Termination of the GSR Interruptible Surcharge filing. Accordingly, Tennessee is submitting substitute revised tariff sheets to reflect the correct rates under Rate Schedules PAT, IT, and IT–X and Tennessee's Authorized Overrun Rate Schedules FT–A, FT–G, and FT–BH.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's

regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4444 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–534–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

August 10, 2005.

Take notice that on August 4, 2005, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective September 3, 2005:

Fifth Revised Sheet No. 364,
Fourth Revised Sheet No. 527,
Fourth Revised Sheet No. 534,
Third Revised Sheet No. 542,
Third Revised Sheet No. 550,
Second Revised Sheet No. 560K,
First Revised Sheet No. 560T,
First Revised Sheet No. 683.

Tennessee states that the purpose of Tennessee's filing is to revise certain of Tennessee's pro forma transportation and storage agreements (Service Agreements) to provide that for Service Agreements that are less than one year, notice of termination may be provided via PASSKEY, which is accessed from Tennessee's interactive Internet Web site.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4446 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–106–011]

TransColorado Gas Transmission Company; Notice of Corrected Revenue Sharing Report

August 10, 2005.

Take notice that on August 3, 2005, TransColorado Gas Transmission Company (TransColorado) tendered for filing a corrected version of its annual revenue sharing report in accordance with the provisions of the Settlement in Docket No. RP99–106 and the Commission's Order dated April 24, 2002.

TransColorado states that the corrected version of the report is intended to correct an error in the original version of the annual revenue sharing report that was submitted on June 1, 2005, and approved by the Commission in a letter order in Docket No. RP99–106–010, dated July 12, 2005. TransColorado requests expedited Commission action on the corrected annual revenue sharing report and commits to make refunds to its shippers within 10 days of Commission acceptance of the corrected annual revenue sharing report.

TransColorado states that a copy of this filing has been served upon all parties listed on the official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. Eastern Time on August 17, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4455 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–359–027]

Transcontinental Gas Pipe Line Corporation; Notice of Negotiated Rate

August 10, 2005.

Take notice that on August 4, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing an executed copy of a second amendment to the May 4, 2001 negotiated rate service agreement under Rate Schedule FT, between Transco and Carolina Power & Light Company. Transco states that the filing is made to comply with the Commission's July 5, 2005 order in Docket No. RP96–359–024.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4454 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–397–000]

Trunkline Gas Company, LLC; Notice of Application

August 10, 2005.

Take notice that on August 1, 2005, Trunkline Gas Company, LLC (Trunkline), P. O. Box 4967, Houston, Texas 77210–4967, filed in Docket No. CP05–397–000, an abbreviated application pursuant to section 7(b) of the Natural Gas Act (NGA) to abandon, by sale, a lateral consisting of approximately 7.26 miles of 10-inch pipeline located in High Island A–376, Offshore Texas, and certain laterals in Blocks 268, 269 and 281, South Marsh Island Area (North Addition), Offshore, Louisiana to the Apache Corporation. Trunkline also requests a determination under section 1(b) of the NGA the upon abandonment the subject facilities with be non-jurisdictional gathering facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application may be directed to William W. Grygar, Vice President, Rates and Regulatory Affairs, at (713) 989–7000, Trunkline Gas Company, LLC, 5444 Westheimer Road, Houston, Texas 77056.

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, before the comment date of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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.

Comment Date: August 22, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4434 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–536–000]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filing

August 10, 2005.

Take notice that on August 4, 2005, Wyoming Interstate Company (WIC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the following tariff sheets to become effective September 5, 2005:

Thirteenth Revised Sheet No. 35,
Ninth Revised Sheet No. 63,
Original Sheet No. 85E,
Original Sheet No. 85F,
Original Sheet No. 85G.

WIC states that these tariff sheets are filed to establish provisions regarding the reservation of capacity for future expansion projects.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

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Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4448 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–117–000, *et al.*]

Dartmouth Power Associates Limited Partnership, *et al.*; Electric Rate and Corporate Filings

August 9, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Dartmouth Power Associates Limited Partnership

[Docket No. EC05–117–000]

Take notice that on August 2, 2005, Dartmouth Power Associates Limited Partnership (Dartmouth Power) submitted an application requesting authorization under section 203 of the Federal Power Act of a disposition of jurisdictional facilities that would result from the proposed indirect transfer of 100 percent of the interests in Dartmouth Power to Morris Energy Group, LLC, or its wholly-owned subsidiary. Dartmouth Power states that it is a public utility within the meaning of section 201(e) of the Federal Power Act.

Comment Date: 5 p.m. Eastern Time on August 23, 2005.

2. Ameren Services Company on behalf of Ameren Energy Development Company, Ameren Energy Marketing Company, AmerenEnergy Medina Valley Cogen, L.L.C., and Electric Energy Inc.

[Docket No. EC05–118–000]

Take notice that on August 5, 2005, Ameren Services Company (Ameren Services), on behalf of Ameren Energy Development Company (AED), Ameren Energy Marketing Company (AEM), AmerenEnergy Medina Valley Cogen (No. 4), L.L.C. (Medina Valley), and Electric Energy, Inc. (EEI) (collectively, AED, AEM, Medina Valley and EEI are also referred to as Applicants), submitted an application pursuant to section 203 of the Federal Power Act, and Part 33 of the Commission regulations, 18 CFR Part 33, requesting all Commission authorizations and approvals necessary for AED to receive as a contribution from Ameren Energy Resources Company (AER) all of AER's stock ownership in AEM, and EEI, and through its acquisition of AmerenEnergy Medina Valley Cogen, (No. 4) L.L.C. (Medina No. 4), indirect ownership of Medina Valley.

Ameren Services states that this filing have been served on all affected state commissions.

Comment Date: 5 p.m. Eastern Time on August 26, 2005.

3. Boston Generating, LLC, Mystic I, LLC, Mystic Development, LLC, Fore River Development, LLC, Tyr Energy, LLC, K Road BG Management, EBG Holdings, LLC and K Road BG LLC

[Docket No. EC05–119–000]

On August 5, 2005, Boston Generating, LLC (Boston Generating) and its three wholly-owned subsidiaries, Mystic I, LLC, Mystic Development, LLC, and Fore River Development, LLC (Project Companies), Tyr Energy, LLC (Tyr), K Road BG Management LLC (K Road BG Management), EBG Holdings, LLC (EBG) and K Road BG LLC (''K Road BG'') (collectively, Applicants), submitted a request for authorization pursuant to Section 203 of the Federal Power Act for a change in control of Boston Generating's Project Companies by the replacement of the current asset manager, Tyr, with a new asset manager, K Road BG Management; to the extent required, authorization for the indirect disposition of jurisdictional assets as a result of certain proposed changes in the ownership, management and scope of operations of EBG; blanket authorization for certain categories of future transfers or changes of ownership or control of membership interests in EBG.

Comment Date: 5 p.m. Eastern Time on August 26, 2005.

Standard Paragraph

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (19 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protests to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

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Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4422 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

August 10, 2005.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER02–600–005.

Applicants: Delta Energy Center, LLC

Description: Delta Energy Center, LLC submits First Revised Sheet Nos. 3 and 4 to FERC Electric Tariff, Original Volume 1 to be effective 3/21/05 in compliance with the Commission's orders dated 4/15/05 and 6/28/05 in Docket No. ER02–600–003 and 004.

Filed Date: 07/28/2005.

Accession Number: 20050801–0013.

Comment Date: 5 p.m. Eastern Time on Thursday, August 18, 2005.

Docket Numbers: ER02–1656–030.

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corporation's compliance filing regarding convergence bidding pursuant to the Commission's 7/1/05 order, 112 FERC¶61,013 (2005).

Filed Date: 08/02/2005.

Accession Number: 20050805–0157.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, August 23, 2005.

Docket Numbers: ER02–2339–002.

Applicants: Citadel Energy Products LLC.

Description: Citadel Energy Products LLC submits an updated market power analysis and a revised tariff sheet to its market-based rate.

Filed Date: 07/28/2005.

Accession Number: 20050801–0015.

Comment Date: 5 p.m. Eastern Time on Thursday, August 18, 2005.

Docket Numbers: ER04–886–002.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc. submits its compliance refund report pursuant to the Commission's order issued 6/16/05, 111 FERC¶61,405 (2005).

Filed Date: 08/01/2005.

Accession Number: 20050804–0221.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER05–752–002.

Applicants: Midwest Independent Transmission System Operator, Inc. PJM Interconnection, L.L.C.

Description: Midwest Independent Transmission System Operator Inc. and PJM Interconnection, L.L.C. submit clarifying revisions to the calculation of Capacity Benefit Margin under the Cogeneration Management Process of their Joint Operating Agreement as required by the Commission's 7/05/05 order, 112¶61.029 (2005).

Filed Date: 08/04/2005.

Accession Number: 20050805–0268.

Comment Date: 5 p.m. Eastern Time on Thursday, August 15, 2005.

Docket Numbers: ER05–1164–001.

Applicants: TPGC, LP.

Description: TPGC, LP submits a Notice of Cancellation of its market-based electric tariff.

Filed Date: 07/29/2005.

Accession Number: 20050805–0168.

Comment Date: 5 p.m. Eastern Time on Friday, August 19, 2005.

Docket Numbers: ER05–1175–001.

Applicants: NorthWestern Energy.

Description: NorthWestern Corporation d/b/a NorthWestern Energy (NorthWestern Energy) submit corrected cover sheet with the correct designation to their 6/30/05 filing in Docket No. ER05–1175–000.

Filed Date: 08/02/2005.

Accession Number: 20050805–0155.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 23, 2005.

Docket Numbers: ER05–1285–000

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool Inc. submits revisions to its regional Open Access Transmission Tariff.

Filed Date: 08/02/2005.

Accession Number: 20050804–0203.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 23, 2005.

Docket Numbers: ER95–1787–017.

Applicants: Texaco Natural Gas Inc.

Description: Texaco Natural Gas Inc. submits updated triennial market power analysis and revised market-based rate tariff sheets.

Filed Date: 08/02/2005.

Accession Number: 20050805–0247.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 23, 2005.

Docket Numbers: ER96–1145–015.

Applicants: Alternate Power Source, Inc.

Description: Alternate Power Source, Inc. submits updated power market analysis.

Filed Date: 08/01/2005.

Accession Number: 20050801–5041.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER96–2640–015.

Applicants: CHI Power Marketing Inc.

Description: CHI Power Marketing Inc. submits its triennial updated market analysis and revisions to its market-based rate schedule.

Filed Date: 08/01/2005.

Accession Number: 20050804–0207.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER96–719–006; EL05–59–000.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Company, in compliance with the Commission's 6/1/05 Order (111 FERC¶61,320 (2005)), submits additional information addressing transmission market power concerns and a sales tariff addressing generation market power concerns that were raised in connection with MidAmerican's most recent market power update.

Filed Date: 08/01/2005.

Accession Number: 20050804–0205.

Comment Date: 5 p.m. Eastern Time on Monday, August 29, 2005.

Docket Numbers: ER98–4643–003.

Applicants: Storm Lake Power Partners I LLC.

Description: Storm Lake Power Partners I LLC submits its updated market power analysis in support of its continued market-based rate authority.

Filed Date: 08/01/2005.

Accession Number: 20050805–0248.

Comment Date: 5:00 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER99–2774–008.

Applicants: Duke Energy Trading & Marketing, L.L.C.

Description: Duke Energy Trading & Marketing, L.L.C. submits its market power update.

Filed Date: 08/01/2005.

Accession Number: 20050803–0145.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER99–3151–004.

Applicants: PSEG Energy Resources & Trade LLC.

Description: PSEG Energy Resources & Trade LLC submits notice of change in

status with regard to representations upon which the Commission relied in granting market-based rate authority to PSEG Energy Resources & Trade LLC.

Filed Date: 08/01/2005.

Accession Number: 20050804–0209.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER99–3665–005.

Applicants: Occidental Power Marketing LP.

Description: Occidental Power Marketing LP submits an updated market power analysis, a report of changes in status, and a revised market-based rate tariff sheet.

Filed Date: 08/01/2005.

Accession Number: 20050804–0222.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER99–3693–004; ER99–666–005; ER99–852–009; ER03–30–003; ER99–893–010; ER99–4229–008; ER99–4228–008; ER99–4231–007.

Applicants: Midwest Generation, LLC; EME Homer City Generation, L.P.; Edison Mission Marketing & Trading, Inc.; Midwest Generation Energy Services, LLC; CP Power Sales Twelve, L.L.C.; CP Power Sales Seventeen, L.L.C.; CP Power Sales Nineteen, L.L.C.; CP Power Sales Twenty, L.L.C.

Description: The above-referenced subsidiates of Edison Mission Energy s submit a notice of change in status to inform the Commission of their indirect affiliation with certain wind-powered generating projects.

Filed Date: 08/01/2005.

Accession Number: 20050805–0159.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4427 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 9, 2005.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–1928–001.

Applicants: Western New York Wind Corp.

Description: Western New York Wind Corp. submits its triennial updated market analysis and revisions to its market-based rate schedule.

Filed Date: 08/01/2005.

Accession Number: 20050804–0206.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER01–1121–001.

Applicants: SF Phosphates Limited Company, LLC

Description: SF Phosphates Limited Company, LLC submits triennial market power update.

Filed Date: 08/01/2005.

Accession Number: 20050801–5141.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER01–2692–003.

Applicants: Canastota Wind Power, LLC.

Description: Canastota Windpower LLC submits its triennial updated market analysis and revisions to its market-based rate schedule.

Filed Date: 08/01/2005.

Accession Number: 20050804–0204.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER01–390–003; ER99–3450–006; ER99–2769–007; ER00–2706–004; ER01–2760–003.

Applicants: Chandler Wind Partners, LLC; Foote Creek II, LLC; Foote Creek III, LLC; Foote Creek IV, LLC; Ridge Crest Wind Partners, LLC.

Description: Chandler Wind Partners, LLC and the above-referenced companies submitted triennial updated market analysis and revised market-based rate tariffs.

Filed Date: 08/01/2005

Accession Number: 20050803–0067.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER02–1600–003.

Applicants: Green Mountain Energy Company.

Description: Green Mountain Energy Company submits an updated market power analysis.

Filed Date: 08/01/2005.

Accession Number: 20050804–0210.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER02–1947–006.

Applicants: Occidental Power Services, Inc.

Description: Occidental Power Services Inc. submits an updated market power analysis, report of changes in status, and revised tariff sheet to its market-based rate tariff.

Filed Date: 08/01/2005.

Accession Number: 20050804–0220.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER03–1102–010.

Applicants: California Independent System Operator Corporation

Description: The California Independent System Operator Corporation submits its filing in compliance with FERC's order issued 7/1/05, 112 FERC ¶ 61,001 (2005).

Filed Date: 08/01/2005.

Accession Number: 20050804–0208.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER05–1122–001.

Applicants: FirstEnergy Nuclear Generation Corp.

Description: FirstEnergy Nuclear Generation Corp. submits revised

Original Sheet No. 2 to its FERC Electric Tariff, Original Volume No. 1, amending its 6/17/2005 filing in Docket No. ER05–1122–000.

Filed Date: 08/01/2005.

Accession Number: 20050805–0158.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 16, 2005.

Docket Numbers: ER05–1267–000.

Applicants: New England Power Pool.

Description: The New England Power Pool Participants Committee submits materials to expand NEPOOL membership to Elliot Health System; JPMorgan Chase, N.A.; Northeastern Power, LLC; Old Town Lumber Company, Inc.; and SP Energy, LLC and to terminate membership of New Jersey Machine Company.

Filed Date: 08/01/2005.

Accession Number: 20050803–0065.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER05–1268–000.

Applicants: PJM Interconnection L.L.C.

Description: PJM Interconnection, L.L.C. submits an executed interconnection service agreement with the City of Rochelle, Illinois and Commonwealth Edison Company & a notice of cancellation of an interim interconnection service agreement that has been superseded.

Filed Date: 08/01/2005.

Accession Number: 20050803–0066.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER05–1269–000.

Applicants: United American Energy Corp.

Description: Covanta Ref-Fuel Corp. formerly known as United American Energy Corp., submits a Notice of Termination of their FERC Electric Rate Schedule No. 1 the rate schedule pursuant to which UAE was authorized to engage in wholesale sales of energy, capacity and ancillary services at market-based rates.

Filed Date: 08/01/2005.

Accession Number: 20050803–0058.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER05–1276–000.

Applicants: Alabama Power Company.

Description: Southern Company Services, Inc., on behalf of Alabama Power Company, submits Revision 10 to Rate Schedule MUN–1 of Alabama Power Company's FERC Electric Tariff, Original Volume No. 1.

Filed Date: 08/01/2005.

Accession Number: 20050803–0076.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER05–1282–000.

Applicants: Storm Lake Power Partners I, LLC.

Description: Storm Lake Power Partners I, LLC submits revisions to its market-based rate schedule.

Filed Date: 08/01/2005.

Accession Number: 20050803–0059.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER05–428–004.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits a filing concerning its 2005 Load and Capacity Data Report , commonly referred to as the Gold Book.

Filed Date: 08/01/2005.

Accession Number: 20050801–5130.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER93–3–005.

Applicants: The United Illuminating Company.

Description: The United Illuminating Company submits an updated market power analysis and revisions to market-based rate tariff.

Filed Date: 08/01/2005.

Accession Number: 20050804–0219.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER95–362–021.

Applicants: Stand Energy Corporation.

Description: Stand Energy Corporation submits updated market analysis pursuant to the Commission's order issued 5/31/05 in 3E Technologies, Inc., *et al.,* 111 FERC ¶ 61,295 (2005).

Filed Date: 08/01/2005.

Accession Number: 20050805–0164.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Docket Numbers: ER95–892–060; ER96–2652–055.

Applicants: CL Power Sales One, L.L.C.; CL Power Sales Two, L.L.C.; CL Power Sales Seven, L.L.C.; CL Power Sales Eight, L.L.C.; CL Power Sales Ten, L.L.C.

Description: The above-referenced partially-owned affiliates of Edison Mission Energy submit a notice of change in status.

Filed Date: 08/01/2005.

Accession Number: 20050805–0165.

Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

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Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4433 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Petition for Declaratory Order and Soliciting Comments, Motions to Intervene, and Protests

August 10, 2005.

Take notice that the following application has been filed with the

Commission and is available for public inspection:

a. *Application Type:* Petition for Declaratory Order.

b. *Docket No:* DI05–4–000.

c. *Date Filed:* July 18, 2005.

d. *Applicant:* Sulphur Creek Ranch, Inc.

e. *Name of Project:* Blue Moon Hydroelectric Project.

f. *Location:* The Blue Moon Hydroelectric Project is located on Blue Moon Creek, Valley County, Idaho. T. 14 N., R. 9 E., sec. 16, SE1/4SW1/4; sec. 21, NW1/4NE1/4, NE1/4NW1/4, Boise Meridian. The project is located on federal land (Boise National Forest/ Frank Church River of No Return Wilderness, administered by the Salmon-Challis National Forest).

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* President: Tom Allegrezza, 7153 West Emerald, Boise, Idaho 83704, telephone: (208) 890–6000. Agent: James S. Underwood, Jr., Attorney, 608 W. Franklin Street, Boise, Idaho 83702, telephone: (208) 342–6532, FAX: (208) 342–6534, e-mail: *jsunderwood@qwest.net.*

i. *FERC Contact:* Any questions on this notice should be addressed to Diane M. Murray (202) 502–8838, or E-mail: *diane.murray@ferc.gov*.

j. *Deadline for filing comments and/ or motions:* September 12, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at: *http://www.ferc.gov*.

Please include the docket number (DI05–4–000) on any protests, comments or motions filed.

k. *Description of Project:* The project consists of: (1) A 10-foot-wide by 2-feet-high concrete and wood diversion dam; (2) 2,400 feet by 8-inch diameter steel water pipeline; (3) a 99 H.P. Impulse Turbine (total head = 300 feet); a 44 kW alternator; and (4) appurtenant facilities.

When a Petition for Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', or ''MOTIONS TO INTERVENE'', as applicable, and the Docket 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 application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the applicant's representatives.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4437 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1656–000]

California Independent System Operator Corporation; Notice of FERC Staff Attendance

August 9, 2005.

The Federal Energy Regulatory Commission (Commission) hereby gives notice that on August 16, 2005, members of its staff will attend a stakeholder meeting on the California Independent System Operator Corporation's (CAISO) proposed Reliability Must Run (RMR) designations for 2006. This meeting will be held at the CAISO's facility, located at 151 Blue Ravine Road, Folsom, CA 95630.

Sponsored by the CAISO, the meeting is open to the public, and staff's attendance is part of the Commission's ongoing outreach efforts. The meeting may discuss matters at issue in Docket No. ER02–1656–000.

For further information, contact Katherine Gensler at *katherine.gensler@ferc.gov;* (916) 294–0275.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4430 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP04–203–000, RP05–105–000 and RP05–164–000]

Equitrans, L.P.; Notice of Informal Settlement Conference

August 9, 2005.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10 a.m. (EST) on Tuesday, August 16, 2005 and continuing, if necessary, on Wednesday, August 17, 2005 at 10 a.m. (EST) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose

of exploring a possible settlement in the above-referenced proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

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

For additional information, please contact Lorna J. Hadlock (202–502–8737).

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–4432 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

August 8, 2005.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket number	Date received	Presenter or requester
Prohibited		
1. ER03–563–030.	7–18–05	Kenneth O. Decko.
Exempt		
1. CP05–83–000.	7–12–05	Ken Gathright.
2. CP05–83–000.	7–21–05	Lance Martin.[1]
3. CP05–92–000.	8–04–05	Pam Breaux.
4. ER03–563–000, EL04–112–000.	7–13–05	Hon. Susan M. Collins, Hon. Olympia J. Snowe.
5. ER03–563–000, EL04–112–000.	7–14–05	Hon. Kevin M. DelGobbo.
6. ER03–563–000, EL04–112–000.	7–14–05	Hon. Judd Gregg, Hon. John Sununu, Hon. Jeb Bradley.
7. ER03–563–000, EL04–112–000.	7–18–05	Hon. Richard F. Ferrari.
8. ER03–563–000, EL04–112–000.	7–18–05	Hon. Cathy C. Tymniak.
9. Project No. 2042–013.	7–19–05	Hon. Cathy McMorris.
10. Project No. 2219–000.	7–24–05	Hon. Robert F. Bennett, Hon. Orrin G. Hatch, Hon. Jim Matheson.

[1] One of four similar telephone records entered into the record for Docket No. CP05–83–000 on July 21, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. 05–16203 Filed 8–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Power Rates

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has prepared Current and Revised 2005 Power Repayment Studies which show the need for an increase in annual revenues to meet cost recovery criteria. Such increased revenues are needed primarily to cover increased investments and replacements in hydroelectric generating and high-voltage transmission facilities and increased operation and maintenance expenses. The Administrator has developed proposed Integrated System rates, which are supported by a rate design study, to recover the required revenues. Beginning January 1, 2006, and thereafter, the proposed rates would increase annual system revenues approximately 7.1 percent from $124,552,200 to $133,342,029.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end November 14, 2005.

1. Public Information Forum—August 30, 2005, 9 a.m., Tulsa, OK.

2. Public Comment Forum—September 29, 2005, 9 a.m., Tulsa, OK.

ADDRESSES: The forums will be held in Southwestern's offices, Room 1460, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696, *gene.reeves@swpa.gov.*

SUPPLEMENTARY INFORMATION: Originally established by Secretarial Order No. 1865 dated August 31, 1943, Southwestern is an agency within the U.S. Department of Energy which was created by an Act of the U.S. Congress, entitled the Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977. Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2 entitled Power Marketing Administration Financial Reporting. Procedures for Public Participation in Power and Transmission Rate Adjustments of the Power Marketing Administrations are found at title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR part 903). Procedures for the confirmation and approval of rates for the Federal Power Marketing Administrations are found at title 18, part 300, subpart L of the Code of Federal Regulations (18 CFR part 300).

Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these States plus Kansas and Louisiana. The costs associated with the hydropower facilities of 22 of the 24 projects are repaid via revenues received under the Integrated System rates, as are those of Southwestern's transmission facilities, which consist of 1,380 miles of high-voltage transmission lines, 24 substations, and 46 microwave and VHF radio sites. Costs associated with the Sam Rayburn and Robert D. Willis Dams, two Corps of Engineers projects that are isolated hydraulically, electrically, and financially from the Integrated System are repaid under separate rate schedules and are not addressed in this notice.

Following Department of Energy guidelines, the Administrator, Southwestern, prepared a Current Power Repayment Study using existing system rates. The Study indicates that Southwestern's legal requirement to repay the investment in power generating and transmission facilities for power and energy marketed by Southwestern will not be met without an increase in revenues. The need for increased revenues is primarily due to increased Operations and Maintenance (O&M) power-related expenses for the U.S. Army's Corps of Engineers and increased investments in the hydroelectric generating facilities. Southwestern's operations and maintenance expenses have also increased from the previous power repayment studies. The Revised Power Repayment Study shows that additional annual revenues of $8,789,829, (a 7.1 percent increase), beginning January 1, 2006, are needed to satisfy repayment criteria.

A Rate Design Study has also been completed which allocates the revenue requirement to the various system rate schedules for recovery, and provides for transmission service rates in general conformance with FERC Order Nos. 888 (A–C). The proposed new rates would increase estimated annual revenues from $124,552,200 to $133,342,029 and would satisfy the present financial criteria for repayment of the project and transmission system investments within the required number of years. As indicated in the Integrated System Rate Design Study, this revenue would be developed primarily through increases in the charges for power sales capacity and energy and transmission services, to include some of the ancillary services for deliveries of both Federal and non-Federal power and associated energy from the transmission system of Southwestern.

A second component of the Integrated System rates for power and energy, the purchased power adder, produces revenues which are segregated to cover the cost of power purchased to meet contractual obligations. The purchased power adder is established to reflect what is expected to be needed by Southwestern to meet purchased power needs on an average annual basis. It has been increased from the existing rate to reflect the projected power costs based on present market rates. The Administrator's authority to adjust the purchased power adder annually at his discretion will remain the same.

Below is a general comparison of the existing and proposed system rates:

	Existing Rates	Proposed Rates
Generation Rates	Rate Schedule P–04 (System Peaking)	Rate Schedule P–05 (System Peaking)
Capacity: Grid or 138–161kV	$2.73/kW/Mo + $0.08/kW/Mo (ancillary services) for generation within control area: Regulation Ancillary Services +$0.07/kW/Mo for deliveries within control area + Reserve Ancillary Services: up to: $0.0154/kW/Mo for generation in control area.	$3.03/kW/Mo + $0.09/kW/Mo (ancillary services) for generation within control area: Regulation Ancillary Services +$0.08/kW/Mo for deliveries within control area + Reserve Ancillary Services: up to: $0.0158/kW/Mo for generation in control area.
	Transformation Service	
69 kV	+ $0.30/kW/Mo (applied to usage, not reservation)	+ $0.30/kW/Mo (applied to usage, not reservation)
Energy	$0.008/kWh of Peaking Energy + $0.0051/kWh of Supplemental Peaking Energy + a Purchased Power Adder of $0.0028 of Peaking Energy (±$0.0011 annually at Administrator's discretion).	$0.0082/kWh of Peaking Energy + $0.0055/kWh of Supplemental Peaking Energy + a Purchased Power Adder of $0.0029 of Peaking Energy (±$0.0011 annually at Administrator's discretion)
Transmission Rates	Rate Schedule NFTS–04 (Transmission)	Rate Schedule NFTS–05 (Transmission)
Capacity (Firm Reservation with energy):		

	Existing Rates	Proposed Rates
Grid or 138–161 kV	$0.85/kW/Mo $0.2125/kW/Week $0.0386/kW/Day + Required Ancillary Services: $0.08/kW/Mo, or $0.021/kW/Week, or $0.0037/kW/Day + Reserve Ancillary Services: up to: $0.0154/kW/Mo, or $0.0038/kW/Week, or $0.0007/kW/day, for generation in control area + Regulation & Freq. Response Ancillary Service: up to: $0.07/kW/Mo, or $0.018/kW/Week, or $0.0032/kW/Day, for deliveries within control area.	$0.90/kW/Mo $0.225/kW/Week $0.0409/kW/Day + Required Ancillary Services: $0.09/kW/Mo, or $0.023/kW/Week, or $0.0041/kW/Day + Reserve Ancillary Services: up to: $0.0158/kW/Mo, or $0.00395/kW/week, or $0.00072/kW/day, for generation in control area + Regulation & Freq. Response Ancillary Service: up to: $0.08/kW/Mo, or $0.020/kW/Week, or $0.0036/kW/Day, for deliveries within control area.
	Transformation Service	
69 kV and below	+ $0.30/kW/Mo no separate charge (applied on usage, not reservation) Weekly and daily rates not applied.	+ $0.30/kW/Mo no separate charge (applied on usage, not reservation) Weekly and daily rates not applied.
Capacity (Non-firm with energy).	No separate capacity charge 80% of firm monthly charge divided by 4 for weekly rate, divided by 22 for daily rate, and divided by 352 for hourly rate..	No separate capacity charge 80% of firm monthly charge divided by 4 for weekly rate, divided by 22 for daily rate, and divided by 352 for hourly rate
Network Service	$0.85/kW/Mo of Network Load + Required Ancillary Services: $0.08/kW/Mo, and/or + Reserve Ancillary Services: up to: $0.00154/kW/Mo, for generation in control area + Regulation & Freq. Response Ancillary Service up to: $0.07/kW/Mo, for deliveries within control area.	$0.90/kW/Mo of Network Load + Required Ancillary Services: $0.09/kW/Mo, and/or + Reserve Ancillary Services: up to: $0.00158/kW/Mo, for generation in control area + Regulation & Freq. Response Ancillary Service up to: $0.08/kW/Mo, for deliveries within control area.
	Rate Schedule EE–04	Rate Schedule EE–05
	(Excess Energy)	(Excess Energy)
Energy	$0.0051/kWh	$0.0055/kWh.

Opportunity is presented for Southwestern's customers and other interested parties to receive copies of the Integrated System Studies. If you desire a copy of the Integrated System Power Repayment Studies and Rate Design Study Data Package, submit your request to Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, One West Third, Tulsa, OK 74103 (918) 595–6696.

A Public Information Forum is scheduled on August 30, 2005, to explain to the public the proposed rates and supporting studies. The proceeding will be transcribed. A chairman, who will be responsible for orderly procedure, will conduct the Forum. Questions concerning the rates, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing, except that questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons interested in attending the Public Information Forum should indicate in writing (address cited above) by letter, email or facsimile transmission (918–595–6656) by August 22, 2005, their intent to appear at such Forum. If no one so indicates his or her intent to attend, no such Forum will be held.

A Public Comment Forum is scheduled on September 29, 2005, at which interested persons may submit written comments or make oral presentations of their views and comments related to the rate proposal. The proceeding will be transcribed. A chairman, who will be responsible for orderly procedure, will conduct the Forum. Southwestern's representatives will be present, and they and the chairman may ask questions of the speakers. Persons interested in attending the Public Comment Forum should indicate in writing (address cited above) by letter, e-mail or facsimile transmission (918–595–6656) by September 20, 2005, their intent to appear at such Forum. If no one so indicates his or her intent to attend, no such Forum will be held. Persons interested in speaking at the Forum should submit a request to Mr. Forrest E. Reeves, Assistant Administrator, Southwestern, at least seven (7) calendar days prior to the Forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each Forum will be made. Copies of the transcripts may be obtained, for a fee, from the transcribing service. Copies of all documents introduced will also be available from the transcribing service upon request for a fee. Ten copies of all written comments, together with a diskette or compact disk in MS Word, on the proposed Integrated System Rates are due on or before November 14, 2005. Comments should be submitted to Forrest E. Reeves, Assistant Administrator, Southwestern, at the above-mentioned address for Southwestern's offices.

Following review of the oral and written comments and the information gathered in the course of the proceedings, the Administrator will submit the finalized Integrated System Rate Proposal, Power Repayment Studies, and Rate Design Study in support of the proposed rates to the Deputy Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission (Commission) for confirmation and approval on a final basis. The Commission will allow the public an opportunity to provide written comments on the proposed rate increase before making a final decision.

Dated: August 5, 2005.

Michael A. Deihl,

Administrator.

[FR Doc. 05–16190 Filed 8–15–05; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2005–0034; FRL–7953–4]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NESHAP for Inorganic Arsenic Emissions From Glass Manufacturing Plants (Renewal), ICR Number 1081.08, OMB Number 2060–0043

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 15, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2005–0034, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Ave., NW., Washington, 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, (Mail Code 2223A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 6, 2005 (70 FR 24020), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2005–0034, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

Title: NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (Renewal).

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for inorganic arsenic emissions from glass manufacturing plants were proposed on July 20, 1983, and promulgated on August 4, 1986, and were amended on May 31, 1990, to add an alternative test method. These standards apply to each glass melting furnace that uses commercial arsenic as a raw material.

Owners or operators must submit initial notifications, performance tests, and periodic reports. Respondents are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 49 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of glass manufacturing plants that emit inorganic arsenic.

Estimated Number of Respondents: 16.

Frequency of Response: Initially, on occasion, annually, and semiannually.

Estimated Total Annual Hour Burden: 3,098 hours.

Estimated Total Capital and Operations & Maintenance (O&M) Annual Costs: $306,106, which includes $0 annualized capital/startup costs, $56,000 annual O&M costs, and $250,106 Respondent Labor Costs.

Changes in the Estimates: There is a decrease of 1,426 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to a decrease in the number of sources. Our data indicates that there are approximately sixteen sources to the rule, as compared to the active ICR that shows twenty-eight sources. There are no new facilities expected to be constructed in the next three years. The burden in the renewed ICR shows a higher cost for each respondent than in the active ICR, this is due to the fact that we are presently accounting for management and clerical person hours per year in the renewal ICR, which was omitted in the active ICR, and a revised salary table.

Dated: August 8, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–16196 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2004–0047; FRL–7953–3]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyol Production, ICR Number 1811.05, OMB Number 2060–0415

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on September 30, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 15, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2004–0047, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marcia B. Mia, Compliance Assessment and Media Programs Division (CAMPD), Office of Compliance (OC), 2223A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–7042]; fax number: (202) 564–0050; e-mail address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On December 1, 2004, (69 FR 69909), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OECA–2004–0047, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyol Production.

Abstract: The National Emissions Standards for Hazardous Air Pollutants for Polyether Polyols Production, (40 CFR part 63, subpart PPP) was proposed on June l, 1999 and published January 30, 2002. These regulations apply to new and existing facilities that engage in the manufacture of polyether polyols (which also include polyether mono-ols) and emit hazardous air pollutants (HAP). Owners or operators of polyether polyols production facilities to which this regulation is applicable must choose one of the compliance options described in the rule or install and monitor a specific control system that reduces HAP emissions to the compliance level. The respondents are also subject to sections of 40 CFR part 63, subpart A.

All existing sources must be in compliance with the requirements of subpart PPP within three years of the effective date (promulgation date) of standards for an affected source. All new sources must be in compliance with the requirements of subpart PPP upon startup or the promulgation date of standards for an affected source, whichever is later. Compliance is assumed through initial performance testing or design analysis, as appropriate, and ongoing compliance is demonstrated through parametric monitoring. Types of parameters

monitored are incinerator temperature, scrubber flow rate, carbon adsorber regeneration frequency as well as others. The appropriate parameter to monitor depends on the type of control device with which the owner or operator chooses to comply.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 80 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Producers of Polyether Polyols; primarily Standard Industrial Classification (SIC) codes 2834 and 2869 and the corresponding North American Industry Classification System (NAICS) codes 325613 and 325199.

Estimated Number of Respondents: 82.

Frequency of Response: Annually, semi-annually and on occasion.

Estimated Total Annual Hour Burden: 13,042 hours.

Estimated Total Capital and Operations and Maintenance Annual Cost: $203,012 which includes $203,012 annualized capital/startup costs and no O&M costs.

Changes in the Estimates: The decrease in burden from the most recently approved ICR is due to adjustment in both the types of information which must be collected and the number of sources submitting the required information. Specifically, the following burden items, which were in the previous ICR, were deleted from this ICR because they are not required under the rule:

Notification of demonstration of continuous monitoring system (CMS); Submittal of quality control plan for CMS; Notification of anticipated startup. There is also no separate report required for monitoring exceedences; the burden associated with this is captured in the semi-annual report burden, so this burden was deleted, to avoid double counting. Additionally, based on the assumptions in the most previously approved ICR, the correct number for sources submitting notifications of construction/reconstruction, compliance status, and actual startup are only the new sources, or 1. Finally, the number of sources performing leak detection and repair (LDAR) and submitting semi-annual reports includes both new and existing sources, or 82.

The Capital/Startup costs as calculated in this ICR's section 6(b)(iii) compared with the costs in the previous ICR have decreased. The previous ICR incorrectly calculated the capital/startup costs. This ICR renewal also includes the continued capital depreciation costs, per OMB's Terms of Clearance (TOC) for the previously approved ICR.

Dated: August 8, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–16197 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[RCRA–2005–0005; FRL–7953–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; RCRA Expanded Public Participation (Renewal), EPA ICR Number 1688.05, OMB Control Number 2050–0149

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on August 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 15, 2005.

ADDRESSES: Submit your comments, referencing docket ID number RCRA–2005–0005, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *RCRA–docket@epa.gov,* or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), RCRA Docket, mail code 5305T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Norma Abdul-Malik, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (703) 308–8753; fax number: (703) 308–8617; e-mail address: *abdul-malik.norma@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 7, 2005 (70 FR 17686), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. RCRA–2005–0005, which is available for public viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the

comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: RCRA Expanded Public Participation (Renewal).

Abstract: Section 7004(b) of RCRA gives EPA broad authority to provide for, encourage, and assist public participation in the development, revision, implementation, and enforcement of any regulation, guideline, information, or program under RCRA. In addition, the statute specifies certain public notices (*i.e.*, radio, newspaper, and a letter to relevant agencies) that EPA must provide before issuing any RCRA permit. The statute also establishes a process by which the public can dispute a permit and request a public hearing to discuss it. EPA carries out much of its RCRA public involvement at 40 CFR parts 124 and 270.

In 1995, EPA expanded the public participation requirements under the RCRA program by promulgating the RCRA Expanded Public Participation Rule (60 FR 63417; December 11, 1995). The rule responded to calls by the Administration and stakeholders (*e.g.*, States and private citizens) to provide earlier and better public participation in EPA's permitting programs, including procedures for more timely information sharing. In particular, the rule requires earlier public involvement in the permitting process (*e.g.*, pre-application meetings), expanded public notice for significant events (*e.g.*, notices of upcoming trial burns), and more opportunities for the exchange of permitting information (*e.g.*, information repository).

The required activities and information are needed to help assure timely and effective public participation in the permitting process. The requirements are intended to provide equal access to information to all stakeholders in the permitting process: the permitting agency, the permit applicant, and the community where a facility is located. Some facilities may be required to develop information repositories to allow for expanded public participation and access to detailed facility information as part of the permitting process.

EPA sought to reduce the reporting frequency to the minimum that is necessary to ensure compliance with the rule. It would not be possible to collect this information less frequently and still assure that the requirements of permit and public involvement regulations are met by owners or operators. The reporting frequency is essential to assure that any changes in the trial burn plans or in the anticipated permit application contents are made known to EPA and to the public.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 91 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Facility owners or operators applying for an initial Part B permit or a Part B permit renewal.

Estimated Number of Respondents: 33.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 3,005 hours.

Estimated Total Annual Cost: $176,311, which includes $546 annualized capital/startup costs, $2,863 O&M costs, and $172,902 annual labor costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: August 8, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–16198 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2005–0025; FRL–7953–1]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NSPS for Sulfuric Acid Plants (Renewal), ICR Number 1057.10, OMB Number 2060–0041

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 15, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2005–0025, to (1) EPA online using EDOCKET (our preferred method), by email to *docket.oeca@epa.gov*, or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, (Mail Code 2223A), Environmental Protection

Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 6, 2005 (70 FR 24020), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OECA–2005–0025, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

Title: NSPS for Sulfuric Acid Plants (40 CFR part 60, subpart H) (Renewal)

Abstract: The New Source Performance Standards (NSPS), for Sulfuric Acid Plants were proposed on August 17, 1971, and promulgated on December 23, 1971. These standards apply to any sulfuric acid facility commencing construction, modification or reconstruction after the date of proposal. The control of sulfur dioxide (SO_2) and acid mist requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. Sulfur dioxide and acid mist emissions from sulfuric acid plants result from the burning of sulfur or sulfur-bearing feed stocks to form SO_2, catalytic oxidation of SO_2 to sulfur trioxide, and absorption of SO_2 in a strong acid stream. These standards rely on the capture of SO_2 and acid mist by venting to a control device.

Owners or operators of sulfuric acid plants are required to make the following one-time-only reports: notification of the date of construction or reconstruction; notification of actual startup dates; notification of any physical or operational change to an existing facility; notification of demonstration of the continuous emissions monitoring system (CEMS); notification date of the initial performance test; and the results of the initial performance test. After the initial recordkeeping and reporting requirements, semiannual reports are required if there has been an exceedance of control device operating parameters. Respondents are also required to maintain records of occurrence and duration of any startup, shutdown, or malfunction, or any period during which the monitoring system is inoperative. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 127 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of sulfuric acid plants.

Estimated Number of Respondents: 103.

Frequency of Response: Semiannually, on occasion and initially.

Estimated Total Annual Hour Burden: 26,177 hours.

Estimated Total Annual Costs: $2,577,271, which includes $0 annualized capital/startup costs, $464,000 annual O&M costs, and $2,113,271 annual labor costs.

Changes in the Estimates: There is an increase of 2,857 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to the fact that we are presently accounting for management and clerical person hours per year, which was omitted in the previous ICR. There is also an increase in the cost burden, which consisted of the accounting for management and clerical person hours per year and a revised salary table. There is however, a decline in the number of sources. The renewal ICR shows that there are approximately 103 sources subject to the rule, as compared to the active ICR that shows 106 sources. This decline in sources is due to plant closure. No new facilities are expected to be constructed in the next three years.

Dated: August 9, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–16199 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2005–0017; FRL–7952–9]

Agency Information Collection Activities: Submission for OMB Review and Approval; Comment Request; NESHAP for Radionuclides, (Renewal) EPA ICR Number 1100.12, OMB Control Number 2060–0191

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on August 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 15, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2005–0017, to (1) EPA online using EDOCKET (our preferred method), by email to *a-and-r-Docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Behram Shroff, Office of Air and Radiation, Office of Radiation and Indoor Air, Mail Code 6608J; Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9707; fax number: (202) 343–2305; e-mail address: *shroff.behram@epa.gov.*

SUPPLEMENTARY INFORMATION: The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on February 15, 2005 (70 FR 7732); no comments were received.

EPA has established a public docket for this ICR under Docket ID Number OAR–2005–0017, which is available for public viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is: (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, or access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: NESHAP for Radionuclides (Renewal).

Abstract: On December 15, 1989, pursuant to section 112 of the Clean Air Act as amended in 1977 (42 U.S.C. 1857), the Environmental Protection Agency (EPA) promulgated NESHAPs to control radionuclide emissions from several source categories. The effect of these emissions can have an adverse effect on public health if not limited through pollution control devices. The regulations were published in 54 FR 51653, and are codified at 40 CFR part 61, subparts B, H, I, K, R, T, and W. Subpart T was rescinded on July 15, 1994 and subpart I was rescinded on December 30, 1996. Subpart H does not require an ICR because it covers Federal facilities that are not subject to the Paperwork Reduction Act.

Information collected is used by EPA to ensure that public health continues to be protected from the hazards of airborne radionuclides by compliance with the standards mentioned above. If the information were not collected, it is unlikely that a violation of these standards would be identified and, thus, there would be no corrective action initiated to bring the facilities back into compliance. Compliance is demonstrated through emission testing and/or dose calculation. All facilities are required to calculate, monitor, and maintain their records for 5 years, as required by 40 CFR part 61, § 61.95. The results are also reported to EPA–HQ , EPA regions, and delegated states.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 103 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of selected facilities that emit radionuclides.

Estimated Number of Respondents: 39.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 4,032.

Estimated Total Annualized Cost Burden: $520,508, which includes $0 annualized Capital cost, $190,020 for

Operations and Maintenance, and $330,488 Respondent Labor costs.

Changes in the Estimates: Some burden hours estimates decreased because the number of facilities affected has increased due to facility closure.

Dated: August 8, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–16201 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2005–0088, FRL–7953–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Assessment of Indoor Air Quality Outreach Products and Services, EPA ICR Number 2190.01

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request for a new collection. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 15, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2005–0088, to EPA online using EDOCKET (our preferred method), by email to *a-and-r-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Air Docket, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Hall, Indoor Environments Division, mail code 6609J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–343–9453; fax number: 202–343–2393; e-mail address: *Hall.JohnM@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OAR–2005–0088, which is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1744. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Affected Entities: Entities potentially affected by this action include customers who request our products, including, but not limited to: teachers and day care workers; principals; superintendents; students; parents; care givers; nurses; health care providers; state and local health departments; facility managers; maintenance personnel; custodians; school business officials; private industry; home owners; home builders and architects; real estate industry personnel; commercial building owners and operators; and procurement officials that receive EPA outreach products and services. The burden from the product feedback form that will be provided to these customers will be minimal.

Title: Assessment of Indoor Air Quality Outreach Products and Services.

Abstract: The Environmental Protection Agency is seeking approval for a three year generic clearance from the Office of Management and Budget (OMB) to determine how well EPA outreach products and services meet customers' needs and to assess the effectiveness of its outreach products and services. This will be a voluntary collection of information to gauge customer satisfaction with outreach products and services, measure any resulting changes in knowledge or behavior, and evaluate environmental and human health impacts. EPA proposes to use assessment surveys to obtain feedback on outreach products and services including: documents, Web sites, and voluntary seminars and workshops delivered by Headquarters and Regional voluntary programs to the community. This feedback will help EPA improve the quality and delivery of voluntary tools and services.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

This ICR will provide data for the purpose of informing EPA of the effectiveness of outreach products and services, and customer satisfaction with outreach products and services. The information collection is voluntary, and will be limited to non-sensitive data concerning the quality of outreach products and services. EPA will request feedback from a representative sample of those who receive products and services. The data collected will be used to estimate the rate of effectiveness of outreach products and services and no data collected will be used to make policy decisions.

To help fulfill the broad mandate of protecting human health and the environment, EPA provides outreach products and services to the general public. Outreach products and services provide the general public with the specific information necessary to achieve and maintain good indoor air quality. In addition to providing information on indoor air quality, these products and services describe ways people can work to improve the indoor air quality in their home, work place, school, etc. Specific behavioral changes are described in our products and services that will help improve indoor air quality. In order to determine the effectiveness of the products and

services EPA provides, it is essential to know to what extent the products and services impact customer behavior. It is also essential to know how satisfied customers are with these products and services, and if they are fully meeting their needs. A better understanding of the effectiveness of EPA's products will also provide a better understanding of the rate of improvement of indoor air quality among customers receiving our products.

EPA believes that evaluating outreach products and services is necessary to ensure customer needs are met, as well as to maintain efficient and effective assistance. Understanding our customers' ability to use our tools and services in their practical applications, and the rates of use of these tools and services, will assist the Agency in planning its future outreach products and services efforts.

Each product feedback form has a burden time of five minutes per respondent. There are three general questions to be asked of all customers indicating customer satisfaction with various outreach products and services. These questions will identify ways that products can be strengthened to better meet our customers' needs and will indicate the means by which our customers heard about our products. A better understanding of how IED's customers learn about its issues and products will help IED better target its audiences.

Each of IED's products addresses particular IAQ issues and informs the customer of actions that can be taken to eliminate or reduce the IAQ problem. Behavioral change questions inform IED about what actions people have taken as a result of the products, and therefore indicate how effective the product is at affecting peoples' behaviors. IED has developed a question for each of the major topic areas covered by the division. One such question will be included in each product feedback form.

For a small subset of our products, there is value in understanding what the customer has learned from a particular product, in addition to what behavioral changes they have made. Effective behavior change is multi-dimensional and encompasses a set of attributes including reaction, knowledge, attitude, skills, intentions and behaviors. These attributes can be considered milestones along a roadmap which ultimately leads to behavioral outcomes. Therefore, we will be asking a fifth question of these audiences. This additional question will add no significant burden time to the recipient of the questionnaire.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: In order to minimize the respondent burden, product feedback form designs will be simple, convenient, easy to respond to, and clear in content and purpose. Product feedback forms will be of limited scope and require only a short time to complete. Below is the estimated project cost and hour burden estimate. This includes an estimate of the average annual reporting burden disaggregated to show the estimated average burden hours per response, the proposed frequency of response, and the estimated number of likely respondents. For the cost burden to respondents or record keepers resulting from the collection of information, this includes a total capital and start-up cost component annualized over its expected useful life, and a total operation and maintenance component.

TABLE 6.1.—THREE-YEAR OUTREACH PRODUCTS AND SERVICES ASSESSMENT ACTIVITIES—FY2006–FY2009

Assistance activity (number of events)	Type of survey (number of events)	Estimated No. of respondents	Estimated survey time in minutes	Total burden (hours)	Total cost
Workshops (48)	[1] (4,875)	3,900	5	325	$28,337.00
Outreach Products (25)	[2] (112,500)	90,000	5	7,500	653,925.00
Totals over 3 years	117,375	93,900	.....	7,825	682,262.00
Annual Totals	39,125	31,300	.....	2,608	227,392.00

[1] Phone.
[2] Mail/E-mail.

TABLE 6–3.—THREE-YEAR AGENCY BURDEN/COST FOR IMPLEMENTING SURVEYS

Activities	Hours	No. of events	Total burden (hours)	Total cost
Survey Development	5	40	200	$9,316.00
IED Review of Survey	5	40	200	9,316.00
Administration of Survey	[1] .0167	93,900	1,568	73,043.00
Compilation of Survey Results	[2] .05	93,900	4,695	218,693.00
Analysis of Survey Results	[2] .05	93,900	4,695	218,693.00
3-Year Total	.....	279,080	11,358	529,061.00
Annual Total	.....	93,026	3,786	176,354.00

[1] 1 minute.
[2] 3 minutes.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 9, 2005.

Jeffrey Holmstead,

Assistant Administrator for Air and Radiation, Office of Air and Radiation.

[FR Doc. 05–16221 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7952–8]

Proposed CERCLA Administrative Cost Recovery Settlement; the General Motors Corporation—Central Foundry Division Superfund Site, Massena, St. Lawrence County, NY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act as amended (''CERCLA''), 42 U.S.C. 9622(h), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the General Motors Corporation—Central Foundry Division Superfund Site located in Massena, St. Lawrence County, New York with the settling party, the General Motors Corporation. The settlement requires the settling party to pay $897,690.88, plus an additional sum for Interest on that amount calculated from April 21, 2004 through the date of payment to the General Motors—Central Foundry Division Superfund Site Special Account within the EPA Hazardous Substance Superfund in reimbursement of EPA's past response costs incurred with respect to the Site. The settlement includes a covenant not to sue the settling party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a) for past response costs. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

DATES: Comments must be submitted on or before September 15, 2005.

ADDRESSES: The proposed settlement is available for public inspection at USEPA, 290 Broadway, 17th Floor, New York, New York 10007–1866. A copy of the proposed settlement may be obtained from Marla E. Wieder, Assistant Regional Counsel, USEPA, 290 Broadway, 17th Floor, New York, New York 10007–1866, (212) 637–3184. Comments should reference the General Motors Corporation—Central Foundry Division Superfund Site, CERCLA Docket No. 02–2005–2027. To request a copy of the proposed settlement agreement, please contact the individual identified below.

FOR FURTHER INFORMATION CONTACT: Marla E. Wieder, Assistant Regional Counsel, USEPA, 290 Broadway, New York, New York 10007–1866, (212) 637–3184.

Dated: July 26, 2005.

Raymond Basso,

Acting Division Director, Emergency Remedial Response Division, Region II.

[FR Doc. 05–16220 Filed 8–15–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Standards (SFFAS) No. 30, Inter-Entity Cost Implementation: Amending SFFAS 4, Managerial Cost Accounting Standards and Concepts

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in April 2004, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Standard 30, *Inter-Entity Cost Implementation: Amending SFFAS 4, Managerial Cost Accounting Standards and Concepts.*

Copies of the standard can be obtained by contacting FASAB at (202) 512–7350. The standard is also available on FASAB's home page *http://www.fasab.gov/.*

FOR FURTHER INFORMATION CONTACT: Wendy M. Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463.

Dated: August 11, 2005.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 05–16251 Filed 8–15–05; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Deletion of Agenda Items and an Additional Item To Be Considered at Open Commission Meeting, Friday, August 5, 2005

August 5, 2005.

The following items have been deleted from the list of Agenda items scheduled for consideration at the August 5, 2005, Open Meeting and previously listed in the Commission's Notice of July 28, 2005.

1	INTERNATIONAL	*Title:* Inquiry into the Commission's Process to Avert Harm to U.S. Competition and U.S. Customers Caused by Anticompetitive Conduct. *Summary:* The Commission will consider a Notice of Inquiry concerning the effects of anticompetitive conduct and circuit disruption by foreign carriers on U.S.-international routes.
2	MEDIA	*Title:* Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming. *Summary:* The Commission will consider a Notice of Inquiry that seeks comments and information for the Twelfth Annual Report on the status of competition in the market for the delivery of video programming.

The Federal Communications Commission will consider one additional item on the subject listed below.

Item no.	Bureau	Subject
2	WIRELINE COMPETITION	*Title:* Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers (CC Docket No. 02–33); Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services (CC Docket No. 01–337); Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review—Review of Computer III and ONA Safeguards and Requirements (CC Docket Nos. 95–20, 98–10); and Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. 160(c) with Regard to Broadband Services Provided via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided via Fiber to the Premises (WC Docket No. 04–242). *Summary:* The Commission will consider a Report and Order concerning the appropriate framework for Broadband Access to the Internet over Wireline Facilities and a Notice of Proposed Rulemaking concerning Consumer Protection in a Broadband Era.

The prompt and orderly conduct of Commission business permits less than 7-days notice be given for consideration of this item.

Action by the Commission, August 5, 2005. Chairman Martin; Commissioners Abernathy, Copps, and Adelstein voting to consider this item.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 05–16336 Filed 8–12–05; 2:28 pm]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 30, 2005.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. York Capital Management, L.P., York Investment Limited, and York Global Partners, L.P., all of New York City, New York; to acquire voting shares of PanAmerican Bancorp, Miami, Florida, and thereby indirectly acquire voting shares of PanAmerican Bank Miami, Florida.

Board of Governors of the Federal Reserve System, August 10, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–16147 Filed 8–15–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:30 a.m., Monday, August 22, 2005.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Director, Office of Board Members; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, August 12, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–16321 Filed 8–12–05; 1:50 pm]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

OMB Control No. 3090–0262

General Services Administration Acquisition Regulation; Information Collection; Identification of Products with Environmental Attributes

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration has submitted to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding identification of products with environmental attributes. A request for public comments was published at 70 FR 30729, May 27, 2005. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this

collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: September 15, 2005.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Procurement Analyst, Contract Policy Division, at telephone (202) 501–1900 or via email at *linda.nelson@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0262, Identification of Products with Environmental Attributes, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

General Services Administration (GSA) requires contractors submitting Multiple Award Schedule Contracts to identify in their GSA price lists those products that they market commercially that have environmental attributes. The identification of these products will enable Federal agencies to maximize the use of these products to meet the responsibilities expressed in statutes and executive orders.

B. Annual Reporting Burden

Respondents: 16,941.

Responses Per Respondent: 1.

Annual Responses: 16,941.

Hours Per Response: 5.

Total Burden Hours: 84,705.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0262, Identification of Products with Environmental Attributes, in all correspondence.

Dated: August 11, 2005.

Gerald Zaffos,

Acting Director, Contract Policy Division.

[FR Doc. 05–16208 Filed 8–15–05; 8:45 am]

BILLING CODE 6820–61–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement DP05–130]

Epidemiologic Study of Inflammatory Bowel Disease; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2005 funds for a cooperative agreement program to expand on preliminary findings of Inflammatory Bowel Disease (IBD) in the United States and enhance our understanding of the demographic and clinical characteristics of IBD, variations in clinical practice, and the impact of the disease. This announcement will build on a previous epidemiologic study of the disease and be used to target interventions for groups at high risk for IBD and inform best clinical practices.

The Catalog of Federal Domestic Assistance number for this program is 93.945.

B. Eligible Applicant

Assistance will be provided only to the Crohn's and Colitis Foundation of America.

The Crohn's and Colitis Foundation of America is the only institution eligible to submit an application in response to this RFA. The CCFA was referenced by the House and Senate in their Labor/Health and Human Services/Education (L/HHS/Ed) Committee Reports. The House language states: ''For the past five years, the Committee has encouraged CDC to work in partnership with the IBD community to establish a national IBD epidemiology program to further our understanding of these diseases. The Committee understands that the Crohn's and Colitis Foundation of America has provided financial support through the CDC Foundation to initiate this important program. Now that the project is established, the Committee encourages CDC to contribute to the project in order to expand the work in FY2005.'' The Senate language states: ''An epidemiological study of IBD is needed to gain a better understanding of the prevalence of IBD in the United States and the demographic characteristics of the IBD patient population. Over the last 3 years, the Crohn's and Colitis Foundation of America has provided the CDC with $750,000 to initiate the epidemiological study. Now that the project has been established through an investment by the patient community, the Committee has provided $800,000 to continue this study.'' The Conference Committee recommended a total of $750,000.

The CCFA is a not-for-profit 501 (c)(03) organization, founded in 1967 ''to cure and prevent Crohn's disease and ulcerative colitis through research, and to improve the quality of life of children and adults affected by these digestive disease through education and support''. Since 1967, CCFA has established itself as the leading agency in the country on IBD research. It has led the efforts in identifying the research needs and developing successful strategies to meet those needs. CCFA has a national scientific advisory committee comprised of nationally renowned physicians and scientists in the field of inflammatory bowel disease. This advisory committee is the only one of its kind in the country dedicated solely to identifying and supporting emerging areas of research that could lead to the understanding of the causes and disease course of IBD. Through this scientific advisory committee and other partnerships, CCFA has developed several major initiatives to advance IBD research.

For the past three years, the CCFA scientific advisory committee has worked with the CDC to establish the informational infrastructure needed to conduct IBD research. They have built a validated disease algorithm for identifying patients with IBD and estimating the prevalence of the disease. Only CCFA has access to these algorithms and the informational infrastructure. CCFA will use the algorithms and infrastructure created, to further describe the prevalence and incidence of IBD and the impact of various clinical practices on outcomes.

The mission of CCFA, the organization's extensive network of resources, and the existing collaborative efforts with the CDC make it highly probable that CCFA will successfully achieve the activities identified in Section 1 of this RFA. CCFA is the only not-for-profit national IBD organization that promotes and provides funding for much needed IBD research. This characteristic of CCFA is unmatched by any other public or private IBD specific organization currently conducting similar activities in the United States.

The CCFA has partnered with the CDC in the establishment and initiation of this study; therefore, it is the only eligible organization to collaborate in the completion of this study.

C. Funding

Approximately $700,000 is available in FY 2005 to fund this award. It is

expected that the award will begin on or before August 31, 2005, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, telephone: 770–488–2700.

For technical questions about this program, contact: Brenda Colley Gilbert, Project Officer, 4770 Buford Highway N.E., Mailstop K–92, Atlanta, GA 30341, telephone: 770–488–8390, e-mail: *BColleyGilbert@cdc.gov.*

Dated: August 10, 2005.

Alan A. Kotch,

Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–16172 Filed 8–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement AA226]

Provider Education and Public Awareness About Primary Immunodeficiency Disease; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2005 funds for a grant program to the Jeffrey Modell Foundation for a National Campaign for Provider Education and Public Awareness about Primary Immunodeficiency (PI Disease). The purpose of the program is to strengthen the nation's capacity to carry out public health activities in the area of PI diseases by increasing physician education and public health awareness through the program for primary immune deficiency disease as implemented by the Jeffrey Modell Foundation. The objective is to disseminate educational information on a national level to public and private health care providers, educators, third-party payers, impacted families, and others who may help expedite clinical recognition and improve the health outcome for Americans with PI disease. The Catalog of Federal Domestic Assistance number for this program is 93.283.

B. Eligible Applicant

Assistance will be provided only to the Jeffrey Modell Foundation (JMF) in accordance with language in the Conference Report to the fiscal year 2005 Appropriations (Pub. L. 108–447, H.R. Rep. No. 108–792 2004)which explains congressional intent that CDC continue to provide funding to JMF. The specific language is as follows:

''In each of last three years, Congress has made available funds for CDC to support the national physician education and public awareness campaign developed by the Jeffrey Modell Foundation. The Committee understands that the Foundation has leveraged more than seven dollars from donors and the media for every federal dollar appropriated and is a model of public-private cooperation. The Committee encourages the CDC to expand the reach of the Foundation's campaign to underserved communities, including African-American and Hispanic populations, and has provided sufficient funding to reach that critical goal. The Committee also encourages CDC to expand its programmatic activity on primary immune deficiency diseases to include pilot programs focused on newborn screening and school wellness.''

The Jeffrey Modell Foundation, Inc. (JMF) was established in 1987 to address early and precise diagnosis, meaningful treatments, and ultimately cures for Primary Immunodeficiency Diseases in memory of Jeffrey Modell, who died from pneumonia due to Primary Immunodeficiency at the age of 15. It is a multi-faceted nonprofit research foundation devoted to the early and precise diagnosis, meaningful treatment, and ultimate cure of PI. The Jeffrey Modell Foundation is focused on the following Primary Immunodeficiency treatment, education, awareness and research areas: Clinical and basic research to better understand and treat Primary Immunodeficiencies; function as a national and international source for the dissemination of information and education into the diagnosis and treatment of genetic immunodeficiencies; advocates on behalf of patients and families to assure access to excellent and comprehensive care; promote awareness of Primary Immunodeficiency diseases through programs involving lay, scientific, and medical communities; and addressing quality of life concerns for patients with Primary Immunodeficiency diseases. The activities that are conducted to achieve the above objectives and focuses consist of but are not limited to the following: Sponsored symposiums and workshops; support for research and training; and the provision of diagnostic, clinical, and education services. The Foundation supports a 24-hour-a-day national hotline, which offers information and referrals to immunologists at major medical centers around the country. We are not aware of another organization with a similar background, approach, and as broad a reach in the spectrum of issues related to Primary Immunodeficiency diseases such as the international focus, service delivery, and quality of life for PI patients and their families, and the other areas referenced above.

No other applications are solicited.

C. Funding

Approximately $2,458,778 is available in FY 2005 to fund this award. It is expected that the award will begin on or before August 31, 2005, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, telephone: (770) 488–2700.

For technical questions about this program, contact: Leah Simpson, M.B.A., Project Officer, 2877 Brandywine Road, Suite 4847, Atlanta, GA 30341, telephone: (770) 488–8395, e-mail: *LSimpson@cdc.gov.*

Dated: August 10, 2005.

Alan A. Kotch,

Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–16169 Filed 8–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Strengthening Non-Governmental Organizations (NGOs) and Private-Sector Care Networks in the Republic of India as Part of the President's Emergency Plan for AIDS Relief

Announcement Type: New.

Funding Opportunity Number: CDC–RFA–AA058.

Catalog of Federal Domestic Assistance Number: 93.067.

Key Dates: Application Deadline: September 9, 2005.

I. Funding Opportunity Description

Authority: This program is authorized under Section 301(a) (42 U.S.C. Sections 241 and 2421), as amended, and under Pub. L. 108–25 (United States Leadership against HIV/AIDS, Tuberculosis and Malaria Act of 2004) [22 U.S.C. 7601].

Background: President Bush's Emergency Plan for AIDS Relief has called for immediate, comprehensive and evidence-based action to turn the tide of global HIV/AIDS, and supports programs in more than 100 countries. The five-year strategy for the Emergency Plan is available at the following Internet address: *http://www.state.gov/s/gac/rl/or/c11652.htm*.

In India, the Emergency Plan seeks to engage both governmental and non-governmental institutions at all levels to bolster the provision of care and treatment to HIV-positive people, and to expand prevention activities to avoid new cases of HIV.

HHS' mission in India is to work with Indian and international partners to develop, evaluate and support effective implementation of interventions to prevent HIV and related illnesses, and to improve care and support of persons with HIV/AIDS. The program aims to build local capacity and promote in-country leadership and ownership of activities by focusing on national and local priorities, sharing experiences and technical information, coordinating activities with other programs, and using local expertise whenever possible.

Specifically, HHS' mission in India is to accomplish the following:

1. Provide support and training for HIV/AIDS prevention and care in health care facilities and in the community.

2. Establish training expertise for HIV/AIDS prevention and care and infrastructure development in Tamil Nadu, Andhra Pradesh and other states in India.

3. Strengthen the local and national response to HIV/AIDS in India through support and collaboration with the National AIDS Control Organization (NACO), State AIDS Control Societies, Networks of Positive People, the private, non-governmental and faith-based health sectors, and others.

Purpose

The purpose of this program is to address the HIV-related health care needs in the south Indian state of Andhra Pradesh (the state most heavily affected by HIV in India, according to Government of India reports), and, to a lesser extent, in other states in India affected by the epidemic, by strengthening the existing health care infrastructure in the private/non-government/faith-based sectors and mobilizing local institutions to commit to quality HIV-related health care. Through this cooperative agreement, funds are available to encourage independent non-government and for-profit care institutions to join together to form new or improve existing care and training networks. The activities will initially be concentrated on the south Indian state of Andhra Pradesh during the first one to two years and could expand into other Indian states in subsequent years, at the discretion of HHS in India and the grantee with the approval of the Office of the U.S. Global AIDS Coordinator.

This competition will select one or more awardees that focus on Andhra Pradesh, and possibly one or more additional awardees to focus on other parts of the country, including one or more northern Indian states in areas in which the HIV epidemic is emerging. Applicants should clearly define in which State they will initially focus the activities of this cooperative agreement, and should keep in mind that scaling up care activities in Andhra Pradesh is our first priority.

Each awardee will seek to improve and expand the clinical care of persons living with HIV/AIDS (PLWHAs) within the recipient's institutions/network of institutions, with a focus on outpatient care. ''Care: includes confidential, voluntary counseling and testing (VCT); treatment of opportunistic infections (OIs); staging of HIV; nutritional support; family counseling and support; treatment of sexually transmitted infections (STIs); treatment with anti-retroviral therapy (ART), when appropriate and economically feasible; and prevention of mother-to-child transmission (PMTCT).

The activities also follow the five-year strategy of the President's Emergency Plan for AIDS Relief and the three strategies of the National Center for HIV, STD and TB Prevention (NCHSTP) of the Centers for Disease Control and Prevention (CDC) within HHS: prevention, HIV/AIDS treatment and care, and surveillance and infrastructure development. The measurable outcomes of the program will be in alignment with the goals of HHS/CDC Strategy of the Emergency Plan and NCHSTP, to reduce HIV transmission and improve care of PLWHAs. They will also contribute to the goals of the President's Emergency Plan for AIDS Relief (Emergency Plan), which include the following:

- Within five years treat more than two million HIV-infected persons with effective combination anti-retroviral therapy.
- Provide care for ten million HIV-infected and affected persons, including those orphaned and left vulnerable by HIV/AIDS.
- Prevent seven million new infections.

Specific measurable outcomes of this program include, but are not limited to, routine reporting, which verifies responsible maintenance of program expenditures and program technical activities and confirms accountability of U.S. Government funds spent in India.

This announcement is only for non-research activities supported by HHS/CDC. If applicants propose research, HHS/CDC will not review the application. For the definition of ''research,'' please see the HHS/CDC Web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm*.

Activities

Awardee activities for this program are as follows:

a. Identify project staffing needs (including administrative, management and technical staff); hire and train staff.

b. Identify furnishings, fittings, equipment and other fixed-asset procurement needs of the project and implementing partners, and acquire through transparent and competitive processes.

c. Within the first three months from the date of the award, develop a revised and updated strategic plan, to include goals, objectives, a monitoring plan, an implementation strategy, and a reporting system.

d. Improve and expand the clinical care of PLWHAs within the recipient's institutions/network of institutions with a focus on outpatient care. Care includes: confidential VCT; treatment of OIs; staging of HIV; nutritional support; family counseling and support; treatment of STIs; treatment with ART, when appropriate and economically feasible; and PMTCT.

e. Improve the HIV-related laboratory capacity of the recipient's institutions/network of institutions. The awardee should develop and implement a system of sharing expertise or technically difficult laboratory equipment within the network (and possibly with the medical community outside of the existing network). An acceptable alternative could be to organize a cost-efficient system of outsourcing some laboratory testing to independent quality labs.

f. Improve and expand HIV-related community outreach activities directly run or sponsored by the recipient's institutions/network of institutions as a whole. Outreach activities should be

cost-efficient, effective, feasible, have a wide reach, be culturally and age-appropriate and be performed in local languages. Community outreach activities can include primary prevention of HIV; family counseling of PLWHAs; confidential VCT; STI care and linkages; voluntary, age-appropriate family planning; nutritional support; ART support, etc.

g. Develop a functional relationship and linkages to national level, district level and/or state-level networks of HIV-positive people, where these positive networks already exist; and help develop such positive networks where they do not currently exist.

h. Develop and initiate a system for creating the human capacity to meet the above HIV care and support needs. This includes developing and implementing plans to increase interest in HIV care; remove any stigma and discrimination from applicant institutions; and provide ongoing, innovative hands-on training in local languages to medical personnel (physicians, nurses, pharmacists, lab technicians, community health workers, counselors, etc.) and management (institutional leaders, etc.).

i. Systematically document programmatic activities and institutional capacities over time. Awardees should use formal monitoring and evaluation tools, such as asset mapping, community assessments, and pre/post-evaluation of specific trainings or interventions, initially and then periodically, as appropriate.

j. Participate in HHS-sponsored meetings and other HIV-related meetings, conferences and/or workshops, as appropriate.

k. Make use of existing guidelines, curricula and clinical algorithms developed by the Indian National AIDS Control Organization (NACO), the World Health Organization (WHO), HHS, the Office of the U.S. Global AIDS Coordinator, the University of Washington International Training and Education Center for HIV/AIDS (I–TECH), and others, as appropriate.

l. Create and/or strengthen linkages with Indian federal and state Government health-care institutions, as appropriate (*i.e.*, State AIDS Control Societies, primary health care clinics, Departments of Medical Education, the national/state Tuberculosis (TB) programs, nutrition support programs, etc.).

m. Formalize the structures and rules of the applicant's networks of medical care institutions, if required. This includes creating by-laws, a management/leadership team, developing and/or strengthening decision-making processes, funding and accounting mechanisms, etc.

n. Provide in-kind support equal to or greater than 15 percent of the funding granted by HHS in year one, and 25 percent in years 2–5.

o. Provide HHS in India with semi-annual reports, according to guidelines developed by the Office of the U.S. Global AIDS Coordinator.

Administration

Comply with all HHS management requirements for meeting participation and progress and financial reporting for this cooperative agreement. (*See* HHS Activities and Reporting sections below for details.) Comply with all policy directives established by the Office of the U.S. Global AIDS Coordinator.

In a cooperative agreement, HHS staff is substantially involved in the program activities, above and beyond routine grant monitoring.

HHS Activities for this program are as follows:

1. Organize an orientation meeting with the grantee to brief them on applicable U.S. Government, HHS, and Emergency Plan expectations, regulations and key management requirements, as well as report formats and contents. The orientation could include meetings with staff from HHS agencies and the Office of the U.S. Global AIDS Coordinator.

2. Review and approve the process used by the grantee to select key personnel and/or post-award subcontractors and/or subgrantees to be involved in the activities performed under this agreement, as part of the Emergency Plan for AIDS Relief Country Operational Plan review and approval process, managed by the Office of the U.S. Global AIDS Coordinator.

3. Review and approve grantee's annual work plan and detailed budget, as part of the Emergency Plan for AIDS Relief Country Operational Plan review and approval process, managed by the Office of the U.S. Global AIDS Coordinator.

4. Review and approve grantee's monitoring and evaluation plan, including for compliance with the strategic information guidance established by the Office of the U.S. Global AIDS Coordinator.

5. Meet on a monthly basis with grantee to assess monthly expenditures in relation to approved work plan and modify plans as necessary.

6. Meet on a quarterly basis with grantee to assess quarterly technical and financial progress reports and modify plans as necessary.

7. Meet on an annual basis with grantee to review annual progress report for each U.S. Government Fiscal Year, and to review annual work plans and budgets for subsequent year, as part of the Emergency Plan for AIDS Relief review and approval process for Country Operational Plans, managed by the Office of the U.S. Global AIDS Coordinator.

8. Provide technical assistance, as mutually agreed upon, and revise annually during validation of the first and subsequent annual work plans. This could include expert technical assistance and targeted training activities in specialized areas, such as strategic information, project management, confidential counseling and testing, palliative care, treatment literacy, and adult learning techniques.

9. Provide in-country administrative support to help grantee meet U.S. Government financial and reporting requirements.

Please note: Either HHS staff or staff from organizations that have successfully competed for funding under a separate HHS contract, cooperative agreement or grant will provide technical assistance and training.

Additional HHS activities for this program are as follows:

1. Provide input into the development of the overall program strategy, including collaboration in the selection of key personnel to be involved in the activities to be performed under this agreement.

2. Define, in collaboration with the grantee(s) and other HHS partners, the specific geographic reach of the grantee(s) activities, in consultation with the Office of the U.S. Global AIDS Coordinator.

3. Provide clearly defined goals and desired outcomes for activities; and provide ongoing technical assistance to the recipient, and its member institutions and external partners in local languages, if possible. This technical assistance could come directly from HHS staff or through in-country partners/contractors of the U.S. Government.

4. Help encourage and strengthen linkages to, and cooperation with, Indian Federal and State Government institutions and programs.

5. Convene meetings, workshops and consultations between recipients, with recipients and others (U.S. Government partners, HIV experts, etc.), as appropriate.

6. Collaborate in the development of a system for record-keeping and information access.

7. Collaborate in the development of a monitoring and evaluation system; and provide technical assistance, as

needed, in the monitoring and evaluation of program activities.

8. Assist, as needed, in appropriate analysis and interpretation of program evaluation data collected.

9. Provide support in all aspects of the implementation of the cooperative agreement. This will include, but will not be limited to, working with the network of institutions to review existing materials available in local languages for PLWHAs; develop information and education resources for PLWHAs; etc.

10. Provide and promote liaison and assist in coordinating activities, as required, between the awardee(s) and the activities to be performed under this agreement and other HHS and U.S. Government programs in India in training, care, support, and other activities.

HHS India staff, HHS/CDC Atlanta Staff or U.S. Government partners may provide technical and administrative/management assistance.

II. Award Information

Type of Award: Cooperative Agreement. HHS involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $300,000–$750,000 (year one). $300,000–$1,000,000 (each of years two–five). (This amount is an estimate, and is subject to availability of funds.)

Approximate Number of Awards: One–four.

Approximate Average Award: $150,000–$300,000 per award. (This amount is for the first 12-month budget period, and includes direct costs.)

Floor of Award Range: $150,000.

Ceiling of Award Range: $500,000. (This ceiling is for the first 12-month budget period.)

Anticipated Award Date: September 15, 2005.

Budget Period Length: 12 months.

Project Period Length: Five years.

Throughout the project period, HHS' commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government, as determined by the annual review and approval of Country Operational Plans for the President's Emergency Plan for AIDS Relief, managed by the Office of the U.S. Global AIDS Coordinator.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by for-profit organizations, as well as public and private non-profit organizations, such as:

- Universities
- Colleges
- Research institutions
- Hospitals
- Community-based organizations
- Faith-based organizations

In addition, eligible applicants will:

- Be Indian owned/operated non-governmental organizations; network, trust or private enterprise.
- Have major ongoing organizational activity in the delivery of quality medical care (and/or the training of medical personnel in local language).
- Have established (or soon to be established) medical care activities in a minimum of four districts in Andhra Pradesh. If applying for one of the additional awards outside of Andhra Pradesh, have established medical care activities in a minimum of four districts in the Indian state of focus (applicant's choice).
- Be committed to ensuring expanded quality HIV medical and community care services within their network/organization, and to providing local/state-level leadership in HIV related issues.
- Be recognized and respected by the Government of India at both the national and state levels.

Competition for this cooperative agreement is limited to the types of organizations listed above because of the uniqueness of the activities for this project. Awardees must have specific knowledge and capability to work in urban and rural locations and in multiple and diverse geographic locations throughout India. The types of organizations listed above would have direct experience, and on-the-ground capacity and knowledge, to perform these activities in India.

Competition is limited to agencies that possess the following:

- A proven track record in developing and successfully managing effective and sustainable medical and community care activities and/or the training of medical personnel in local languages.
- Established medical and/or community care activities in several areas and the experience and ability to effectively link with other public and private health care institutions/providers to deliver quality care.
- The commitment to establish medical care activities in several areas and willingness and ability to effectively link with other health care institutions/providers to deliver quality care.
- Extensive knowledge of the Indian public and private health structure—from the national to the district levels.
- Credentials that allow the organization to work legally in India, and an existing office in one or more critical locations in India.

Furthermore, a guiding principle of the President's Emergency Plan for AIDS Relief, which implements assistance for HIV/AIDS in countries throughout the world, calls for the support and development of local expertise and capacity so national programs can achieve results and monitor and evaluate their activities for the long term. Through the President's Emergency Plan, HHS in India seeks to support and foster the development of indigenous leadership, which is critical to developing a sustainable and successful response to the AIDS epidemic in India. In adherence to these guiding principles, competition for the cooperative agreement is therefore limited to the organizations listed above.

III.2. Cost-Sharing or Matching Funds

Applicant must provide direct funds or in-kind services (equipment, supplies, salaries, etc.) of at least 15 percent of the annual HHS award for year one, and 25 percent for years two-five. [For example, if the applicant asked for $100,000 from HHS in the first year and $300,000 in year two, it must provide at least $15,000 in additional funds or in-kind services directly to the project in year one, and $75,000 in year two.]

III.3. Other

If applicants request a funding amount greater than the ceiling of the award range, HHS/CDC will consider the application non-responsive, and it will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

Special Requirements

If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. We will notify you that your application did not meet submission requirements.

- HHS/CDC will consider late applications non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.
- Applications that cannot provide supporting documentation (such as:

letters, legal documents, etc.) in the appendices will be considered unresponsive. At a minimum, please provide:

1. Proof of legal status in India.
2. Proof of work in the health sector.

• *Note:* Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address to Request Application Package

To apply for this funding opportunity use application form PHS 5161–1.

Electronic Submission: HHS strongly encourages you to submit your application electronically by using the forms and instructions posted for this announcement at *http://www.grants.gov,* the official Federal agency wide E-grant Web site. Only applicants who apply on-line are permitted to forego paper copy submission of all application forms.

Paper Submission: Application forms and instructions are available on the HHS/CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the HHS/CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 1–770–488–2700. We can mail application forms to you.

IV.2. Content and Form of Submission

Application: You must submit a project narrative with your application forms. You must submit the narrative in the following format:

• Maximum number of pages: 20. If your narrative exceeds the page limit, we will only review the first pages within the page limit.
• Font size: 12 point unreduced.
• Double-spaced.
• Paper size: 8.5 by 11 inches.
• Page margin size: One inch.
• Printed only on one side of page.
• Held together only by rubber bands or metal clips; not bound in any other way.
• Number all pages of the application sequentially from page one (Application Face Page) to the end of the application, including charts, figures, tables, and appendices.
• Application must be submitted in English.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

1. Executive Summary (one page) to include a brief description of your organization's strengths and a summary of activities that you are proposing under this RFA.

2. Narrative (to include four sections as follows):

Section A: Description of your organization, institutions, existing infrastructure and current scope of activities. Include: details regarding the specific areas you serve; the assets and deficiencies of the communities you serve or hope to serve; your organizational strengths and weaknesses; an overview of your organization's (and/or member institutions') five year overall strategic plan; and any ongoing monitoring and evaluation (M&E) or quality improvement efforts. Also include the following as appendices:

• One or more map illustrations outlining the areas you currently serve and areas you hope to move into in the next two years. Clearly note on the map where your member institutions are located, as well as a general category of these institutions (*i.e.*, hospitals, colleges, clinics, social service centers, etc.).
• A single detailed chart listing member institutions. Next to each unique institution or project site, list the activities being undertaken there, the number of technical staff (physicians, nurses, outreach workers, etc.), and any other relevant information concerning staff. Please provide an estimate of the size of the population being served by the staff, and anything else you feel is relevant to understanding your organization.

Section B: Describe your existing or proposed network that is or will be responsible for overseeing and enacting the HIV-related activities of this project. Specifically, please describe:

• How this network was, or will be, created and maintained.
• The scope of work that is conducted, or is proposed to be conducted, by the network.
• The mechanism in which this network makes decisions, gathers information, and communicates with its member institutions. If the network is not yet established, the mechanism in which it proposes to communicate.
• The structure of the network (or the proposed network), including staff (or proposed staff) and other active participants.
• The relationship between the network (or proposed network) leaders/staff and member institutions (*i.e.*, How does the network influence individual institutions? Has this been effective?).
• Any plans on how the network or the proposed network will be strengthened.

Section C: Describe, in as much detail as possible, your proposed HIV-related activities and provide a detailed plan that discusses how you will accomplish and maintain/sustain these activities. Discuss your long-term vision (years three to five); however, provide detailed activities of years one to two in the state of Andhra Pradesh and in other states in India. For years one to two, include information on the staffing needs associated with this project and your ability to meet these needs; your training plan; your scale up strategies; and your current M&E plan, or proposal for developing a focused and efficient M&E system. Also include information on other HIV-related funding sources you receive and how these new CDC funds will add to (and not duplicate) the activities carried out under existing funding sources.

Section D: Describe the commitment of the applicant, member institutions and other proposed partners to improve the quality and scope of HIV-related services. Specifically, the applicant should provide evidence of support by key institutional leaders and field level staff. Examples of ways to provide such evidence may be included in the appendices and may include:

• A summary of current HIV-related activities and care within the network or individual institutions.
• Letters of support by member institutions, network leaders and/or outside community groups (attach as appendix number one; NOT to be included in the 20 page limit).
• A detailed description of your proposed in-kind support for this project.
• A summary of any efforts, to date, to collect and analyze HIV-related data in the communities you serve (*i.e.*, HIV prevalence data, community needs assessment, asset mapping, VCT data, etc.). Details can be included as part of appendix number two.

3. Budget and Justification:

A budget and budget justification for the entire project period should be included. While summary budgets may be provided for years two through five, a full budget and budget justification for year one must be included. In the year one budget, the specific overhead costs should be clear. The applicant should clearly delineate what the CDC, via the cooperative agreement, will pay for and what the applicant institution (as part of the in-kind requirement) will pay for.

The budget and justification will not be counted in the page limit stated above.

The following information must be included in the application appendices: Supporting documentation (*i.e.*, letters, legal documents, etc.) to verify legal status in India and provide proof of work in the health sector.

You may include additional information in the application appendices. The appendices will not count toward the narrative page limit. This additional information may include the following:

- Curriculum Vitas and/or Resumes.
- Organizational Charts/Maps.
- Letters of Support.
- A summary of current HIV-related activities and care programs being carried out within the network or individual institutions.
- Letters of support by member institutions, network leaders and/or outside community members/organizations.
- A detailed description of your proposed in-kind support for this project.
- A summary of any efforts, to date, to collect and analyze HIV-related data in the communities you serve (*i.e.*, HIV prevalence data, community needs assessment, asset mapping, VCT data, etc.).

You must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. For more information, see the CDC web site at: *http://www.cdc.gov/od/pgo/funding/grantmain.htm.*

If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that could require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: September 9, 2005.

Explanation of Deadlines: Applications must be received in the HHS/CDC Procurement and Grants Office by 4 p.m. eastern time on the deadline date.

You may submit your application electronically at *http://www.grants.gov.* We consider applications completed online through Grants.gov as formally submitted when the applicant organization's Authorizing Official electronically submits the application to *http://www.grants.gov.* We will consider electronic applications as having met the deadline if the application organization's Authorizing Official has submitted the application electronically to Grants.gov on or before the deadline date and time.

If you submit your application electronically with Grants.gov, your application will be electronically time/date stamped, which will serve as receipt of submission. You will receive an e-mail notice of receipt when HHS/CDC receives the application.

If you submit your application by the United States Postal Service or commercial delivery service, you must ensure the carrier will be able to guarantee delivery by the closing date and time. If HHS/CDC receives your submission after closing because: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time; or (2) significant weather delays or natural disasters, you will have the opportunity to submit documentation of the carrier's guarantee. If the documentation verifies a carrier problem, HHS/CDC will consider the submission as having been received by the deadline.

If you submit a hard copy application, HHS/CDC will not notify you upon receipt of your submission. If you have a question about the receipt of your application, first contact your courier. If you still have a question, contact the PGO–TIM staff at: 1–770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for us to process and log submissions.

This announcement is the definitive guide on application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and we will discard it. We will notify you that you did not meet the submission requirements.

IV.4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

IV.5. Funding Restrictions

Restrictions, which you must take into account while writing your budget, are as follows:

- Funds may not be used for research.
- Awards will allow recipients reimbursement of pre-award costs, such as photocopying, fax, postage or delivery charges and translation.
- Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives; however, prior approval by HHS/CDC officials must be requested in writing.
- All requests for funds contained in the budget shall be stated in U.S. dollars. Once an award is made, HHS/CDC will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.
- The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut, and the World Health Organization (WHO). Indirect Costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.
- The applicant may contract with other organizations under this program; however, the applicant must perform a substantial portion of the activities (including program management and operations, and delivery of prevention services for which funds are required).
- You must obtain an annual audit of these HHS/CDC funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by HHS/CDC.
- A fiscal Recipient Capability Assessment may be required, prior to or post award, in order to review the applicant's business management and fiscal capabilities regarding the handling of U.S. Federal funds.
- Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception of nevirapine in Prevention of Mother-to-Child Transmission (PMTCT) cases with prior written approval), occupational

exposures, and non-occupational exposures; and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

• No funds appropriated under this announcement shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Prostitution and Related Activities

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons.

Any entity that receives, directly or indirectly, U.S. Government funds in connection with this document (''recipient'') cannot use such U.S. Government funds to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

A recipient that is otherwise eligible to receive funds in connection with this document to prevent, treat, or monitor HIV/AIDS shall not be required to endorse or utilize a multisectoral approach to combating HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the recipient has a religious or moral objection. Any information provided by recipients about the use of condoms as part of projects or activities that are funded in connection with this document shall be medically accurate and shall include the public health benefits and failure rates of such use.

In addition, any recipient must have a policy explicitly opposing prostitution and sex trafficking. The preceding sentence shall not apply to any ''exempt organizations'' (defined as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization and its six Regional Offices, the International AIDS Vaccine Initiative or to any United Nations agency).

The following definition applies for purposes of this clause:

• Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. 22 U.S.C. 7102(9).

All recipients must insert provisions implementing the applicable parts of this section, ''Prostitution and Related Activities,'' in all subagreements under this award. These provisions must be express terms and conditions of the subagreement, must acknowledge that compliance with this section, ''Prostitution and Related Activities,'' is a prerequisite to receipt and expenditure of U.S. Government funds in connection with this document, and must acknowledge that any violation of the provisions shall be grounds for unilateral termination of the agreement prior to the end of its term. Recipients must agree that HHS may, at any reasonable time, inspect the documents and materials maintained or prepared by the recipient in the usual course of its operations that relate to the organization's compliance with this section, ''Prostitution and Related Activities.''

All prime recipients that receive U.S. Government funds (''prime recipients'') in connection with this document must certify compliance prior to actual receipt of such funds in a written statement that makes reference to this document (*e.g.*, ''[Prime recipient's name] certifies compliance with the section, 'Prostitution and Related Activities.' '') addressed to the agency's grants officer. Such certifications by prime recipients are prerequisites to the payment of any U.S. Government funds in connection with this document.

Recipients' compliance with this section, ''Prostitution and Related Activities,'' is an express term and condition of receiving U.S. Government funds in connection with this document, and any violation of it shall be grounds for unilateral termination by HHS of the agreement with HHS in connection with this document prior to the end of its term. The recipient shall refund to HHS the entire amount furnished in connection with this document in the event HHS determines the recipient has not complied with this section, ''Prostitution and Related Activities.''

You may find guidance for completing your budget on the HHS/CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements

Application Submission Address

Electronic Submission: HHS/CDC strongly encourages you to submit electronically at: *http://www.grants.gov*. You will be able to download a copy of the application package from *http://www.grants.gov*, complete it offline, and then upload and submit the application via the Grants.gov site. We will not accept e-mail submissions. If you are having technical difficulties in Grants.gov, you may reach them by e-mail at *http://support@grants.gov* or by phone at 1–800–518–4726 (1–800–518–GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. eastern time, Monday through Friday.

HHS/CDC recommends that you submit your application to Grants.gov early enough to resolve any unanticipated difficulties prior to the deadline. You may also submit a back-up paper submission of your application. We must receive any such paper submission in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement.

You must clearly mark the paper submission: ''BACK–UP FOR ELECTRONIC SUBMISSION.''

The paper submission must conform to all requirements for non-electronic submission. If we receive both electronic and back-up paper submissions by the deadline, we will consider the electronic version the official submission.

We strongly recommended that you submit your grant application by using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If you do not have access to Microsoft Office products, you may submit a PDF file. You may find directions for creating PDF files on the Grants.gov web site. Use of file formats other than Microsoft Office or PDF may result in your file being unreadable for our staff; or

Paper Submission: Submit the original and two hard copies of your application by mail or express delivery service to the following: Technical Information Management–CDC–RFA–AA058, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants must provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. Applicants must submit these measures of effectiveness with the application and they will be an element of evaluation.

We will evaluate your application against the following criteria:

1. The current ability of the applicant and its member institutions to provide

high-quality health care and community outreach in local languages to a significant portion of that state's population and any ongoing monitoring and evaluation or quality-assurance activities within these institutions. (25 points).

Does the applicant show, through its' experience and the written proposal, that it has a firm understanding of health care and community outreach, along with expertise in the existing systems of health care delivery and medical training in India? Does the applicant's current network reach a large segment of the at-risk populations of the state?

2. Strength of applicant's existing or proposed network. (25 points).

Is the network firmly established and credible? Is there evidence of institutional support for establishing or strengthening their network? Is the existing or proposed network likely to be maintained during or beyond the project period? Does the network exhibit value beyond this project? Does the network have the commitment and interest to work collaboratively with outside groups and agencies?

3. Quality and feasibility of proposed activities. (25 points).

Does the applicant demonstrate an understanding of the national cultural and political context and the technical and programmatic areas covered by the project? Does the applicant display knowledge of the five-year strategy and goals of the President's Emergency Plan, such that it can build on these to develop a comprehensive, collaborative project to reach underserved populations in India and meet the goals of the Emergency Plan? Are the details of the proposed activities (for the entire project period) clearly presented in the application? While summary details for years three through five are acceptable, specific and clearly presented details for years one and two are required. Is staffing, professional personnel, and leadership in place; if not, is there a proposed plan to meet staffing needs to carry out the proposed program? Are program strategies well thought out and clearly defined, including evidence of innovation and creativity? Is scale up and sustainability addressed? Is there an effective monitoring and evaluation plan proposed, or currently in place, and can initial assessment activities be immediately started?

4. Commitment of the applicant and its member institutions to improving the quality and scope of HIV-related care. (25 points).

Is there evidence of leadership support and of evidence of current or past efforts to improve HIV care? Are there letters of support by outside groups and member organizations? Does the level and quality of in-kind support reflect a commitment to HIV care by the applicant? Does the applicant describe a plan to progressively build the capacity of local organizations and of target beneficiaries and communities to respond to the epidemic?

5. Budget. (Reviewed, but not scored).

Is the budget for conducting the activity itemized, well-justified, and consistent with stated activities and planned program activities?

V.2. Review and Selection Process

The HHS/CDC Procurement and Grants Office (PGO) staff will review applications for completeness, and HHS Global AIDS program will review them for responsiveness. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will receive notification that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. All persons who serve on the panel will be external to the U.S. Government Country Program Office. The panel may include both Federal and non-Federal participants.

In addition, the following factors could affect the funding decision:

It is possible for one organization to apply as lead grantee with a plan that includes partnering with other organizations, preferably local. Although matching funds are not required, preference will go to organizations that can leverage additional funds to contribute to program goals.

Applications will be funded in order by score and rank determined by the review panel. HHS/CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates:

September 15, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NoA) from the HHS/CDC Procurement and Grants Office. The NoA shall be the only binding, authorizing document between the recipient and HHS/CDC. An authorized Grants Management Officer will sign the NoA, and mail it to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR Part 74 and Part 92

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

The following additional requirements apply to this project:

- AR–4 HIV/AIDS Confidentiality Provisions
- AR–8 Public Health System Reporting Requirements
- AR–12 Lobbying Restrictions
- AR–14 Accounting System Requirements
- AR–25 Release and Sharing of Data

Applicants can find additional information on these requirements on the HHS/CDC Web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm.*

You need to include an additional Certifications form from the PHS 5161–1 application ed in your Grants.gov electronic submission only. Refer to: *http://www.cdc.gov/od/pgo/funding/PHS5161-1-Certificates.pdf.* Once you have filled out the form, attach it to your Grants.gov submission as Other Attachment Forms.

VI.3. Reporting Requirements

You must provide HHS/CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current budget period activities objectives.

b. Current budget period financial progress.

c. New budget period program proposed activity objectives.

d. Budget.

e. Measures of effectiveness.

f. Additional requested information.

2. Financial status report and annual progress report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

4. Annual progress report, due no less than 30 days after the end of the budget period. This report will include progress to date, plans for upcoming activities,

and will report on a specific set of indicators developed in collaboration with CDC GAP India. This report must be provided to the CDC GAP office in New Delhi.

These reports must be mailed to the Grants Management Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341, telephone: 1–770–488–2700.

For program technical assistance, contact: Michael Friedman, MD, HHS/CDC, Global AIDS Program (India), Country Team, c/o U.S. Consulate General, 220 Mount Road, Chennai, India 600 006, telephone: 91–44–2811–2000, e-mail: *FriedmanM@gapcdcin.org*; or Nancy Hedemark Nay, MPH (Project Officer), HHS/CDC, Global AIDS Program (India), Country Team, c/o U.S. Embassy, Shantipath, Chanakyapuri, New Delhi, India 110 021, telephone: 91–11–2419–8000, e-mail: *NHN1@cdc.gov.*

For financial, grants management, or budget assistance, contact: Shirley Wynn, Grants Management Specialist, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341, telephone: 770–488–1515, e-mail: *zbx6@cdc.gov.*

VIII. Other Information

Applicants can find this and other HHS/CDC funding opportunity announcements on the HHS/CDC Web site, Internet address: *http://www.cdc.gov* (Click on ''Funding,'' then ''Grants and Cooperative Agreements''), and on the Web site of the HHS Office of Global Health Affairs, Internet address: *http://www.globalhealth.gov.*

Dated: August 9, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

[FR Doc. 05–16170 Filed 8–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Strengthening the Delivery of Comprehensive HIV/AIDS Prevention, Care, Support, and Treatment in the Republic of Ethiopia as Part of the President's Emergency Plan for AIDS Relief

Announcement Type: New.

Funding Opportunity Number: AA119.

Catalog of Federal Domestic Assistance Number: 93.067.

Dates: Application Deadline: September 9, 2005.

I. Funding Opportunity Description

Authority: This program is authorized under Sections 307 and 317(k)(2) of the Public Health Service Act [42 U.S.C Sections 242l and 247b(k)(2)], as amended and under Public Law 108–25 (United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003) [22 U.S.C. 7601].

Purpose: President Bush's Emergency Plan for AIDS Relief has called for immediate, comprehensive and evidence-based action to turn the tide of global HIV/AIDS. The initiative aims to treat more than two million HIV-infected people with effective combination anti-retroviral therapy by 2008; care for ten million HIV-infected and affected persons, including those orphaned by HIV/AIDS, by 2008; and prevent seven million infections by 2010, with a focus on 15 priority countries, including 12 in sub-Saharan Africa. The five-year strategy for the Emergency Plan is available at the following Internet address: *http://www.state.gov/s/gac/rl/or/c11652.htm.*

Over the same time period, as part of a collective national response, the Emergency Plan goals specific to Ethiopia are to treat at least 210,000 HIV-infected individuals; and care for 1,050,000 HIV-affected individuals, including orphans.

Purpose: The purpose of this funding announcement is to progressively build an indigenous, sustainable response to the national HIV epidemic through the rapid expansion of innovative, culturally appropriate, high-quality HIV/AIDS prevention and care interventions, increase and strengthen the role of PLWHA in prevention, care, and treatment activities and improved linkages to HIV counseling and testing and HIV treatment to target rural and other underserved populations in Ethiopia.

Under the leadership of the U.S. Global AIDS Coordinator, as part of the President's Emergency Plan, the U.S. Department of Health and Human Services (HHS) works with host countries and other key partners to assess the needs of each country and design a customized program of assistance that fits within the host nation's strategic plan.

HHS focuses on two or three major program areas in each country. Goals and priorities include the following:

- Achieving primary prevention of HIV infection through activities such as expanding confidential counseling and testing programs, building programs to reduce mother-to-child transmission, and strengthening programs to reduce transmission via blood transfusion and medical injections.
- Improving the care and treatment of HIV/AIDS, sexually transmitted diseases (STDs) and related opportunistic infections by improving STD management; enhancing care and treatment of opportunistic infections, including tuberculosis (TB); and initiating programs to provide anti-retroviral therapy (ART).
- Strengthening the capacity of countries to collect and use surveillance data and manage national HIV/AIDS programs by expanding HIV/STD/TB surveillance programs and strengthening laboratory support for surveillance, diagnosis, treatment, disease-monitoring and HIV screening for blood safety.

This announcement is only for non-research activities supported by HHS, including the Centers for Disease Control and Prevention (CDC). If an applicant proposes research activities, HHS will not review the application. For the definition of research, please see the HHS/CDC web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm.*

Measurable outcomes of the program will be in alignment with one (or more) of the following performance goal(s) for the numerical goals of the President's Emergency Plan for AIDS Relief and HHS/CDC National Center for HIV, STD and TB Prevention (NCHSTP): Increase the proportion of HIV-infected people who are linked to appropriate prevention, care and treatment services, and strengthen the capacity nationwide to monitor the epidemic, develop and implement effective HIV prevention interventions and evaluate prevention programs.

Activities: The recipient of these funds is responsible for activities in multiple program areas designed to target underserved populations in Ethiopia. Either the awardee will

implement activities directly or will implement them through its subgrantees and/or subcontractors; the awardee will retain overall financial and programmatic management under the oversight of HHS/CDC and the strategic direction of the Office of the Global AIDS Coordinator. The awardee must show a measurable progressive reinforcement of the capacity of indigenous organizations and local communities to respond to the national HIV epidemic, as well as progress towards the sustainability of activities.

Applicants should describe activities in detail as part of a four-year action plan (U.S. Government Fiscal Years 2005–2008 inclusive) that reflects the policies and goals outlined in the five-year strategy for the President's Emergency Plan.

The grantee will produce an annual operational plan in the context of this four-year plan, which the U.S. Government Emergency Plan team on the ground in Ethiopia will review as part of the annual Emergency Plan for AIDS Relief Country Operational Plan review and approval process managed by the Office of the U.S. Global AIDS Coordinator. The grantee may work on some of the activities listed below in the first year and in subsequent years, and then progressively add others from the list to achieve all of the Emergency Plan performance goals, as cited in the previous section. HHS/CDC, under the guidance of the U.S. Global AIDS Coordinator, will approve funds for activities on an annual basis, based on documented performance toward achieving Emergency Plan goals, as part of the annual Emergency Plan for AIDS Relief Country Operational Plan review and approval process.

Specific awardee activities for this program are as follows:

1. Conduct needs assessment to determine risk factors, target behaviors, barriers, facilitators, reinforcement mechanisms, communication channels, availability of services, family demographics/situations, etc. to inform the development prevention, care and treatment programs among people living with HIV/AIDS.

2. Develop/adapt or organize tools such as operations manuals, training manuals, and guidelines in the areas of, prevention of mother-to-child transmission (PMTCT) of HIV, confidential voluntary counseling and testing (VCT), sexually transmitted infections (STI), tuberculosis (TB), laboratory, and other technical areas as deemed appropriate for provision of interventions, trainings, and targeted monitoring and evaluations.

3. Institute the needed administrative and functional arrangements to coordinate the day-to-day activity of the project to guarantee effectiveness, efficiency, transparency and accountability.

4. Organize and procure necessary equipment and supplies in a transparent and competitive process, and coordinate services, trainings in local languages and targeted monitoring and evaluations.

5. Provide trainings on counseling and home-based care to PLWHA to improve the provision of care at the community level.

6. Establish self'care and anti-retroviral (ARV) treatment information resource center/section within the network of people living with HIV/AIDS to update members on current development including in ARV treatment.

7. Establish peer-support system among the network of people living with HIV/AIDS to facilitate health-seeking behavior and adherence to ARV treatment.

8. Engage PLWHA to closely work with public and private health facilities to strengthen adherence to care and treatment, including ARV drug adherence, such as linkage of health facilities to community/household activities.

9. Undertake activities geared towards prevention among HIV positives by following the ''ABC'' (Abstinence; Be faithful; and, for populations engaged in high-risk behavior,[1] correct and consistent condom use) strategies and prevention and control of sexually transmitted infections. Awardees may not implement condom social marketing without also implementing abstinence and faithfulness behavior change interventions.

10. Conduct culturally and age-appropriate workshops, seminars and popularization events in local languages related to HIV/AIDS prevention, control, and treatment.

11. Conduct targeted monitoring and evaluations of projects and in identified priority areas that require evidence for perusal in programs implementation, according to the strategic information guidance established by the U.S. Global AIDS Coordinator.

[1] Behaviors that increase risk for HIV transmission include engaging in casual sexual encounters, engaging in sex in exchange for money or favors, having sex with an HIV-positive partner or one whose status is unknown, using drugs or abusing alcohol in the context of sexual interactions, and using intravenous drugs. Women, even if faithful themselves, can still be at risk of becoming infected by their spouse, regular male partner, or someone using force against them. Other high-risk persons or groups include men who have sex with men and workers who are employed away from home. Awardees may not implement condom social marketing without also implementing abstinence and faithfulness behavior-change interventions.

Administration

Winning applicants must comply with all HHS management requirements for meeting participation and progress and financial reporting for this cooperative agreement. (See HHS Activities and Reporting sections below for details.) Winning applicants must comply with all policy directives established by the Office of the U.S. Global AIDS Coordinator.

In a cooperative agreement, HHS staff is substantially involved in the program activities, above and beyond routine grant monitoring.

HHS Activities for this program are as follows:

1. Organize an orientation meeting with the grantee to brief it on applicable U.S. Government, HHS, and Emergency Plan expectations, regulations and key management requirements, as well as report formats and contents. The orientation could include meetings with staff from HHS agencies and the Office of the U.S. Global AIDS Coordinator.

2. Review and approve the process used by the grantee to select key personnel and/or post-award subcontractors and/or subgrantees to be involved in the activities performed under this agreement, as part of the Emergency Plan for AIDS Relief Country Operational Plan review and approval process, managed by the Office of the U.S. Global AIDS Coordinator.

3. Review and approve grantee's annual work plan and detailed budget, as part of the Emergency Plan for AIDS Relief Country Operational Plan review and approval process, managed by the Office of the U.S. Global AIDS Coordinator.

4. Review and approve grantee's monitoring and evaluation plan, including for compliance with the strategic information guidance established by the Office of the U.S. Global AIDS Coordinator.

5. Meet on a monthly basis with grantee to assess monthly expenditures in relation to approved work plan and modify plans as necessary.

6. Meet on a quarterly basis with grantee to assess quarterly technical and financial progress reports and modify plans as necessary.

7. Meet on an annual basis with grantee to review annual progress report for each U.S. Government Fiscal Year, and to review annual work plans and budgets for subsequent year, as part of the Emergency Plan for AIDS Relief review and approval process for

Country Operational Plans, managed by the Office of the U.S. Global AIDS Coordinator.

8. Provide technical assistance, as mutually agreed upon, and revise annually during validation of the first and subsequent annual work plans. This could include expert technical assistance and targeted training activities in specialized areas, such as strategic information, project management, confidential counseling and testing, palliative care, treatment literacy, and adult learning techniques.

Please note: Either HHS staff or staff from organizations that have successfully competed for funding under a separate HHS contract, cooperative agreement or grant will provide technical assistance and training.

II. Award Information

Type of Award: Cooperative Agreement. HHS involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $1,250,000 (This amount is an estimate, and is subject to availability of funds).

Approximate Number of Awards: One.

Approximate Average Award: $250,000 (This amount is for the first 12-month budget period, and includes direct costs).

Floor of Award Range: None.

Ceiling of Award Range: $250,000.

Anticipated Award Date: September 15, 2005.

Budget Period Length: 12 months.

Project Period Length: Five years.

Throughout the project period, HHS' commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government, as determined by the annual review and approval of Country Operational Plans, managed by the U.S. Global AIDS Coordinator.

III. Eligibility Information

III.1. Eligible Applicants

Public and private non-profit and for-profit organizations may submit applications, such as:

- Public, non-profit organizations.
- Private, non-profit organizations.
- For-profit organizations.
- Small, minority-owned, and women-owned businesses.
- Colleges.
- Universities.
- Hospitals.
- Community-based organizations.
- Faith-based organizations.

In addition, applicants must meet the criteria listed below:

1. Be indigenous to Ethiopia.

2. Have the ability, and credibility to support culturally and age-appropriate prevention, care, support, and treatment activities by PLWHA in local languages at the community and facility level.

3. Documented experience in working with national and regional/local PLWHA associations and support groups.

4. Experience working with the Ethiopian Government, international organizations and community- and faith-based groups societies in the prevention and control of HIV/AIDS in Ethiopia.

III.2. Cost-Sharing or Matching Funds

Matching funds are not required for this program. Although matching funds are not required, preference will go to organizations that can leverage additional funds to contribute to program goals.

III.3. Other

If you request a funding amount greater than the ceiling of the award range, HHS/CDC will consider your application non-responsive, and will not enter into the review process. We will notify you that your application did not meet the submission requirements.

Special Requirements: If your application is incomplete or non-responsive to the special requirements listed in this section, it will not enter into the review process. We will notify you that your application did not meet submission requirements.

- HHS/CDC will consider late applications non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.
- Note: Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161–1.

HHS strongly encourages you to submit your application electronically by using the forms and instructions posted for this announcement at *http://www.grants.gov.*

Application forms and instructions are available on the HHS/CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the HHS/CDC Procurement and Grants Office Technical Information Management Section (PGO-TIM) staff at: 770–488–2700. We can mail application forms to you.

IV.2. Content and Form of Submission

Application: You must submit a project narrative with your application forms. You must submit the narrative in the following format:

- Maximum number of pages: 25. If your narrative exceeds the page limit, we will only review the first pages within the page limit.
- Font size: 12 point unreduced.
- Double-spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Held together only by rubber bands or metal clips; not bound in any other way.
- All pages should be numbered.
- Your application MUST be submitted in English.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

- Project Context and Background (Understanding and Need).
- Project Strategy—Description and Methodologies.
- Project Goals.
- Project Outputs.
- Project Contribution to the Goals and Objectives of the Emergency Plan for AIDS Relief.
- Work Plan and Description of Project Components and Activities.
- Performance Measures.
- Timeline (*e.g.*, GANNT Chart).
- Management of Project Funds and Reporting.

You may include additional information in the application appendices. The appendices will not count toward the narrative page limit. This additional information includes the following:

- Project Budget and Justification.
- *Curriculum vitae* of current staff who will work on the activity.
- Job descriptions of proposed key positions to be created for the activity.
- Quality-Assurance, Monitoring-and-Evaluation, and Strategic-Information Forms.
- Applicant's Corporate Capability Statement.

• Letters of Support.

• Evidence of Legal Organizational Structure.

• Applicants must provide documentation that substantiates their well-developed management and financial controls and ability to implement HIV activities with reach to rural areas of Ethiopia. Such proof could include, but is not limited to, annual, financial, and audit reports, etc.

The budget justification will not count in the narrative page limit.

Although the narrative addresses activities for the entire project, the applicant should provide a detailed budget only for the first year of activities, while addressing budgetary plans for subsequent years.

You must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.

For more information, see the HHS/CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm.* If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that could require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: September 9, 2005.

Explanation of Deadlines: Applications must be received in the HHS/CDC Procurement and Grants Office by 4 p.m. Eastern Time on the deadline date.

You may submit your application electronically at *http://www.grants.gov.* We consider applications completed online through Grants.gov as formally submitted when the applicant organization's Authorizing Official electronically submits the application to *http://www.grants.gov.* We will consider electronic applications as having met the deadline if the applicant organization's Authorizing Official has submitted the application electronically to Grants.gov on or before the deadline date and time.

If you submit your application electronically with Grants.gov, your application will be electronically time/date stamped, which will serve as receipt of submission. You will receive an e-mail notice of receipt when HHS/CDC receives the application.

If you submit your application by the United States Postal Service or commercial delivery service, you must ensure the carrier will be able to guarantee delivery by the closing date and time. If HHS/CDC receives your submission after closing because: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, you will have the opportunity to submit documentation of the carriers guarantee. If the documentation verifies a carrier problem, HHS/CDC will consider the submission as received by the deadline.

If you submit a hard copy application, HHS/CDC will not notify you upon receipt of your submission. If you have a question about the receipt of your application, first contact your courier. If you still have a question, contact the PGO-TIM staff at: 770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for us to process and log submissions.

This announcement is the definitive guide on application content, submission address, and deadline. It supersedes information provided in the application instructions.

If your submission does not meet the deadline above, it will not be eligible for review, and we will discard it. We will notify you that you did not meet the submission requirements.

IV.4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

IV.5. Funding Restrictions

Restrictions, which you must take into account while writing your budget, are as follows:

• Funds may not be used for research.

• Needle Exchange—No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

• Funds may be spent for reasonable program purposes, including personnel, training, travel, supplies and services. Equipment may be purchased and renovations completed if deemed necessary to accomplish program objectives; however, prior approval by HHS/CDC officials must be requested in writing.

• All requests for funds contained in the budget shall be stated in U.S. dollars. Once an award is made, HHS/CDC will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

• The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut, and the World Health Organization, Indirect Costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United states or to international organizations, regardless of their location.

• The applicant may contract with other organizations under this program; however, the applicant must perform a substantial portion of the activities (including program management and operations, and delivery of prevention services for which funds are required) relating to the management of sub-grants to local organizations and improving their capacity.

• You must obtain an annual audit of these HHS/CDC funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by HHS/CDC.

• A fiscal Recipient Capability Assessment may be required, prior to or post award, to review the applicant's business management and fiscal capabilities regarding the handling of U.S. Federal funds.

Prostitution and Related Activities

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons.

Any entity that receives, directly or indirectly, U.S. Government funds in connection with this document (''recipient'') cannot use such U.S. Government funds to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities,

including test kits, condoms, and, when proven effective, microbicides.

A recipient that is otherwise eligible to receive funds in connection with this document to prevent, treat, or monitor HIV/AIDS shall not be required to endorse or utilize a multisectoral approach to combating HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the recipient has a religious or moral objection. Any information provided by recipients about the use of condoms as part of projects or activities that are funded in connection with this document shall be medically accurate and shall include the public health benefits and failure rates of such use.

In addition, any recipient must have a policy explicitly opposing prostitution and sex trafficking. The preceding sentence shall not apply to any ''exempt organizations'' (defined as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization and its six Regional Offices, the International AIDS Vaccine Initiative or to any United Nations agency).

The following definition applies for purposes of this clause:

• Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. 22 U.S.C. 7102(9).

All recipients must insert provisions implementing the applicable parts of this section, ''Prostitution and Related Activities,'' in all subagreements under this award. These provisions must be express terms and conditions of the subagreement, must acknowledge that compliance with this section, ''Prostitution and Related Activities,'' is a prerequisite to receipt and expenditure of U.S. government funds in connection with this document, and must acknowledge that any violation of the provisions shall be grounds for unilateral termination of the agreement prior to the end of its term. Recipients must agree that HHS may, at any reasonable time, inspect the documents and materials maintained or prepared by the recipient in the usual course of its operations that relate to the organization's compliance with this section, ''Prostitution and Related Activities.''

All prime recipients that receive U.S. Government funds (''prime recipients'') in connection with this document must certify compliance prior to actual receipt of such funds in a written statement that makes reference to this document (*e.g.*, ''[Prime recipient's name] certifies compliance with the section, 'Prostitution and Related Activities.' '') addressed to the agency's grants officer. Such certifications by prime recipients are prerequisites to the payment of any U.S. Government funds in connection with this document.

Recipients' compliance with this section, ''Prostitution and Related Activities,'' is an express term and condition of receiving U.S. Government funds in connection with this document, and any violation of it shall be grounds for unilateral termination by HHS of the agreement with HHS in connection with this document prior to the end of its term. The recipient shall refund to HHS the entire amount furnished in connection with this document in the event HHS determines the recipient has not complied with this section, ''Prostitution and Related Activities.''

You may find guidance for completing your budget on the HHS/CDC web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements

Application Submission Address: HHS/CDC strongly encourages you to submit electronically at: *http://www.grants.gov.* You will be able to download a copy of the application package from *http://www.grants.gov,* complete it offline, and then upload and submit the application via the Grants.gov site. We will not accept e-mail submissions. If you are having technical difficulties in Grants.gov, you may reach them by e-mail at *support@grants.gov,* or by phone at 1–800–518–4726 (1–800–518–GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. Eastern Time, Monday through Friday.

HHS/CDC recommends that you submit your application to Grants.gov early enough to resolve any unanticipated difficulties prior to the deadline. You may also submit a back-up paper submission of your application. We must receive any such paper submission in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement.

You must clearly mark the paper submission: ''BACK–UP FOR ELECTRONIC SUBMISSION.''

The paper submission must conform to all requirements for non-electronic submissions. If we receive both electronic and back-up paper submissions by the deadline, we will consider the electronic version the official submission.

We strongly recommended that you submit your grant application by using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If you do not have access to Microsoft Office products, you may submit a PDF file. You may find directions for creating PDF files on the Grants.gov web site. Use of files other than Microsoft Office or PDF could make your file unreadable for our staff.

or:

Submit the original and two hard copies of your application by mail or express delivery service to the following address: Technical Information Management—AA119, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants must provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. Applicants must submit these measures of effectiveness with the application, and they will be an element of evaluation.

An objective review panel appointed by HHS will evaluate each application against the following criteria:

1. Plans for Administration and Management of the Project (30 Points)

Does the applicant provide a clear plan for the administration and management of the proposed activities, to manage the resources of the program, prepare reports, monitor and evaluate activities and audit expenditures?

2. Technical and Programmatic Approach (20 Points)

Does the applicant's proposal demonstrate an understanding of how to develop, promote, implement, monitor and evaluate activities listed above? Does the applicant describe strategies that are pertinent and match those identified in the five-year strategy of the President's Emergency Plan and activities that are evidence-based, realistic, achievable, measurable and culturally appropriate in Ethiopia to achieve the goals of the Emergency Plan?

3. Ability To Carry Out the Project (20 Points)

Does the applicant demonstrate the local experience and capability to achieve the goals of the project?

4. Personnel (20 Points)

Are staff involved in this project qualified to perform the tasks described? CVs provided should include information that they are qualified to perform HIV/AIDS, prevention, care, support and treatment activities in the local languages? Are the staff roles clearly defined? Are professional personnel involved in this project qualified, including evidence of experience in working with HIV/AIDS, sexually transmitted infections, and tuberculosis?

5. Understanding the Problem (10 Points)

Does the applicant demonstrate an understanding of the national cultural and political context and the technical and programmatic areas covered by the project? Does the applicant display knowledge of the five-year strategy and goals of the President's Emergency Plan, such that it can build on these to develop a comprehensive, collaborative project to reach underserved populations in Ethiopia and meet the goals of the Emergency Plan? Does the applicant demonstrate a clear and concise understanding of the general AIDS epidemic situation, the policy environment and current training and research needs in Ethiopia?

6. Budget (Not Scored)

Is the itemized budget for conducting the project is reasonable and well-justified? Is the budget itemized, well-justified and consistent with the five-year strategy and goals of the President's Emergency Plan and Emergency Plan activities in Ethiopia?

V.2. Review and Selection Process

The HHS/CDC Procurement and Grants Office (PGO) staff will review applications for completeness, and HHS Global AIDS program will review them for responsiveness. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will receive notification that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. All persons who serve on the panel will be external to the U.S. Government Country Program Office in Ethiopia. The panel can include both Federal and non-Federal participants.

In addition, the following factors could affect the funding decision:

It is possible for one organization to apply as lead grantee with a plan that includes partnering with other organizations, preferably local. Although matching funds are not required, preference will be go to organizations that can leverage additional funds to contribute to program goals.

Applications will be funded in order by score and rank determined by the review panel. HHS/CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

September 15, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NoA) from the HHS/CDC Procurement and Grants Office. The NoA shall be the only binding, authorizing document between the recipient and HHS/CDC. An authorized Grants Management Officer will sign the NoA, and mail it to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR part 74 and part 92.

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

The following additional requirements apply to this project:

- AR–4 HIV/AIDS Confidentiality Provisions
- AR–5 HIV Program Review Panel Requirements
- AR–7 Executive Order 12372
- AR–8 Public Health System Reporting Requirements
- AR–14 Accounting System Requirements
- AR–15 Proof of Non-Profit Status

Applicants can find additional information on these requirements on the HHS/CDC Web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm.*

You need to include an additional Certifications form from the PHS 5161–1 application in your Grants.gov electronic submission only. Please refer to *http://www.cdc.gov/od/pgo/funding/PHS5161-1-Certificates.pdf.* Once you have filled out the form, please attach it to your Grants.gov submission as Other Attachment Forms.

VI.3. Reporting Requirements

You must provide HHS/CDC with an original, plus two hard copies, of the following reports (in English).

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Budget.

e. Measures of Effectiveness, including progress against the numerical goals of the President's Emergency Plan for AIDS Relief for Ethiopia.

f. Additional Requested Information.

2. Annual progress report, due no more than 60 days after the end of the budget period. Reports should include progress against the numerical goals of the President's Emergency Plan for AIDS Relief for Ethiopia.

3. Financial status report, due no more than 90 days after the end of the budget period.

4. Final financial and performance reports, no more than 90 days after the end of the project period.

Recipients must mail these reports to the Grants Management or Contract Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341. Telephone: 770–488–2700.

For program technical assistance, contact: Tadesse Wuhib, MD, MPH, Country Director, HHS/CDC-Ethiopia, P.O. Box 1014, Entoto Road, Addis Ababa. Telephone: (Office) 251–1–66–95–33; (Cell) 251–9–228543. E-mail address: *wuhibt@etcdc.com.*

For financial, grants management, or budget assistance, contact: Shirley Wynn, Grants Management Specialist, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341. Telephone: 770–488–1515. E-mail: *SWynn@cdc.gov.*

VIII. Other Information

Applicants can find this and other HHS funding opportunity

announcements on the HHS/CDC Web site, Internet address: *http://www.cdc.gov* (Click on ''Funding'' then ''Grants and Cooperative Agreements''), and on the Web site of the HHS Office of Global Health Affairs, Internet address: *http://www.globalhealth.gov.*

Dated: August 9, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

[FR Doc. 05–16173 Filed 8–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Rapid Expansion of Access to HIV/AIDS Prevention, Care, and Treatment Interventions in the Underserved Northern and Western Regions of the Republic of Côte d'Ivoire Under the President's Emergency Plan for AIDS Relief

Announcement Type: New.

Funding Opportunity Number: CDC–RFA–AA070.

Catalog of Federal Domestic Assistance Number: 93.067.

DATES: *Application Deadline:* September 9, 2005.

I. Funding Opportunity Description

Authority: This program is authorized under Sections 307 and 317(k)(2) of the Public Health Service Act [42 U.S.C. Sections 242l and 247b(k)(2)], as amended, and under Public Law 108–25 (United States Leadership against HIV/AIDS, Tuberculosis and Malaria Act of 2004) [22 U.S.C. 7601].

Background: President Bush's Emergency Plan for AIDS Relief has called for immediate, comprehensive and evidence-based action to turn the tide of global HIV/AIDS. The initiative aims to: treat more than two million HIV-infected people with effective combination anti-retroviral therapy (ART) by 2008; care for ten million HIV-infected and affected persons, including those orphaned by HIV/AIDS, by 2008; and prevent seven million infections by 2010, with a focus on 15 priority countries, including 12 in sub-Saharan Africa. The five-year strategy for the Emergency Plan is available at the following Internet address: *http://www.state.gov/s/gac/rl/cll11652.htm.*

Over the same time period, as part of a collective national response, the Emergency Plan goals specific to Côte d'Ivoire are to treat at least 77,000 HIV-infected individuals; care for 385,000 HIV-affected individuals, including orphans; and prevent 265,000 new HIV infections.

Purpose: The purpose of this funding announcement is to progressively build an indigenous, sustainable response to the national HIV epidemic through the rapid expansion of innovative, culturally appropriate, high-quality HIV/AIDS prevention and care interventions, improved linkages to confidential HIV counseling and testing (CT), prevention of mother-to-child HIV transmission (PMTCT), and HIV treatment services that target underserved populations, prioritizing those in the northern and western regions of Côte d'Ivoire, where health care has been disrupted since a 2002 armed rebellion, and remains difficult because of the ongoing politico-military crisis.

Under the leadership of the U.S. Global AIDS Coordinator, as part of the President's Emergency Plan, the U.S. Department of Health and Human Services (HHS) works with host countries and other key partners to assess the needs of each country and design a customized program of assistance that fits within the host nation's strategic plan.

This announcement is only for non-research activities supported by HHS, including the Centers for Disease Control and Prevention (CDC). If an applicant proposes research activities, HHS will not review the application. For the definition of research, please see the HHS/CDC Web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm.*

Measurable outcomes of the program will be in alignment with the numerical goals of the President's Emergency Plan and the following performance goals for the National Center for HIV, STD, and TB Prevention (NCHSTP) of CDC, within HHS: By 2010, work with other countries, international organizations, the U.S. Department of State, U.S. Agency for International Development (USAID), and other partners to achieve the United National General Assembly Special Session on HIV/AIDS goal of reducing prevalence among persons 15 to 24 years of age.

The goals of the Emergency Plan include the following:

A. Prevention

Number of individuals trained to provide HIV prevention interventions [Abstinence and Be Faithful (A/B); and for populations engaged in high-risk behavior,[1] correct and consistent condom use; other prevention; PMTCT].

1. Abstinence (A) and Be Faithful (B)

a. Number of community outreach and/or mass-media (radio) HIV/AIDS prevention programs that are A/B focused.

b. Number of individuals reached through community outreach and/or mass-media (radio) HIV/AIDS prevention programs that are A/B focused.

2. PMTCT

a. Number of service outlets that provide the minimum package of PMTCT services (*i.e.*, confidential antenatal counseling and testing (CT); anti-retroviral prophylaxis; nutritional guidance; and support, with links to voluntary family planning and supportive basic social services).

b. Number of pregnant women provided with PMTCT, including confidential CT.

c. Number of pregnant women provided with a complete course of anti-retroviral prophylaxis in a PMTCT setting.

d. Number of health workers newly trained or retrained in the provision of PMTCT.

B. Care and Support

1. Confidential Counseling and Testing (CT)

a. Number of CT service outlets that provide CT.

b. Number of clients who receive CT.

c. Number of people trained in CT.

2. Orphans and Vulnerable Children (OVC)

a. Number of service outlets/programs.

b. Number of clients (OVC) served.

c. Number of persons trained in caring for OVC.

3. Palliative Care: Basic Health Care and Support

a. Number of service outlets/programs that provide general HIV-related palliative care.

b. Number of service outlets/programs that provide malaria care and/or referral.

[1] Behaviors that increase risk for HIV transmission include engaging in casual sexual encounters, engaging in sex in exchange for money or favors, having sex with an HIV-positive partner or one whose status is unknown, using drugs or abusing alcohol in the context of sexual interactions, and using intravenous drugs. Women, even if faithful themselves, can still be at risk of becoming infected by their spouse, regular male partner, or someone using force against them. Other high-risk persons or groups include men who have sex with men and workers who are employed away from home.

c. Number of clients served with general HIV-related palliative care.

d. Number of persons trained to provide general HIV-related palliative care.

C. HIV Treatment With Anti-Retrovirals (ARV)

1. Number of clients served.

2. Number of persons trained in HIV treatment.

D. Strategic Information

Number of persons trained in strategic information, according to guidance produced by the Office of the U.S. Global AIDS Coordinator.

E. Expanded Indigenous Sustainable Response

Project-specific quantifiable milestones will be required to measure:

1. Indigenous capacity-building.

2. Progress toward sustainability.

Activities: The recipient of these funds is responsible for activities in multiple HIV-related program areas designed to target underserved populations in the northern and western regions of Côte d'Ivoire. Either the awardee will implement activities directly or will implement them through its subgrantees and/or subcontractors; the awardee will retain overall financial and programmatic management under the oversight of HHS/CDC and the strategic direction of the Office of the U.S. Global AIDS Coordinator. The awardee must show a measurable progressive reinforcement of the capacity of indigenous organizations and local communities to respond to the national HIV epidemic, as well as progress towards the sustainability of activities.

The grantee will expand comprehensive HIV prevention and care, including: behavior-change communication (BCC); provision of supportive and palliative care to OVC and HIV affected families; and provision of/or linkages to PMTCT, CT and HIV treatment through health care centers, local non-governmental organizations (NGOs), community-based-organizations (CBOs) and/or faith-based organizations (FBOs), with a measurable and progressive reinforcement of the capacity of local structures to implement and sustain activities.

Applicants should describe activities, in detail, as part of a four-year action plan (U.S. Government Fiscal Years 2005–2008 inclusive) that reflects the policies and goals outlined in the five-year strategy for the President's Emergency Plan. The grantee will produce an annual operational plan in the context of this four-year plan, which the U.S. Government Emergency Plan team on the ground in Côte d'Ivoire will review as part of the annual Emergency Plan for AIDS Relief Country Operational Plan review and approval process managed by the Office of the U.S. Global AIDS Coordinator.

The grantee may work on some of the activities listed in this announcement in the first year and in subsequent years, and then progressively add others from the list to achieve all of the Emergency Plan performance goals as cited in the previous section. HHS/CDC, under the guidance of the U.S. Global AIDS Coordinator, will approve funds for activities on an annual basis, based on documented performance toward achieving Emergency Plan goals, as part of the annual Emergency Plan for AIDS Relief Country Operational Plan review and approval process.

Based on its competitive advantage and proven field experience, the winning applicant will undertake a broad range of activities to meet the numerical Emergency Plan targets outlined in this announcement. For each of these activities, the grantee will give priority to evidence-based, yet culturally adapted, innovative approaches including:

1. Assisting governmental and non-governmental structures, financially and/or technically, to re-establish and/or reinforce a range of prevention and palliative care interventions provided to persons living with HIV/AIDS (PLWHA) and their families in the regions where health care has been disrupted; and providing care, supported through a combination of technical assistance with capacity-building, and of small- to medium-size grants to local community- and faith-based organizations.

2. Implementation of BCC interventions, in partnership with local organizations (CBOs/NGOs/FBOs), journalist and artist networks, and traditional and elected authorities, in the geographic regions targeted, by building on existing tools and strategies. Interventions will respect and reflect local cultural and religious mores, and will aim to reduce HIV-related stigma; promote HIV testing as part of a comprehensive BCC strategy to reduce HIV transmission and as a routine part of medical care; and improve care, support, and treatment for PLWHA and family members, highly vulnerable youth, military, ex-combatants and other vulnerable populations. Evidence-based approaches will be used, which can include peer education, targeted condom social marketing to populations engaged in high-risk behavior,[2] and networking with links to HIV-related care and treatment. Awardees may not implement condom social marketing without also implementing the abstinence and faithfulness behavior-change interventions outlined above.

3. Progressively build capacity members of AIDS service organizations (ASO) in program and financial management, monitoring and evaluation, resource mobilization, and/or the provision of community/home-based palliative care and anti-retroviral treatment.

4. Comply with all HHS/CDC management requirements for meeting participation and progress and financial reporting for this cooperative agreement. (See HHS/CDC activities and Reporting sections below for details.)

Administration

Willing applicants must comply with all HHS management requirements for meeting participation and progress and financial reporting for this cooperative agreement. (See HHS Activities and Reporting sections below for details.) Winning applicants must comply with all policy directives established by the Office of the U.S. Global AIDS Coordinator.

In a cooperative agreement, HHS staff is substantially involved in the program activities, above and beyond routine grant monitoring.

HHS Activities for this program are as follows:

1. Organize an orientation meeting to brief the grantee on applicable U.S. Government, HHS, and Emergency Plan expectations, regulations and key management requirements, as well as report formats and contents. The orientation could include meetings with staff from HHS agencies and the Office of the U.S. Global AIDS Coordinator.

2. Review and approve the process used by the grantee to select key personnel or post-award sub-contractors to be involved in the activities performed under this agreement, as part of the Emergency Plan for AIDS Relief Country Operational Plan review and approval process, managed by the Office of the U.S. Global AIDS Coordinator.

[2] Behaviors that increase risk for HIV transmission include engaging in casual sexual encounters, engaging in sex in exchange for money or favors, having sex with an HIV-positive partner or one whose status is unknown, using drugs or abusing alcohol in the context of sexual interactions, and using intravenous drugs. Women, even if faithful themselves, can still be at risk of becoming infected by their spouse, regular male partner, or someone using force against them. Other high-risk persons or groups include men who have sex with men and workers who are employed away from home.

3. Review and approve grantee's annual work plan and detailed budget, as part of the Emergency Plan for AIDS Relief Country Operational Plan review and approval process, managed by the Office of the U.S. Global AIDS Coordinator.

4. Review and approve grantee's monitoring and evaluation plan, including for compliance with the strategic information guidance established by the Office of the U.S. Global AIDS Coordinator.

5. Meet with grantee, as necessary, to assess quarterly technical and financial progress reports and modify plans as necessary.

6. Meet on an annual basis with grantee to review annual progress report for each U.S. Government Fiscal Year, and to review annual work plans and budgets for subsequent year, as part of the Emergency Plan for AIDS Relief review and approval process for Country Operational Plans, managed by the Office of Global AIDS Coordinator.

7. Provide technical assistance, as mutually agreed upon and revised annually, during validation of the first and subsequent annual work plans. This can include expert technical assistance and targeted training activities in specialized areas, such as: strategic information; project management; confidential counseling and testing; palliative care; orphans and vulnerable children (OVC); treatment literacy; and adult learning techniques.

8. Provide in-country administrative support to help grantee meet U.S. Government financial and reporting requirements.

Please note: Either HHS staff or staff from organizations that have successfully competed for funding under a separate HHS contract, cooperative agreement or grant will provide technical assistance and training.

II. Award Information

Type of Award: Cooperative Agreement.

HHS involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $5,000,000.

(This amount is an estimate for the entire four-year project period, and is subject to availability of funds.)

Approximate Number of Awards: One.

Approximate Average Award: $1,000,000.

(This amount is for the first 12-month budget period, and includes direct costs.)

Floor of Award Range: $500,000.

Ceiling of Award Range: $1,000,000. (This ceiling is for the first 12-month budget period and is subject to the availability of funds.)

Anticipated Award Date: September 15, 2005.

Budget Period Length: 12 months.

Project Period Length: Four years.

Throughout the project period, HHS' commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government, through the Emergency Plan for AIDS Relief review and approval process for Country Operational Plans, managed by the Office of the U.S. Global AIDS Coordinator.

III. Eligibility Information

III.1. Eligible applicants

Public and private non-profit and for-profit organizations may submit applications, such as:

- Public, non-profit organizations.
- Private, non-profit organizations.
- For-profit organizations.
- Small, minority-owned, and women-owned businesses.
- Universities.
- Colleges.
- Hospitals.
- Community-based organizations.
- Faith-based organizations.

While both U.S.-based and Ivorian organizations are eligible to apply, we will give preference to well-established Ivorian organizations, legally incorporated in Côte d'Ivoire, that have well-developed management and financial control systems and established HIV activities that reach to rural areas of that country.

III.2. Cost Sharing or Matching Funds

Matching funds are not required for this program. Although matching funds are not required, preference will go to organizations that can leverage additional funds to contribute to program goals.

III.3. Other

If applicants request a funding amount greater than the ceiling of the award range, HHS/CDC will consider the application non-responsive, and it will not enter into the review process. We will notify you that your application did not meet the submission requirements.

Special Requirements: If your application is incomplete or non-responsive to the special requirements listed in this section, it will not enter into the review process. We will notify you that your application did not meet submission requirements.

- HHS/CDC will consider late applications non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.
- Applicants may be U.S.-based or Ivorian, but we will give preference to existing organizations legally incorporated in Côte d'Ivoire with well-developed management and financial control and established HIV activities with reach to the northern and western regions of Côte d'Ivoire.
- Applicant must provide documentation that substantiates eligibility criteria. Such proof could include, but is not limited to, official documents that describe legal organizational status, annual, financial, and audit reports, etc.
- **Note:** Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161–1.

Electronic Submission

HHS strongly encourages you to submit your application electronically by using the forms and instructions posted for this announcement at *http://www.grants.gov*, the official Federal agency wide E-grant Web site. Only applicants who apply on-line are permitted to forego paper copy submission of all application forms.

Paper Submission

Application forms and instructions are available on the HHS/CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the HHS/CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at 770–488–2700. We can mail application forms to you.

IV.2. Content and Form of Submission

Application: You must submit a project narrative with your application forms. You must submit the narrative in the following format:

- Maximum number of pages: 25. If your narrative exceeds the page limit, we will only review the first pages within the page limit.
- Font size: 12 point unreduced.
- Double-spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Held together only by rubber bands or metal clips; not bound in any other way.
- Must be submitted in English.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

- Project Context and Background (Understanding and Need).
- Project Strategy—Description and Methodologies.
- Project Goals.
- Project Outputs.
- Project Contribution to the Goals and Objectives of the Emergency Plan for AIDS Relief.
- Work Plan and Description of Project Components and Activities.
- Performance Measures.
- Timeline (*e.g.*, Henry L. Gantt Chart).
- Management of Project Funds and Reporting.

You may include additional information in the application appendices. The appendices will not count toward the narrative page limit. This additional information includes the following:

- Project Budget.
- Project Budget Notes.
- *Curriculum Vitas* (copies from current staff who will work on the activity).
- Job Descriptions (summaries of proposed key positions to be created for the activity).
- Quality-Assurance, Monitoring-and-Evaluation and Strategic-Information Forms.
- Applicant's Corporate Capability Statement.
- Letters of Support.
- Evidence of Legal Organizational Structure.

The budget justification will not count in the narrative page limit. Although the narrative addresses activities for the entire project, the applicant should provide a detailed budget only for the first year of activities and broad line items for the other project period years.

You must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. For more information, see the HHS/CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm.*

If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that could require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: September 9, 2005.

Explanation of Deadlines: Applications must be received in the HHS/CDC Procurement and Grants Office by 4 p.m. eastern time on the deadline date.

Applications may be submitted electronically at *http://www.grants.gov*. We consider applications completed on-line through Grants.gov as formally submitted when the applicant organization's Authorizing Official electronically submits the application to *http://www.grants.gov*. We will consider electronic applications as having met the deadline if the applicant organization's Authorizing Official has submitted the application electronically to Grants.gov on or before the deadline date and time.

If you submit your application electronically with Grants.gov, your application will be electronically time/date stamped, which will serve as receipt of submission. You will receive an e-mail notice of receipt when HHS/CDC receives the application.

If you submit your application by the United States Postal Service or commercial delivery service, you must ensure the carrier will be able to guarantee delivery by the closing date and time. If HHS/CDC receives your submission after closing because of: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, you will have the opportunity to submit documentation of the carriers guarantee. If the documentation verifies a carrier problem, HHS/CDC will consider the submission as received by the deadline.

If you submit a hard copy application, HHS/CDC will not notify you upon receipt of your submission. If you have a question about the receipt of your application, first contact your courier. If you still have a question, contact the PGO–TIM staff at (770) 488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for us to process and log submissions.

This announcement is the definitive guide on application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and we will discard it. We will notify you that you did not meet the submission requirements.

IV.4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

IV.5. Funding Restrictions

Restrictions, which you must take into account while writing your budget, are as follows:

- Funds may not be used for research.
- Reimbursement of pre-award costs is not allowed.
- Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives; however, prior approval by HHS/CDC Côte d'Ivoire officials must be requested in writing.
- All requests for funds contained in the budget shall be stated in U.S. dollars. Once an award is made, HHS/CDC will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.
- The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut and the World Health Organization, Indirect Costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the U.S. or to international organizations, regardless of their location.
- The applicant may contract with other organizations under this program; however, the applicant must perform a substantial portion of the activities

(including program management and operations, and delivery of prevention services for which funds are required).

• You must obtain an annual audit of these HHS/CDC funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by HHS/CDC.

• A Fiscal Recipient Capability Assessment may be required, prior to or post award, to review the applicant's business management and fiscal capabilities regarding the handling of U.S. Federal funds.

• Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception of nevirapine in Prevention of Mother-to-Child Transmission (PMTCT) cases and with prior written approval), occupational exposures, and non-occupational exposures, and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

• No funds appropriated under this act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Prostitution and Related Activities

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons.

Any entity that receives, directly or indirectly, U.S. Government funds in connection with this document (''recipient'') cannot use such U.S. Government funds to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

A recipient that is otherwise eligible to receive funds in connection with this document to prevent, treat, or monitor HIV/AIDS shall not be required to endorse or utilize a multisectoral approach to combating HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the recipient has a religious or moral objection. Any information provided by recipients about the use of condoms as part of projects or activities that are funded in connection with this document shall be medically accurate and shall include the public health benefits and failure rates of such use.

In addition, any recipient must have a policy explicitly opposing prostitution and sex trafficking. The preceding sentence shall not apply to any ''exempt organizations'' (defined as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization and its six Regional Offices, the International AIDS Vaccine Initiative or to any United Nations agency).

The following definition applies for purposes of this clause:

• Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. 22 U.S.C. 7102(9).

All recipients must insert provisions implementing the applicable parts of this section, ''Prostitution and Related Activities,'' in all subagreements under this award. These provisions must be express terms and conditions of the subagreement, must acknowledge that compliance with this section, ''Prostitution and Related Activities,'' is a prerequisite to receipt and expenditure of U.S. Government funds in connection with this document, and must acknowledge that any violation of the provisions shall be grounds for unilateral termination of the agreement prior to the end of its term. Recipients must agree that HHS may, at any reasonable time, inspect the documents and materials maintained or prepared by the recipient in the usual course of its operations that relate to the organization's compliance with this section, ''Prostitution and Related Activities.''

All prime recipients that receive U.S. Government funds (''prime recipients'') in connection with this document must certify compliance prior to actual receipt of such funds in a written statement that makes reference to this document (*e.g.*, ''[Prime recipient's name] certifies compliance with the section, 'Prostitution and Related Activities.' '') addressed to the agency's grants officer. Such certifications by prime recipients are prerequisites to the payment of any U.S. Government funds in connection with this document.

Recipients' compliance with this section, ''Prostitution and Related Activities,'' is an express term and condition of receiving U.S. Government funds in connection with this document, and any violation of it shall be grounds for unilateral termination by HHS of the agreement with HHS in connection with this document prior to the end of its term. The recipient shall refund to HHS the entire amount furnished in connection with this document in the event HHS determines the recipient has not complied with this section, ''Prostitution and Related Activities.''

You may find guidance for completing your budget on the HHS/CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements

Application Submission Address

Electronic Submission

HHS/CDC strongly encourages you to submit electronically at *http://www.grants.gov.* You will be able to download a copy of the application package from *http://www.grants.gov*, complete it off-line, and then upload and submit the application via the Grants.gov site. We will not accept e-mail submissions. If you are having technical difficulties in Grants.gov, you may reach customer support by e-mail at *support@grants.gov* or by phone at 1–800–518–4726 (1–800–518–GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. Eastern Time, Monday through Friday.

HHS/CDC recommends that you submit your application to Grants.gov early enough to resolve any unanticipated difficulties prior to the deadline. You may also submit a back-up paper submission of your application. We must receive any such paper submission in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement. You must clearly mark the paper transmission: ''BACK-UP FOR ELECTRONIC SUBMISSION.''

The paper submission must conform to all requirements for non-electronic submissions. If we receive both electronic and back-up paper submissions by the deadline, we will consider the electronic version the official submission.

We strongly recommend that you submit your grant application by using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If you do not have access to Microsoft Office products, you may submit a PDF file. You may find directions for creating PDF files on the Grants.gov Web site. Use of files other than Microsoft Office or PDF could make your file unreadable for our staff.

or

Submit the original and two hard copies of your application by mail or

express delivery service to the following address: Technical Information Management Section—AA070, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants must provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. Applicants must submit these measures of effectiveness with the application, and they will be an element of evaluation.

We Will Evaluate Your Application Against the Following Criteria

1. Understanding the National HIV/AIDS Response and Cultural and Political Context in Côte d'Ivoire and Fitting Into the Five-Year Strategy and Goals of the President's Emergency Plan (30 Points)

Does the applicant demonstrate an understanding of the national cultural and political context and the technical and programmatic areas covered by the project? Does the applicant display knowledge of five-year strategy and goals of the President's Emergency Plan, such that, it can build on these to develop a comprehensive, collaborative project to reach underserved populations in Côte d'Ivoire and meet the goals of the Emergency Plan?

2. Capacity Building (20 Points)

Does the applicant describe a plan to progressively build the indigenous capacity of local organizations, and of target beneficiaries and communities, to respond to the epidemic, such that, if the applicant is not an Ivorian organization, at the end of the project period the applicant can turn over management of the project to a local partner or partners?

3. Ability To Carry Out the Proposal (20 Points)

Does the applicant demonstrate the local experience and capability to achieve the goals of the project? Do the staff members have appropriate experience? Are the staff roles clearly defined? Does the applicant currently have the capacity to reach northern and western regions of Côte d'Ivoire despite the complex political situation?

4. Work Plan (15 Points)

Does the applicant describe strategies that are pertinent and matched by those identified in the five-year strategy of the President's Emergency Plan and activities that are evidence-based, realistic, achievable, measurable and culturally appropriate in Côte d'Ivoire to achieve the goals of the Emergency Plan?

5. Management Plan (15 Points)

Is there a plan to manage the resources of the program, prepare reports, monitor and evaluate activities, and audit expenditures?

6. (Not Scored)

Is the budget itemized, well-justified and consistent with the five-year strategy and goals of the President's Emergency Plan and Emergency Plan activities in Côte d'Ivoire? Is the overhead less than 10% of the total budget (including salaries, supplies, rent, and management fees) or less than 5 percent (excluding salaries, rent, office supplies and management fees)?

V.2. Review and Selection Process

The HHS/CDC Procurement and Grants Office (PGO) staff will review applications for completeness, and the HHS Global AIDS program will review them for responsiveness. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will receive notification that their applications did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. All persons who serve on the panel will be external to the U.S. Government Country Program Office in Côte d'Ivoire. The panel can include both Federal and non-Federal participants.

In addition, the following factors could affect the funding decision:

While U.S.-based organizations are eligible to apply, we will give preference to existing national/Ivorian organizations. It is possible for one organization to apply as lead grantee with a plan that includes partnering with other organizations, preferably local. Although matching funds are not required, preference will go to organizations that can leverage additional funds to contribute to program goals.

Applications will be funded in order by score and rank determined by the review panel. HHS/CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

September 15, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NoA) from HHS/CDC Procurement and Grants Office. The NoA shall be the only binding, authorizing document between the recipient and HHS/CDC. An authorized Grants Management Officer will sign the NOA, and mail it to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR part 74 and part 92.

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html*.

The following additional requirements apply to this project:

- AR–4 HIV/AIDS Confidentiality Provisions
- AR–5 HIV Program Review Panel Requirements
- AR–8 Public Health System Reporting Requirements
- AR–12 Lobbying Restrictions
- AR–14 Accounting System Requirements
- AR–15 Proof of Non-Profit Status
- AR–21 Small, Minority, and Women-Owned Business

Applicants can find additional information on these requirements on the HHS/CDC Web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm*.

You need to include an additional Certifications form from the PHS 5161–1 application in your Grants.gov electronic submission only. Please refer to *http://www.cdc.gov/od/pgo/funding/PHS5161-1-Certificates.pdf*. Once you have filled out the form, please attach it to your Grants.gov submission as Other Attachment Forms.

VI.3. Reporting Requirements

You must provide HHS/CDC with an original, plus two hard copies, of the following reports (in English):

1. Interim progress report, due no less than 90 days before the end of the

budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Budget.

e. Measures of Effectiveness, including progress against the numerical goals of the President's Emergency Plan for AIDS Relief for Côte d'Ivoire.

f. Additional Requested Information.

2. Annual progress report, due no more than 60 days after the end of the budget period. Reports should include progress against the numerical goals of the President's Emergency Plan for AIDS Relief for Côte d'Ivoire.

3. Financial status report, due no more than 90 days after the end of the budget period.

4. Final financial and performance reports, no more than 90 days after the end of the project period.

Recipients must mail these reports to the Grants Management Specialist listed in the ''Agency Contacts'' section of this announcement. Copies of the reports must also be submitted to the Project Management Officer at the HHS/CDC Country Office in Côte d'Ivoire.

Please note: The grantee is responsible for accurate translation of all reports, and should submit French-language versions to the local HHS/CDC office in Abidjan and English-language versions to the HHS/CDC Grants Office in the U.S., by the established deadlines. See the HHS/CDC project management officer in Abidjan for more details.

VII. Agency Contacts

We encourage inquiries concerning this announcement. For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341. Telephone: 770–488–2700.

For program technical assistance, contact: Monica Nolan, Director, HHS/CDC/Project RETRO–CI, 2010 Abidjan Place, Dulles, Virginia 20189–2010. Telephone: 225–21–25–41–89. E-mail: *mnolan@cdc.gov*.

For report mailing, contact: Jean-Claude Crinot, Project Management Officer, HHS/CDC /Project RETRO–CI, 01 BP 1712 Abidjan 01. Telephone: 225–21–21–42–50. E-mail: *crinotj@gapcdcci.org*.

For financial, grants management, or budget assistance, contact: Diane Flournoy, Grants Management Specialist, CDC Procurement and Grants Office, U.S. Department of Health and Human Services, 2920 Brandywine Road, Atlanta, GA 30341. Telephone: 770–488–2072. E-mail: *dflournoy@cdc.gov*.

VIII. Other Information

Applicants can find this and other HHS funding opportunity announcements on the HHS/CDC Web site, Internet address: *http://www.cdc.gov* (Click on ''Funding'' then ''Grants and Cooperative Agreements''), and on the Web site of the HHS Office of Global Health Affairs, Internet address: *http://www.globalhealth.gov*.

Dated: August 9, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

[FR Doc. 05–16174 Filed 8–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Request for Application (RFA) AA112]

Implementation of Programs To Improve the Management of HIV/AIDS/STI/TB Care in the Livingstone District of the Republic of Zambia; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2005 funds for a cooperative agreement program to provide high-quality clinical care to PLWHAs in the Livingstone District of Southern Province of the Republic of Zambia. The Catalog of Federal Domestic Assistance number for this program is 93.067.

B. Eligible Applicant

Assistance will be provided only to the Southern Province Health Office of the Republic of Zambia. No other applications are solicited. The current health system structure in Zambia consists of the MOH, which has the responsibility for policy guidance and strategic planning, and the Central Board of Health, which is responsible for the translation and implementation of government health policies. The country is administratively divided into nine Provinces and 72 districts. In the health sector, the Provincial Health Office provides technical support to the districts in the areas of management of service delivery, planning of health programs, priority setting and resource utilization. Within this framework the Southern Province Health Office is the only entity in Zambia qualified to collaborate with HHS as part of the Emergency Plan in Livingstone because it has the legal authority, expertise, and capacity to perform the key public health activities that are part of this cooperative agreement.

C. Funding

Approximately $200,000 is available in FY 2005 to fund this award September 15, 2005 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact:

Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, telephone: 770–488–2700.

For program technical assistance, contact: Marc Bulterys, Project Officer, 1600 Clifton Road NE, MS E–04, Atlanta, GA 30333, telephone: 011 260 1 250 955, e-mail: *bulterysm@cdczm.org*.

Dated: August 9, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–16175 Filed 8–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Maryland State Plan Amendment (05–06)

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to be held on September 15, 2005, at 12 noon, in the Virginia Room 229, 150 S. Independence Mall, West, Suite 216, Philadelphia, Pennsylvania 19106, to reconsider our decision to disapprove Maryland's State Plan Amendment (SPA) 05–06.

DATES: Requests to participate in the hearing as a party must be received by the presiding officer by August 31, 2005.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, Lord Baltimore Drive, Mail Stop LB–23–20, Baltimore, Maryland 21244, Telephone: (410) 786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove Maryland State plan amendment (SPA) 05–06, which was submitted on January 25, 2005.

The amendment seeks approval to place what the State believes to be reasonable limits on the amounts of incurred necessary medical and remedial care expenses which must be deducted from a nursing facility resident's income under the post-eligibility treatment of income process.

Section 1902(r)(1)(A) of the Social Security Act (the Act) requires States to take into account, under the post-eligibility process, amounts for incurred medical and remedial care expenses that are not subject to payment by a third party. Section 1902(r)(1)(A)(ii) of the Act permits States to place ''reasonable'' limits on the amounts of necessary medical and remedial care expenses recognized under State law but not covered under the State plan. However, those reasonable limits must ensure nursing home residents are able to use their own funds to purchase necessary medical or remedial care not covered, *i.e.*, not paid for, by the State Medicaid program.

The SPA 05–06 proposes to limit the deduction of medical expenses to those incurred only during a period of eligibility for Medicaid. Thus, an individual who incurred medical expenses during the 3-month period prior to the date of application would not have any protection under the post-eligibility calculation for medical expenses incurred during that period unless he or she were determined to be eligible during that period.

In discussions with State Medicaid program staff, we confirmed this is the intent of the proposed amendment. While we believe some limitations imposed on the age of an incurred expense could be considered reasonable, we do not believe it would be reasonable for a State to exclude from post-eligibility protection an incurred medical expense that could be deducted from a person's income under the medically needy spenddown process. While the medically needy spenddown rules in Federal regulations at 42 CFR 435.831(g)(2) permit States to exclude expenses incurred earlier than 3 months before the month of application, Maryland proposes to only permit deduction under its post-eligibility process for expenses incurred while an individual is actually eligible for Medicaid.

The State's limitation would result in an individual being able to use certain incurred medical expenses to establish eligibility for Medicaid, but not being able to deduct those same expenses under the post-eligibility process. While the statue permits the State to establish reasonable limits on the amount of non-covered expenses, we do not believe the limit is reasonable if the result were to deny the individual the ability to pay for a non-covered expense used to establish eligibility during a budget period.

The intent of section 1902(r)(1) of the Act is to afford an institutionalized individual with income the ability to actually pay non-covered medical expenses for medical and remedial care. Section 1902(r)(1) of the Act was added to the Medicaid statute by the Medicare Catastrophic Coverage Act of 1988. The Conference Report explains it was enacted to reinstate policies set forth previously in Medicaid regulations before they were revised by the Department of Health and Human Services in February 1988. Under that revised regulation, Maryland would have had the authority to implement the limits it proposes in SPA 05–06. However, by enacting section 1902(r)(1) of the Act, Congress specifically rejected that approach.

Moreover, by not protecting income to pay for non-covered expenses which were used to establish eligibility under the medically needy spenddown, the State's proposed amendment undercuts the Medicaid statute's purpose of requiring States to deduct incurred expenses under the spenddown process. To the extent that Maryland's amendment fails to protect income to enable the individual to actually pay for these incurred expenses, we view the State's proposed limit as not being reasonable. As a result, we believe the limit does not meet the requirements of section 1902(a)(17) of the Act, as refined by section 1902(r)(1) of the Act. For individuals whose post-eligibility calculation is determined using the spousal impoverishment rules, specified at section 1924 of the Act and refined by section 1902(r)(1) of the Act, we believe the limit does not meet the requirements of section 1902(a)(51) of the Act, which requires the State plan to meet the requirements of section 1924 of the Act.

The issues to be considered during the hearing are whether the amendment's limit violates the requirements of sections 1902(a)(17) and 1902(a)(51) of the Act by imposing an unreasonable limit on expenses for medical and remedial care which will be protected under the post-eligibility process.

Section 1116 of the Act and Federal regulations at 42 CFR Part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The CMS is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained in Federal regulations at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained in Federal regulations at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under Federal regulations at 42 CFR 430.15(c)(2), CMS disapproved Maryland SPA 05–06. The notice to Maryland announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Joel L. Tornari,
Assistant Attorney General, Department of Health and Mental Hygiene,300 W. Preston Street, Suite 302, Baltimore, MD 21201

Dear Mr. Tornari: I am responding to your request for reconsideration of the decision to disapprove Maryland State plan amendment (SPA) 05–06, which was submitted on January 25, 2005.

In SPA 05–06, Maryland seeks approval to place what the State believes to be reasonable limits on the amounts of incurred necessary medical and remedial care expenses which must be deducted from a nursing facility resident's income under the post-eligibility treatment of income process.

Section 1902(r)(1)(A) of the Social Security Act (the Act) requires States to take into account, under the post-eligibility process, amounts for incurred medical and remedial care expenses that are not subject to payment by a third party. Section 1902(r)(1)(A)(ii) of the Act permits States to place ''reasonable''

limits on the amounts of necessary medical and remedial care expenses recognized under State law but not covered under the State plan. However, those reasonable limits must ensure that nursing home residents are able to use their own funds to purchase necessary medical or remedial care not covered; *i.e.*, not paid for, by the State Medicaid program.

The SPA 05–06 proposes to limit the deduction of medical expenses to those incurred only during a period of eligibility for Medicaid. Thus, an individual who incurred medical expenses during the 3-month period prior to the date of application would not have any protection under the post-eligibility calculation for medical expenses incurred during that period unless he or she were determined to be eligible during that period.

In discussions with State Medicaid program staff, we confirmed this is the intent of the proposed amendment. While we believe some limitations imposed on the age of an incurred expense could be considered reasonable, we do not believe it would be reasonable for a State to exclude from post-eligibility protection an incurred medical expense that could be deducted from a person's income under the medically needy spenddown process. While the medically needy spenddown rules in Federal regulations at 42 CFR 435.831(g)(2) permit States to exclude expenses incurred earlier than 3 months before the month of application, Maryland proposes to only permit deduction under its post-eligibility process for expenses incurred while an individual is actually eligible for Medicaid.

The State's limitation would result in an individual being able to use certain incurred medical expenses to establish eligibility for Medicaid, but not being able to deduct those same expenses under the post-eligibility process. While the statute permits the State to establish reasonable limits on the amount of non-covered expenses, we do not believe the limit is reasonable if the result were to deny the individual the ability to pay for a non-covered expense used to establish eligibility during a budget period.

The intent of section 1902(r)(1) of the Act is to afford an institutionalized individual with income the ability to actually pay non-covered medical expenses for medical and remedial care. Section 1902(r)(1) of the Act was added to the Medicaid statute by the Medicare Catastrophic Coverage Act of 1988. The Conference Report explains it was enacted to reinstate policies set forth previously in Medicaid regulations before they were revised by the Department of Health and Human Services in February 1988. Under that revised regulation, Maryland would have had the authority to implement the limits it proposes in SPA 05–06. However, by enacting section 1902(r)(1) of the Act, Congress specifically rejected that approach.

Moreover, by not protecting income to pay for non-covered expenses which were used to establish eligibility under the medically needy spenddown, the State's proposed amendment undercuts the Medicaid statute's purpose of requiring States to deduct incurred expenses under the spenddown process. To the extent that Maryland's amendment fails to protect income to enable the individual to actually pay for these incurred expenses, we view the State's proposed limit as not being reasonable. As a result, we believe the limit does not meet the requirements of section 1902(a)(17) of the Act, as refined by section 1902(r)(1) of the Act. For individuals whose post-eligibility calculation is determined using the spousal impoverishment rules, specified at section 1924 of the Act and refined by section 1902(r)(1) of the Act, we believe the limit does not meet the requirements of section 1902(a)(51) of the Act, which requires the State plan to meet the requirements of section 1924 of the Act.

Based on the reasoning set forth above, and after consulting with the Secretary as required by Federal regulations at 42 CFR 430.15(c)(2), the Centers for Medicare & Medicaid Services (CMS) disapproved Maryland Medicaid SPA 05–06.

I am scheduling a hearing to be held on September 15, 2005, at 12:00 Noon in CMS'' Philadelphia Regional Office, in the Virginia Room 229;150 S. Independence Mall, West; Suite 216; Philadelphia, Pennsylvania 19106, to reconsider our decision to disapprove Maryland's SPA 05–06. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

The issues to be considered during the hearing are whether the amendment's limit violates the requirements of sections 1902(a)(17) and 1902(a)(51) of the Act by imposing an unreasonable limit on expenses for medical and remedial care which will be protected under the post-eligibility process.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Sincerely,

Mark B. McClellan, M.D., Ph.D.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program.)

Dated: July 19, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–16304 Filed 8–12–05; 1:32 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0535]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; MedWatch: Food and Drug Administration Medical Products Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by September 15, 2005.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

MedWatch: FDA Medical Products Reporting Program, Form FDA 3500 and Form FDA 3500A—(OMB Control Number 0910–0291)—Extension

Under sections 505, 512, 513, 515, and 903 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355, 360b, 360c, 360e, and 393), and section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to ensure the safety and effectiveness of drugs, biologics, and devices. Under section 502(a) of the act (21 U.S.C. 352(a)), a drug or device is misbranded if its labeling is false or misleading. Under section 502(f)(1) of the act (21 U.S.C. 352(f)(1)), it is misbranded if it fails to bear adequate warnings, and under section 502(j) of the act (21 U.S.C.

352(j)), it is misbranded if it is dangerous to health when used as directed in its labeling.

Under section 4 of the Dietary Supplement Health and Education Act of 1994 (DSHEA) (21 U.S.C. 341), section 402 of the act (21 U.S.C. 342) is amended so that FDA must bear the burden of proof to show a dietary supplement is unsafe.

To carry out its responsibilities, the agency needs to be informed whenever an adverse event, product problem, or error with use of a medication or device occurs. Only if FDA is provided with such information will the agency be able to evaluate the risk, if any, associated with the product, and take whatever action is necessary to reduce or eliminate the public's exposure to the risk through regulatory action. To ensure the marketing of safe and effective products, certain adverse events must be reported. Requirements regarding mandatory reporting of adverse events or product problems have been codified in parts 310, 314, 600, 803, and 1271 (21 CFR parts 310, 314, 600, 803, and 1271), specifically §§ 310.305, 314.80, 314.98, 314.540, 600.80, 803.30, 803.50, 803.53, 803.56, and 1271.350(a).

To implement these provisions for reporting of adverse events, product problems, and medication/device use errors for FDA regulated products such as medications, devices, biologics, including human cells, tissues, and cellular and tissue-based products (HCT/Ps), special nutritional products, and cosmetics, as well as any other products that are regulated by FDA, two forms are available from the agency. Form FDA 3500 may be used for voluntary (i.e., not mandated by law or regulation) reporting by healthcare professionals and the public. Form FDA 3500A is used for mandatory reporting (i.e., required by law or regulation).

Respondents to this collection of information are healthcare professionals, hospitals and other user facilities (e.g., nursing homes, etc.), consumers, manufacturers of biological and drug products or medical devices, and importers.

II. Use of Form FDA 3500 (Voluntary Version)

The voluntary version of the form is used to submit all reports not mandated by Federal law or regulation. Individual health professionals are not required by law or regulation to submit reports to the agency or the manufacturer, with the exception of certain adverse reactions following immunization with vaccines as mandated by the National Childhood Vaccine Injury Act of 1986. Those mandatory reports are not submitted to FDA on Form FDA 3500 or Form FDA 3500A, but are submitted to the joint FDA/Centers for Disease Control and Prevention Vaccines Adverse Event Reporting System (VAERS) on the VAERS–1 form. (See *http://www.vaers.hhs.gov*.) (FDA has verified the Web site addresses, but we are not responsible for subsequent changes to the nonFDA Web sites after this document publishes in the **Federal Register**.)

Hospitals are not required by Federal law or regulation to submit reports associated with drug products, biological products, or special nutritional products. However, hospitals and other user facilities are required by Federal law to report medical device-related deaths and serious injuries.

Manufacturers of dietary supplements do not have mandatory requirements for reporting adverse reactions to FDA. DSHEA puts the responsibility on FDA to prove that a particular product is unsafe. The agency depends on the voluntary reporting by health professionals and consumers of suspected adverse events associated with the use of dietary supplements.

III. Use of Form FDA 3500A (Mandatory Version)

A. Drug and Biologic Products

In sections 505(j) and 704 of the act (21 U.S.C. 355(j) and 374), Congress has required that important safety information relating to all human prescription drug products be made available to FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the act. These statutory requirements regarding mandatory reporting have been codified by FDA under parts 310 (New Drugs) and 314 (Applications for FDA Approval to Market a New Drug), 600 (Biological Products: General), and 1271 (Human Cells, Tissues, and Cellular and Tissue-Based Products). Parts 310, 314, 600, and 1271 mandate the use of Form FDA 3500A for reporting to FDA adverse events that occur with drugs and biologics.

B. Medical Device Products

Section 519 of the act (21 U.S.C. 360i) requires manufacturers and importers, of devices intended for human use to establish and maintain records, make reports, and provide information as the Secretary of Health and Human Services may by regulation reasonably require to assure that such devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness.

The Safe Medical Device Act of 1990, signed into law on November 28, 1990, amends section 519 of the act (21 U.S.C. 360i). The amendment requires that user facilities such as hospitals, nursing homes, ambulatory surgical facilities, and outpatient treatment facilities report deaths related to medical devices to FDA and to the manufacturer, if known. Serious illnesses and injuries are to be reported to the manufacturer or to FDA if the manufacturer is not known. These statutory requirements regarding mandatory reporting have been codified by FDA under part 803. Part 803 mandates the use of Form FDA 3500A for reporting to FDA on medical devices.

The Medical Device User Fee and Modernization Act of 2002 (MDUFMA), Public Law 107–250, signed into law October 26, 2002, amended section 519 of the act. The amendment (section 303 of MDUFMA) requires FDA to revise the MedWatch forms to facilitate the reporting of information relating to reprocessed single-use devices, including the name of the reprocessor and whether the device has been reused.

IV. Proposed Modifications to Forms

The proposed modifications to Form FDA 3500 and Form FDA 3500A reflect changes that will bring the forms into conformation with current regulations, rules, and guidances. Modifications were also made to better reflect the range of reportable products and language was changed slightly to provide clarity. The changes should allow reporters to better utilize available space for data entry and offer voluntary reporters the opportunity to better characterize the suspected adverse event, product problem or error, and provide better quality safety-related data for agency evaluation.

FDA estimates the burden for completing the forms for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Center(s) (21 CFR Section)	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Center for Biologic Evaluation and Research/Center for Drug Evaluation and Research					
Form FDA 3500[2]	23,867	1	23,867	0.6	14,320
Form FDA 3500A (310.305, 314.80, 314.98, and 600.80)	600	579.9	401,390	1.1	441,529
Center for Devices and Radiological Health					
Form FDA 3500[2]	3,717	1	3,717	0.6	2,230
Form FDA 3500A (part 803)[3]	1,919	40	76,203	1.1	83,823
Center for Food Safety and Applied Nutrition					
Form FDA 3500[2]	665	1	665	0.6	399
Form FDA 3500A (No mandatory requirements)[3]	0	0	0	1.1	0
Form FDA 3500[2]					16,949
Form FDA 3500A[3]					525,352
Total Hours					542,301

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Form FDA 3500 is for voluntary reporting.
[3] Form FDA 3500A is for mandatory reporting.
(NOTE: The figures shown in table 1 are based on actual calendar year 2004 reports and respondents.

V. Agency Response to Comments

In the **Federal Register** of December 27, 2004 (69 FR 77256), FDA published a 60-day notice requesting public comment on the information collection provisions. FDA received several comments; the majority addressed revisions to Form FDA 3500A.

Several pharmaceutical manufacturers expressed concern over FDA's revision of mandatory Form FDA 3500A since FDA encourages electronic submission of postmarketing adverse event reports, and it would be an unfair burden to manufacturers who submit electronically to expend resources to change the form which would be used only in times of rare network or server outages. FDA disagrees with this comment. As described in a May 2001 draft guidance entitled ''Providing Regulatory Submissions in Electronic Format Postmarketing Expedited Safety Reports'', manufacturers can send individual case safety reports (ICSRs) to FDA using either FDA's electronic data interchange (EDI) gateway or physical media (such as CD–ROM or digital tape). If the EDI gateway is not functional, regulatory requirements can be met by submitting ICSRs on physical media.

A number of manufacturers commented that certain sections of proposed Form FDA 3500A were based on proposed rules, regulations, and guidances. They noted that considerable resources would be required to modify computer systems and processes, and changes to the form should be based on current rules, regulations, and guidances. Likewise, such changes should be consistent with current International Conference on Harmonization (ICH) guidelines. FDA agrees with these comments and has based the final revised Form FDA 3500A on current rules, regulations, and guidances to the extent possible. Proposed reformatting of Form FDA 3500A has also been minimized based on these comments. In addition, to allow mandatory reporters time to make the necessary changes to their computer systems and processes to conform to the revised Form FDA 3500A , FDA is granting a grace period of 1 year. During this transition period FDA will accept both the newly effective Form FDA 3500A and the prior version of the form.

Device manufacturers commented that there were unnecessary changes made to the form pertaining only to device reporting. FDA agrees and has minimally altered the device sections of the final forms. FDA additionally recognizes the burden this places on device manufacturers as they were recently required to make computer and process changes based on the modified Form FDA 3500A as mandated by MDUFMA.

Some comments noted that FDA underestimated the burden of the proposed collection of information, only capturing time required to complete the form and not capturing the significant resources required to modify and validate the forms. One drug manufacturer estimated that 50 to 60 hours per computerized system would be required to modify and validate the changes to the form. FDA acknowledges these comments and has made an effort to modify Form FDA 3500A to the minimum extent possible to conform with current rules, regulations, and guidances in order to minimize this burden to industry.

Several comments noted that FDA did not include instructions to revised Form FDA 3500 and Form FDA 3500A, which resulted in a lack of clarity in modified sections and lack of definition regarding newly added terminology. FDA acknowledges these comments. Both the previous and newly revised Form FDA 3500A along with the newly revised voluntary Form FDA 3500, with instructions for both forms, will be made available upon OMB approval on FDA's MedWatch Web site at *http://www.fda.gov/medwatch/getforms.htm*.

One comment requested consistency in formatting of dates throughout both forms. FDA agrees and has conformed to a mm/dd/yyyy format throughout both forms.

FDA proposed several changes to section B.2 (Outcomes Attributed to Adverse Event) of both forms. A number of comments were received regarding this proposal. The ''Not Serious'' and ''No Harm'' checkboxes elicited comments that clarification was required regarding when these boxes would be used, and that these boxes do not conform to any current rules, regulations, or guidances, including

current ICH guidances. FDA agrees with these comments and the ''Not Serious'' and ''No Harm'' checkboxes do not appear on the final Form FDA 3500 and Form FDA 3500A. Another proposed checkbox was ''Important Medical Events''. This checkbox has been revised on the final Form FDA 3500 and Form FDA 3500A to ''Other Serious (Important Medical Events)''. This new terminology is consistent with the definition of ''Serious'' in 21 CFR 310.305, 312.32, 314.80, and 600.80 as well as ICH E2A guidelines. In addition, the outcome ''Required Intervention to Prevent Permanent Impairment/ Damage'' has been revised, adding ''(devices)'' at the end of the term. Additional detail has been provided in the revised instructions to provide more clarity for the use of section B.2 of both forms.

In section B.5 of both forms, the proposed checkboxes ''Product Used During Pregnancy'' and ''Product Used During Breast Feeding'' produced concern as these new data fields introduce divergence from ICH standards and appear to duplicate information that is usually provided in the narrative section and in coded adverse event terms. FDA agrees and has not included these checkboxes in the final forms. As a result, the term ''Pregnancy'' has been returned to the examples in section B.7 (Other Relevant History) on both Form FDA 3500 and Form FDA 3500A.

A few comments noted the removal of the term ''if known'' from several fields of the forms and questioned this action as a new requirement for these data. The final forms do not contain the term ''if known'' in any of the fields for reasons of form consistency. This should not be interpreted as a new requirement. If information is not known for any of the fields, they should be left blank. This is reflected in the revised instructions.

Several comments questioned the addition of the Unique Identifier Number (Unique ID) to proposed section D.9 of both forms. Unique ID is required under § 1271.350 for reporting of adverse events for HCT/Ps.

One comment recommended the addition of ''Solicited'' and ''Spontaneous'' checkboxes to Form FDA 3500A. FDA has not accepted this recommendation. As described in an August 1997 guidance for industry entitled ''Postmarketing Adverse Experience Reporting for Human Drug and Licensed Biological Products: Clarification of What to Report,'' information concerning potential adverse experiences derived during planned contacts and active solicitation of information from patients should be handled as safety information obtained from a postmarketing study. Section G of the previous and revised Form FDA 3500A contains a checkbox for ''Study'' which captures such information.

One comment requested that FDA include information on drug name, dose, frequency, route, dates of diagnosis for use, and event abated/ reappeared after reintroduction on one line of Form FDA 3500 and Form FDA 3500A. FDA disagrees since these changes would decrease form clarity and would require costly and unnecessary computer and process revisions.

One comment noted that the MedWatch program needs to do the following: (1) Enhance the quality, utility, and clarity of information to be collected; (2) data entry accuracy needs to be improved; and (3) the public version of the adverse events database needs to be posted in a timely manner, and FDA needs to vigorously enforce mandatory reporting requirements. FDA acknowledges these comments regarding FDA programs and processes. However, the comment did not suggest specific changes to Form FDA 3500 or Form FDA 3500A .

In the final versions of Form FDA 3500 and Form FDA 3500A, there are some differences. FDA proposed adding two checkboxes to section B.1: ''Product Use Error'' and ''Product Switch''. Since there is currently no requirement to report medication, device, or other regulated product errors, these boxes do not appear on the final version of Form FDA 3500A . However, ''Product Use Error'' will be included on the voluntary Form FDA 3500, as the agency has become aware that voluntary reporters who wish to submit medication and other product use errors to FDA are not certain that Form FDA 3500 can be used for this purpose. FDA encourages voluntary reporting of product use errors.

The ''Product Switch'' checkbox does not appear on the final Form FDA 3500A , however, a revised checkbox ''Problem with different manufacturer of same medicine,'' does appear on Form FDA 3500 to enable voluntary reporters to more clearly submit reports directly to FDA that involve adverse events or product problems related to brand-to-generic, generic-to-brand, one generic to another generic, or other therapy changes relating to the same active ingredient produced by different manufacturers.

FDA proposed reformatting changes in sections A and D of both forms to conserve space on the forms. These changes do not appear on the final Form FDA 3500A; however, section D (Suspect Product(s)) of revised Form FDA 3500 is modified. FDA believes the collection of data in specific boxes for dose/amount, frequency, and route increases clarity and enhances the likelihood that these data would be obtained from consumers and healthcare professionals who voluntarily submit reports directly to FDA.

Several comments were received on new section C (Product Availability). Pharmaceutical manufacturers expressed concern that the practice of obtaining, storing, and analyzing returned products would significantly impact their working practice and goes beyond current regulations and guidances. FDA agrees with these comments and the ''Product Availability'' question has been returned to the ''Suspect Medical Device'' section of Form FDA 3500A . However, the revised voluntary Form FDA 3500 contains the new section C, to enable FDA to collect such information particularly for products that currently do not have mandatory adverse event reporting requirements, such as special nutritional products and cosmetics.

Dated: August 9, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–16141 Filed 8–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0218]

Vision 2006—A Conversation With the American Public; Notice of Public Meetings on Specific Food and Drug Administration Issues; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meetings; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a series of public meetings entitled ''Vision 2006—A Conversation With the American Public,'' in three cities. This forum will be an open format in which consumers can interact directly with the agency's leadership to discuss what is on the public's mind. It will also be an opportunity for the agency to update the public on current agency programs, engage the public in discussion, and obtain consumer input on specific

issues. We may use the public input we receive to evaluate and to propose modifications, if necessary, to our programs and activities.

DATES: See table 1, section III, of the **SUPPLEMENTARY INFORMATION** section of this document for meeting dates and times. See section IV of this document for information on how to register, to speak at, or to attend a meeting. Written or electronic comments must be received by November 30, 2005.

ADDRESSES: See table 1, section III, of the **SUPPLEMENTARY INFORMATION** section of this document for meeting locations. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For information about this document: Philip L. Chao, Food and Drug Administration (HF–23), 5600 Fishers Lane, Rockville, MD 20857, 301–827–0587, FAX: 301–827–4774, e-mail: *philip.chao@fda.hhs.gov*.

For information regarding registration: Isabelle Howes, Graduate School, U.S. Department of Agriculture, 490 L'Enfant Plaza, Promenade Level, suite 710, Washington, DC 20024, 202–314–4713, FAX: 202–479–6801, e-mail: *Isabelle_Howes@grad.usda.gov*.

SUPPLEMENTARY INFORMATION:

I. Why Do We Want to Hold Public Meetings?

New medical products have played a critical role in improving the lives of millions of Americans, providing much-needed treatments and cures for a wide range of illnesses. New advances in food technology and nutrition have enabled consumers to improve their health and well-being in countless ways. As we move forward in the 21st century, Americans are rightly concerned that advances in science should continue to translate into better products and technologies that can benefit their health.

FDA lies at a critical juncture to enable these kinds of advances in science, technology, and health. The agency is responsible for protecting and promoting the public health by ensuring the safety and effectiveness of most human and animal drugs; biological products such as vaccines, cellular therapies, and blood; medical devices; tissues, and radiation-emitting products such as x-ray machines. We are also responsible for ensuring the safety and wholesomeness of food (including animal feed and dietary supplements) and cosmetics. Many Americans are rightly interested in FDA's programs, and the steps that the agency is taking to ensure that the promise of better science translates into longer lives with fewer problems from today's diseases. Consumers also want the opportunity to participate, in a meaningful way, in our work, whether we are discussing a complex scientific issue, proposing a regulation to address a particular problem, or implementing a new law.

We are holding these public meetings to help enhance this dialogue. This series of meetings will be an open forum in which consumers can interact directly with the agency's top leadership, including its leading scientists, to discuss what is on the public's mind.

We already provide similar opportunities for the public to engage in the agency's decisionmaking processes. We encourage people to take advantage of these regular opportunities to provide the agency with critical input into its programs. For example, the agency hosts frequent public meetings to discuss specific topics, reserves time during advisory committee meetings for public input, and invites the public to submit written or electronic comments on our rules. In 2004, we received more than 140,000 comments (including form letters) on rules, notices, and other matters. But the series of public meetings being announced in this document is a unique gathering of all of the agency's top leadership, including FDA Commissioner of Food and Drugs Lester Crawford, to provide direct feedback in an open forum on a broad range of issues of interest to the public.

Through the public meetings we are announcing in this document, we are also offering an opportunity for the public to hear more about, and to give us input on, specific programs or initiatives that we are currently pursuing to better protect and advance the public health. Public input will help us shape the agency's agenda for 2006 and beyond, as we commence our second century of serving the American public. Among some of the topics that we hope to discuss at the meetings are new opportunities to advance the safe use of medical products, increase the public health benefits of direct-to-consumer advertising, guarantee the safety and reliability of dietary supplements, and improve the science of drug development by lowering the cost of new medical products and speeding access to better medical technologies through the agency's ''Critical Path'' initiative. We also hope to discuss our continuing efforts to increase public understanding of, and involvement in, the agency's scientific and regulatory processes—for example, through our advisory committee process and through improved, direct communication with consumers.

Through this open dialogue, the agency's leadership hopes to gain valuable insight from those who benefit from its regulatory efforts. FDA appreciates all of the consumer interest in its activities, and the agency's programs have benefited greatly from the feedback FDA receives from its many constituencies. To increase the transparency of our decisionmaking process, we are developing new, and expanding existing, communications channels to provide targeted information about new products to the public. We believe patients, healthcare professionals, and consumers will find the information useful in their individual treatment decisions. In an era when more and more of the products that people use are personalized to their individual needs, especially medical products and dietary choices, communicating the unique risks and benefits of individual products, and matching them to patients' individual needs, becomes paramount.

We want to ensure the information we provide and new efforts we are undertaking provide maximum value to consumers. Among the many questions we would like the public to consider are the following:

- What information do you expect to receive from FDA regarding the benefits and risks of new food and medical products?
- Where do you currently get information about these products, and how beneficial is this information in helping to inform the decisions you make?
- What additional information, if any, do you believe should be provided to enable you to discuss with your physician or other health care provider the benefits and risks of products for a health condition you have or think you might have?
- What additional steps can FDA take to improve its communication with consumers and build on your confidence in its activities and its mission?

II. How Should You Send Comments on the Issues?

If you would like to submit comments on any of the issues discussed in this document, please send your comments

to the Division of Dockets Management (see **ADDRESSES**). Submit a single copy of electronic comments or two paper copies of any written comments, except that individuals may submit one paper copy. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. To ensure consideration of your comments, we must receive any written or electronic comments by November 30, 2005.

III. Where and When Will the Meetings Occur?

We will hold public meetings in three cities to discuss the issues described earlier in this document. The meetings are scheduled from 10 a.m. to 4 p.m.

The meeting dates, times, and locations are as follows:

TABLE 1.—MEETING DATES, TIMES, AND LOCATIONS

Location	Meeting Site Address	Meeting Date and Time
Boston, MA	Boston Marriott Cambridge, 2 Cambridge Center (Broadway and 3d St.), Cambridge, MA 02142	November 2, 2005, 10 a.m. to 4 p.m.
Miami, FL	Intercontinental West Miami, 2505 Northwest 87th Ave., Miami, FL 33172	September 13, 2005, 10 a.m. to 4 p.m.
Phoenix, AZ	Phoenix Airport Marriott, 1101 North 44th St., Phoenix, AZ 85008	November 30, 2005, 10 a.m. to 4 p.m.

IV. Do You Have to Register to Make a Presentation at or to Attend a Meeting?

If you wish to make a presentation at or to attend any meeting, please register online at *http://www.grad.usda.gov/vision* at least 5 business days before the appropriate meeting date. The online registration form will instruct you as to the information you should provide (such as name, address, telephone number, electronic mail address, topic(s) of interest, whether you wish to make a presentation, and which meeting you wish to attend). We also will accept walk-in registrations on the meeting dates. However, space is limited, and we will close registration at each site when maximum seating capacity for that site is reached (approximately 150 people per location).

We will try to accommodate all persons who wish to make a presentation. The time allotted for presentations will depend on the number of people who wish to speak on a given topic, and the meeting schedule at each location. Similarly, the time allotted to each topic may vary depending on the expressed interests of persons registering for a particular meeting. To obtain updates on the meetings, please visit *http://www.fda.gov/oc/initiatives/vision2006.html*. Additionally, regardless of whether you wish to make a presentation or simply attend a meeting, if you need any special accommodations (such as wheelchair access or a sign language interpreter), please notify Isabelle Howes (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

V. Will Meeting Transcripts Be Available?

We will prepare transcripts of each meeting. You may request a copy of a meeting transcript by writing to our Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857. We anticipate that transcripts will be available approximately 30 business days after the public meetings at a cost of 10 cents per page. The transcripts will also be available for public examination at the Division of Dockets Management (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 11, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–16281 Filed 8–15–05; 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: Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program Administrative Requirements (Regulations and Policy) (OMB No. 0915–0047)—Extension

The regulations for the Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program contain a number of reporting and recordkeeping requirements for schools and loan applicants. The requirements are essential for assuring that borrowers are aware of rights and responsibilities that schools know the history and status of each loan account that schools pursue aggressive collection efforts to reduce default rates, and that they maintain adequate records for audit and assessment purposes. Schools are free to use improved information technology to manage the information required by the regulations.

The burden estimates are as follows:

RECORDKEEPING REQUIREMENTS

Regulatory/section requirements	Number of recordkeepers	Hours per year	Total burden hours
HPSL Program:			
57.206(b)(2), Documentation of Cost of Attendance	547	1.17	640

RECORDKEEPING REQUIREMENTS—Continued

Regulatory/section requirements	Number of recordkeepers	Hours per year	Total burden hours
57.208(a), Promissory Note	547	1.25	684
57.210((b)(1)(i), Documentation of Entrance Interview	547	1.25	684
57.210(b)(1)(ii), Documentation of Exit Interview	*576	0.33	190
57.215(a) & (d), Program Records	*576	10	5,760
57.215(b), Student Records	*576	10	5,760
57.215(c), Repayment Records	*576	18.75	10,800
HPSL Subtotal	576		24,518
NSL Program:			
57.306(b)(2)(ii), Documentation of Cost of Attendance	315	0.3	95
57.308(a), Promissory Note	315	0.5	158
57.310(b)(1)(i), Documentation of Entrance Interview	315	0.5	158
57.310(b)(1)(ii), Documentation of Exit Interview	*502	O.17	85
57.315(a)(1) & (a)(4), Program Records	*502	5	2,510
57.315(a)(2), Student Records	*502	1	502
57.315(a)(3), Repayment Records	*502	2.51	1,255
NSL Subtotal	502		4,763

*Includes active and closing schools. HPSL data includes active and closing Loans for Disadvantaged Students (LDS) program schools.

REPORTING REQUIREMENTS

Regulatory/section requirements	Number of respondents	Response per respondent	Total annual responses	Hours per response	Total hour burden
HPSL Program:					
57.205(a)(2), Excess Cash	Burden included under 0915–0044				
57.206(a)(2), Student Financial Aid Transcript	4,679	1	4,679	.25	1,170
57.208(c), Loan Information Disclosure	547	68.73	37,595	.0833	3,132
57.210(a)(3), Deferment Eligibility	Burden included under 0915–0044				
57.210(b)(1)(i), Entrance Interview	547	68.73	37,595	0.167	6,278
57.210(b)(1)(ii), Exit Interview	*547	12	6,564	0.5	3,282
57.210(b)(1)(iii), Notification of Repayment	*547	30.83	16,864	0.167	2,816
57.210(b)(1)(iv), Notification During Deferment	*547	24.32	13,303	0.0833	1,108
57.210(b)(1)(vi), Notification of Delinquent Accounts	*547	10.28	5,623	0.167	518
57.210(b)(1)(x), Credit Bureau Notification	*547	8.03	4,392	0.6	2,635
57.210(b)(4)(i), Write-off of Uncollectible Loans	20	1.00	20	3.0	60
57.211(a) Disability Cancellation	8	1	8	.75	6
57.215(a) Reports	Burden included under 0915–0044				
57.215(a)(2), Administrative Hearings	0	0	0	0	0
57.215(a)(d), Administrative Hearings	0	0	0	0	0
HPSL Subtotal	8,681		109,779		16,703
NSL Program:					
57.305(a)(2), Excess Cash	Burden included under 0915–0044				
57.306(a)(2), Student Financial Aid Transcript	4,062	1	4,062	0.25	1,016
57.310(b)(1)(i), Entrance Interview	315	23.51	7,406	0.167	1,237
57.310(b)(1)(ii), Exit Interview	*502	3.77	1,892	0.5	946
57.301(b)(1)(iii), Notification of Repayment	*502	6.18	3,102	0.167	518
57.310(b)(1)(iv), Notification During Deferment	*502	0.65	326	0.083	27
57.310(b)(1)(vi), Notification of Delinquent Accounts	*502	4.61	2,314	0.167	386
57.310(b)(1)(x), Credit Bureau Notification	*502	8.3	4,167	0.6	2,500
57.310(b)(4)(i), Write-off of Uncollectible Loans	20	1.0	20	3.5	70
57.311(a), Disability Cancellation	7	1.0	7	0.8	5.6
57.312(a)(3), Evidence of Educational Loans	Inactive Provision				
57.315(a)(1), Reports	Burden included under 0915–0044				
57.315(a)(1)(ii), Administrative Hearings	0	0	0	0	0
57.316(a)(d), Administrative Hearings	0	0	0	0	0
NSL Subtotal	6,914		23,296		6,706

*Includes active and closing schools.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 10, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05–16185 Filed 8–15–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques of other forms of information technology.

Proposed Project: The Nursing Scholarship Program (NSP): NEW

The Nursing Scholarship Program (NSP or ''Nursing Scholarship'') is a competitive Federal program which awards scholarships to individuals for attendance at schools of nursing. The scholarship consists of payment of tuition, fees, other reasonable educational costs, and a monthly support stipend. In return, the students agree to provide a minimum of 2 years of full-time clinical service (or an equivalent part-time commitment, as approved by the NSP) at a health care facility with a critical shortage of nurses.

Nursing scholarship recipients must be willing and are required to fulfill their NSP service commitment at a health care facility with a critical shortage of nurses in the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Marianas, the U.S. Virgin Islands, the Territory of American Samoa, the Republic of Palau, the Republic of the Marshall Islands or the Federated States of Micronesia. Students who are uncertain of their commitment to provide nursing in a health care facility with a critical shortage of nurses in the United States are advised not to participate in this program.

The NSP needs to collect data to determine an applicant's eligibility for the program, to monitor a participant's continued enrollment in a school of nursing, to monitor a participant's compliance with the NSP service obligation, and to obtain data on its program to ensure compliance with legislative mandates and prepare annual reports to Congress. The following information will be collected: (1) From the applicants and/or the schools, general applicant and nursing school data such as full name, location, tuition/fees, and enrollment status; (2) from the schools, on an annual basis, data concerning tuition/fees and student enrollment status; and (3) from the participants and their health care facilities with a critical shortage of nurses, on a biannual basis, data concerning the participant's employment status, work schedule and leave usage.

THE ESTIMATED BURDEN IS AS FOLLOWS:

Type of report	Number of respondents	Average number of responses per respondents	Total responses	Hours per response	Total burden hours
Application	4,000	1	4,000	2	8,000
In-school monitoring	500	500	1	2	1,000
In-service monitoring	600	300	2	1	600
Total	4,800	.....	.....	.....	9,600

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Written comments should be received with 60 days of this notice.

Dated: August 10, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05–16186 Filed 8–15–05; 8:45 am]

BILLING CODE 4165–15–P

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: Health Education Assistance Loan (HEAL) Program: Lender's Application for Insurance Claim Form and Request for Collection Assistance Form (OMB No. 0915–0036)—Extension

The HEAL program assures the availability of funds for loans to eligible students who desire to borrow money to pay for their educational costs. HEAL Lenders use the Lenders Application for Insurance Claim to request payment from the Federal government for federally insured loans lost due to borrowers death, disability, bankruptcy, or default. The Request for Collection Assistance form is used by HEAL lenders to request Federal assistance with the collection of delinquent payments from HEAL borrowers.

THE BURDEN ESTIMATES ARE AS FOLLOWS:

Form	Number of respondents	Responses per respondents	Total responses	Hours per response	Total burden hours
Lender's Application for Insurance Claim	16	50	800	30 minutes	400
Request for Collection Assistance	16	1,260	20,160	10 minutes	3,367
Total Burden	16				3,767

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: August 10, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05–16187 Filed 8–15–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 552(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 Heart, Lung, and Blood Institute Special Emphasis Panel, Demonstration and Education Research.

Date: September 1, 2005.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Heart, Lung, and Blood Institute, Rockledge Two, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone conference call).

Contact Person: Patricia A. Haggerty, PhD, Scientific Review Administrator, National Heart, Lung, and Blood Institute/NIH, Clinical Studies & Training Studies Rev. Grp., Division of Extramural Affairs/Section Chief, 6701 Rockledge Drive, Room 7194, Bethesda, MD 20892, 301/435–0288.

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. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Insitutes of Health, HHS)

Dated: August 10, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–16212 Filed 8–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Career Development Program in Vascular Medicine (RFA–HL–05–002).

Date: October 17, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Shelley S. Sehnert, PhD, Scientific Review Administrator, Review Branch, NIH/NHLBI, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301/435–0303, *ssehnert@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mentored Clinical Scientist Development Award Meeting (K02s and K08s).

Date: October 31–November 1, 2005.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Rina Das, PhD, Scientific Review Administrator, Review Branch, NHLBI, National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 391/435–0285.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Training Applications (T32s).

Date: November 17–18, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21044.

Contact Person: Charles Joyce, PhD, Review Branch, NHLBI, National Institutes of Health, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301/435–0288.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 10, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–16213 Filed 8–15–05; 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 Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Children's Study Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Children's Study Advisory Committee.

Date: September 20–21, 2005.

Time: September 20, 2005, 7:30 a.m. to 8:30 a.m.

Agenda: Registration.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Time: September 20, 2005, 8:30 a.m. to adjournment.

Agenda: The primary objectives/topics of this meeting will focus on ethical considerations, genetics, and behavioral and social sciences in the National Children's Study.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Time: September 21, 2005, 7:30 a.m. to 8:30 a.m.

Agenda: Registration.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Time: September 21, 2005, 8:30 a.m. to adjournment.

Agenda: Continuation of Committee discussions.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Marion Balsam, MD, Executive Secretary, National Children's Study Advisory Committee, 6100 Executive Boulevard, Bethesda, MD 20892, 301–594–9147.

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.

(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: August 10, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–16215 Filed 8–15–05; 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 a meeting of the National Advisory Child Health and Human Development Council.

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 intramural programs and projects and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the intramural programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council, NACHHD Subcommittee on Planning and Policy.

Date: August 19, 2005.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate intramural site visit reports.

Place: National Institutes of Health, Building 31, 31 Center Drive 2A48, Bethesda, MD 20892. (telephone conference call.)

Contact Person: Yvonne T. Maddox, PhD., Deputy Director, National Institute of Child Health, and Human Development, NIH, 9000 Rockville Pike MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

The notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/nachhd.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: August 10, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–16216 Filed 8–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Library of Medicine.

The meeting will be open the public as indicated below, with attendance limited to space available. Individuals who plan to attend and 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 as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Library of Medicine, National Center for Biotechnology Information.

Date: October 25, 2005.

Open: 9 a.m. to 12 p.m.

Agenda: Program discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: 12 p.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Open: 2 p.m. to 5 p.m.

Agenda: Program discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: David J. Lipman, MD, Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Department of Health and Human Services, Building 38A, Room 8N805, Bethesda, MD 20894, 301–435–5985, *dlipman@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.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 10, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–16211 Filed 8–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recambinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: September 21, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: The committee will review and discuss selected human gene transfer protocols as well as related data management activities.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Laurie Lewallen, Advisory Committee Coordinator, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892–7985, (301) 496–9838, *lewalla@od.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://www4.od.nih.gov/oba/*, where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 9, 2005.

Anthony M. Coehlo, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–16210 Filed 8–15–05; 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 (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, Protection Against Doxorubicin-Induced Cardiomyopathy.

Date: August 16, 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: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@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, Small Business Grant Applications: Immunology.

Date: August 24, 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: 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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 10, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–16214 Filed 8–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Proposed Project: 2006 National Survey on Drug Use and Health—(OMB No. 0930–0110)—Revision

The National Survey on Drug Use and Health (NSDUH), formerly the National Household Survey on Drug Abuse (NHSDA), is a survey of the civilian, noninstitutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, ONDCP, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

For the 2006 NSDUH, additional questions are being planned regarding self-help drug treatment, use of additional hallucinogens, prescription drugs and over the counter medications, respondent's place of residence, and alcohol consumption practices. To maintain the respondent burden at 60 minutes per interview, a few questions will be deleted. The remaining modular components of the questionnaire will remain essentially unchanged except for minor modifications to wording.

As with all NSDUH/NHSDA surveys conducted since 1999, the sample size of the survey for 2006 will be sufficient to permit prevalence estimates for each of the fifty states and the District of Columbia.

The total annual burden estimate is shown below:

Activity	Number of respondents	Number of responses per respondent	Average burden hours per respondent	Total burden hours
Household Screening	182,250	1	.083	15,127
Interview	67,500	1	1.0	67,500
Re-interview	3,100	1	1.0	3,100
Screening Verification	5,494	1	.067	368
Interview Verification	10,125	1	.067	678
Re-Interview Verification	1,550	1	.067	104
TOTAL	182,250			86,877

Written comments and recommendations concerning the proposed information collection should be sent by September 15, 2005 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: August 10, 2005.

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 05–16177 Filed 8–15–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Proposed Project: SAMHSA/CMHS Initiative To Reduce/Eliminate Seclusion and Restraint: 8 State Incentive Grants and Coordinating Center—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), has funded an Initiative to Reduce/Eliminate Seclusion and Restraint (S/R) which consists of 8 State Incentive Grants to Build Capacity for Alternatives to Restraint and Seclusion (SM04–007) and a Coordinating Center to Support S/R State Incentive Grants. This initiative is designed to promote the implementation and evaluation of best practice approaches to reducing the use of restraint and seclusion in mental health facilities. Grantees consist of 8 sites (state mental health agencies), most of which will be implementing interventions in multiple facilities (a total of 49 facilities). These include

facilities serving adults and those serving children and/or adolescents, with various subgroups such as forensic and sexual offender populations.

With input from multiple experts in the field of restraint and seclusion and alternatives to restraint and seclusion, the project created a common core of data collection instruments that will be used for this cross-site project. The facilities will complete four different instruments: (1) Facility/Program Characteristics Inventory (information about type of facilities, characteristics of persons served, staffing patterns, and unit specific data); (2) Inventory of Seclusion and Restraint Reduction Interventions; (3) Treatment Episode Data (admission data for all clients/patients); and (4) Event Data (data about the use of restraint and seclusion). Data will be submitted by the sites electronically via a secured Web site.

The Facility/Program Characteristic Inventory and Inventory of Seclusion and Restraint Reduction Intervention will be collected annually. The Treatment Episode Data and Event Data will be collected monthly.

The resulting data will help to identify the: (1) Number of programs adopting best practices involving alternative approaches to restraint and seclusion; and (2) program's impact of reducing restraint and seclusion use and adoption of alternative practices. The estimated annual response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Burden/ response (hours)	Annual burden (hours)
Facility/Program Characteristic Inventory	49	1	4	196
Inventory of Seclusion and Restraint Reduction Interventions	49	1	2	98
Treatment Episode Data	49	12	8	4,704
Event Data	49	12	8	4,704
Total	49			9,702

Written comments and recommendations concerning the proposed information collection should be sent by September 15, 2005 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: August 9, 2005.

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 05–16179 Filed 8–15–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) Drug Testing Advisory Board on September 7–8, 2005.

A portion of the meeting will be open and will include a roll call, general announcements, a Department of Health and Human Services drug testing program update, a Department of Transportation drug testing program update, and a Nuclear Regulatory Commission drug testing program update.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed below as contact to make arrangements to comment or to request special accommodations for persons with disabilities.

The Board will also meet to develop the analytical and administrative policies for the final revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Program that were published as proposed revisions in the **Federal Register** on April 13, 2004 (69 FR 19673). The submissions from 285 commenters have been made available to the public on the Web site *http://workplace.samhsa.gov*. This meeting will be conducted in closed session since discussing such public comments in open session and then developing the policies will significantly frustrate the Department's ability to develop the final notice of revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs. The HHS Office of General Counsel made the determination that such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C. and therefore may be closed to the public.

Substantive program information and a roster of Board members may be obtained by accessing the SAMHSA workplace Web site (*http://workplace.samhsa.gov*) or communicating with the contact whose name and telephone number are listed below. The transcript for the open session will be available on the SAMHSA workplace Web site as soon as possible after the meeting.

Committee Name: Substance Abuse and Mental Health Services Administration Drug Testing Advisory Board.

Meeting Date: September 7–8, 2005.

Place: Residence Inn by Marriott, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Type: Open: September 7, 2005; 8:30 a.m.–9:30 a.m.

Closed: September 7, 2005; 9:30 a.m.–4:30 p.m.

Closed: September 8, 2005; 8:30 a.m.–Noon.

Contact: Donna M. Bush, Ph.D., Executive Secretary, 1 Choke Cherry Road, Room 2–1033, Rockville, Maryland 20857, 240–276–2600 (telephone) and 240–276–2610 (fax), e-mail: *Donna.Bush@samhsa.hhs.gov.*

Dated: August 9, 2005.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 05–16165 Filed 8–15–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a Teleconference Meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in September 2005.

The meeting will include the review, discussion and evaluation of grant

applications reviewed by IRGs. Therefore, the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, 10(d).

Substantive program information and a roster of Council members may be obtained by accessing the SAMHSA Advisory Council Web site (*http://www.samhsa.gov*), or by communicating with the contact who name and telephone number are listed below.

Committee Name: Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment National Advisory Council.

Meeting Date: September 7, 2005.

Place: 1 Choke Cherry Road, 5th Floor Conference Room, Rockville, MD 20857.

Type: Closed: September 7, 2005—2–4 p.m.

Contact: Cynthia Graham, M.S., NAC Executive Secretary, SAMHSA/CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1036, Rockville, MD 20857, Telephone: (240) 276–1692, FAX: (240) 276–1690, E-mail: *cynthia.graham@samhsa.hhs.gov.*

Dated: August 9, 2005.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 05–16166 Filed 8–15–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[DHS–2005–0054]

Office of State and Local Government Coordination and Preparedness; SAFER Grant Program

AGENCY: Office of State and Local Government Coordination and Preparedness, DHS.

ACTION: Notice and request for comment.

SUMMARY: The Department of Homeland Security (DHS), as part of its continuing effort to reduce paperwork and respondents' burden, invites the general public to take this opportunity to comment on this proposed information collection as required by the Paperwork Reduction Act 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently, the Office of State and Local Government Coordination and Preparedness (OOSLGCP) is soliciting comments concerning a proposed new collection, Staffing for Adequate Fire and Emergency Response (SAFER) Grant Application.

DATES: Comments are encouraged and will be accepted until October 17, 2005. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: You may submit comments, identified by docket number DHS–2005–0054, by *one* of the following methods:

- EPA Federal Partner EDOCKET Web Site: *http://www.epa.gov/feddocket.* Follow instructions for submitting comments on the Web site.
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *tom.harrington@dhs.gov.* Include docket number DHS–2005–0054 in the subject line of the message.
- Mail: Office of State and Local Government Coordination and Preparedness, Grants Program Office, 810 7th Street, NW., Washington, DC 20531.

Instructions: All submissions received must include the agency name and docket number DHS–2005–0054 for this Information Collection Request. All comments received will be posted without changed to *http://www.epa.gov/feddocket*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' 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.epa.gov/feddocket.* You may also access the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tom Harrington 202–786–9791 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this Information Collection Request by submitting written data, views, or arguments on all aspects of the proposed Information Collection Request. OSLGCP also invites comments that relate to the economic, environmental, or federalism affects that might result from this Information Collection Request. Comments that will provide the most assistance to the OSLGCP in developing these procedures will reference a specific portion of the Information Collection Request, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESS** above for information on how to submit comments.

Analysis

Agency: Department of Homeland Security, Office of State and Local Government Coordination and Preparedness.

Title: Staffing for Adequate Fire and Emergency Response (SAFER) Grant Application.

OMB Control Number: NEW.

Frequency: Quarterly.

Affected Public: State, local or tribal government.

Estimated Number of Respondents: 7,000.

Estimated Time Per Response: 17 hours per response.

Total Burden Hours: 149,000.

Total Cost Burden: None.

Description: The SAFER Act Program provides for $65 million in grant funding to be distributed directly to individual fire departments on a competitive basis. The law allows DHS to fund fire department staff and benefits on a decreasing cumulative value over the span of five years. The information collected through the program's application is the minimum necessary to evaluate grant applications authorized under the SAFER Grant Program or is necessary for DHS to comply with mandates delineated in the law.

Scott Charbo,

Chief Information Officer.

[FR Doc. 05–16209 Filed 8–15–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of State and Local Government Coordination and Preparedness, Office for Domestic Preparedness; Assistance to Firefighters Grant Program

AGENCY: Office for Domestic Preparedness, Office of State and Local Government Coordination and Preparedness, Department of Homeland Security.

ACTION: Notice of guidance.

SUMMARY: The Department of Homeland Security is publishing this Notice to provide details and guidance regarding the 2005 program year Assistance to Firefighters Grant Program. The program makes grants directly to fire departments and nonaffiliated emergency medical services organizations for the purpose of enhancing first-responders' ability to protect the health and safety of the public as well as that of first-responder personnel facing fire and fire-related

hazards. As in prior years, this year's grants will be awarded on a competitive basis to the applicants that best meet the program's criteria. This notice contains the guidance and competitive process descriptions that have been provided to applicants and also provides information on where and why the Department deviated from recommendations of the criteria development panel.

Authority: 15 U.S.C. 2229, 2229a.

FOR FURTHER INFORMATION CONTACT: Brian Cowan, Director, Fire Grants Program Office, Office of State and Local Government Coordination and Preparedness, 810 Seventh Street, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

Appropriations

For fiscal year 2005, Congress appropriated $650,000,000 to carry out the activities of the Assistance to Firefighters Grant Program (AFG program). The Department of Homeland Security (DHS) is authorized to spend up to $32,500,000 for administration of the AFG program (five percent of the appropriated amount). In addition, DHS has set aside no less than $32,500,000 of the funds (five percent of the appropriation) for the Fire Prevention and Safety Grant Program in order to make grants to, or enter into contracts or cooperative agreements with, national, State, local or community organizations or agencies, including fire departments, for the purpose of carrying out fire prevention and injury prevention programs. This leaves approximately $585,000,000 for competitive grants to fire departments and nonaffiliated EMS organizations, with nonaffiliated emergency medical service (EMS) organizations' awards limited to two percent of the appropriation or $13,000,000.

Background

The purpose of the AFG program is to award grants directly to fire departments and nonaffiliated EMS organizations to enhance their ability to protect the health and safety of the public, as well as that of first-responder personnel, with respect to fire and fire related hazards. DHS will award the grants on a competitive basis to the applicants that first address the AFG program's priorities then provide the best narrative. Applicants whose requests best address the program's priorities will be reviewed by a panel made up of fire service personnel. The panel will review the narrative and assess the application with respect to the clarity of the project to be funded, the organization's financial need, the benefit to be derived from their project, and the extent to which the grant would enhance the applicant's daily operations and/or how the grant would positively impact the applicant's ability to protect life and property.

The AFG Program for fiscal year 2005 generally mirrors previous years' programs with two significant changes. See *http://www.firegrantsupport.com/docs/2004AFGNOFA.pdf* (2004 Notice of Funds Availability). See also 68 FR 12533 (March 14, 2003) (Notice of Funds Availability, FY2003 guidance). See generally 68 FR 12544 (March 14, 2003) (final rule). The first significant change, as noted above, is the allowance of nonaffiliated EMS organizations (*i.e.*, non-fire based EMS organizations) as eligible applicants for as much as two percent of the appropriated funds. The other change is the segregation of the Fire Prevention and Safety Grant (FP&S) program from the AFG. DHS will have a separate application period devoted solely to Fire Prevention and Safety in the 4th Quarter of Fiscal Year 2005. The AFG Web site (*http://www.firegrantsupport.com*) will provide updated information on this program. Nonaffiliated EMS organizations will not be eligible for the FP&S program.

There are limits as to the amount of funding that a grantee may be awarded from the Assistance to Firefighters Grant Program in any fiscal year. These limits are based on population served. A grantee that serves jurisdiction with 500,000 people or less may not receive grant funding in excess of $1,000,000 in any fiscal year. A grantee that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people may not receive grants in excess of $1,750,000 in any fiscal year. A grantee that serves a jurisdiction with more than 1,000,000 people may not receive grants in excess of $2,750,000 in any fiscal year. DHS may waive these established limits to any grantee serving a jurisdiction of 1,000,000 or less if DHS determines that extraordinary need for assistance warrants the waiver; however, no grantee, under any circumstance, may receive in excess of $2,750,000 in any fiscal year.

Grantees must share in the costs of the projects funded under this grant program. Fire departments and nonaffiliated EMS organizations that serve populations of less than 20,000 must match the Federal grant funds with an amount of non-Federal funds equal to five (5) percent of the total project cost. Fire departments and nonaffiliated EMS organizations serving areas with a population between 20,000 and 50,000, inclusive, must match the Federal grant funds with an amount of non-Federal funds equal to ten (10) percent of the total project cost. Fire departments and nonaffiliated EMS organizations that serve populations of over 50,000 must match the Federal grant funds with an amount on non-Federal funds equal to twenty (20) percent of the total project costs. All non-Federal funds must be in cash, *i.e.*, in-kind contributions are not eligible. No waivers of this requirement will be granted except for applicants located in Insular Areas as provided for in 48 U.S.C. 1469a.

Under the provisions of 15 U.S.C. 2229a, DHS must ensure that fire departments that have either all-volunteer forces of firefighting personnel or combined forces of volunteer and career firefighting personnel receive a portion of the total grant funding that is not less than the proportion of the United States population that those departments protect. According to a 2004 survey by the National Fire Protection Association (NFPA), volunteer and combination departments protect 55 percent of the population of the United States and career departments protect 45 percent of the population. Therefore, DHS will ensure that no less than 55 percent of the funding available for grants will be awarded to volunteer and combination departments. Assuring this minimum level of funding for volunteer and combination departments has not been a problem in the past as over 90 percent of applicants are volunteer or combination departments. There is no minimum funding level for career departments.

After the panel evaluation's preliminary determination, DHS will make award decisions using rank order. DHS may deviate from rank order and make funding decisions based on the type of department (career, combination, or volunteer), and the size and character of the community the applicant serves (urban, suburban, or rural).

Fire Prevention and Safety Grant Program

In addition to the grants available to fire departments in fiscal year 2005 through the competitive grant program, DHS will set aside no less than $32,500,000 of the funds available under the Assistance to Firefighter Grant Program in order to make grants to, or enter into contracts or cooperative agreements with, national, State, local or community organizations or agencies, including fire departments, for the purpose of carrying out fire prevention and injury prevention programs.

In accordance with the statutory requirement to fund fire prevention activities, support to Fire Prevention and Safety Grant activities will concentrate on organizations that focus on the prevention of injuries to children from fire. In addition to this priority, DHS is also placing an emphasis on funding innovative projects that focus on protecting children under fourteen, seniors over sixty-five, and firefighters. Since the victims of burns experience both short- and long-term physical and psychological effects, DHS is also placing a priority on programs that focus on reducing the immediate and long-range effects of fire and burn injuries, and primarily those affecting children.

A Notice of Funds Availability will be issued to announce the pertinent details of the Fire Prevention and Safety Grant portion of this program.

Application Process

The application period for the AFG grants opened on March 7, 2005, and closed on April 8, 2005. Approximately 20,972 applications were received. These applications were evaluated in the preliminary screening process to determine which applications best addressed the program's established priorities. This preliminary screening was based on the applicants' answers to the activity-specific questions. Each activity within an application was scored and applications that had multiple activities will have had the scores prorated based on the amount of funding requested for each activity.

The best applications as determined in the preliminary step were deemed to be in the ''competitive range.'' All applications in the competitive range were subject to a second level review by a technical evaluation panel made up of individuals from the fire service including, but not limited to, firefighters, fire marshals, and fire training instructors. The panelists assessed the application's merits with respect to the clarity and detail provided in the narrative about the project, the applicant's financial need, and the project's purported benefit to be derived from the cost.

Using the evaluation criteria included herein, the panelists independently scored each application before them and then discussed the merits and shortcomings of the application in an effort to reconcile any major discrepancies. A consensus on the score was not required. The assigned score reflects the degree to which the applicant: Clearly related their proposed project including the project's budget; demonstrated financial need; detailed a high benefit to cost value of the proposed activities; and demonstrated significant enhancements to the daily operation of the organization and/or how the grant would positively impact the applicant's ability to protect life and property. The highest scoring applications resulting from this second level of review were then considered for award.

DHS will select a sufficient number of awardees from this one application period to obligate all of the available grant funding. Awards will be announced over several months as the decisions are made. Applicants that are not to receive funding will be notified as soon as feasible throughout the process. Awards will not be made in any specified order, *i.e.*, not by State, or by program, or any other characteristic.

Criteria Development Process

Each year, the appropriate office in the Department of Homeland Security conducts a criteria development meeting to develop the program's priorities for the coming year. DHS brings together a panel of fire service professionals representing nine major fire service organizations. The organizations that are represented include the International Association of Fire Chiefs (IAFC), the International Association of Firefighters (IAFF), the National Volunteer Fire Council (NVFC), the National Fire Protection Association (NFPA), the National Association of State Fire Marshals (NASFM), the International Association of Arson Investigators (IAAI), the North American Fire Training Directors (NAFTD), and the Congressional Fire Service Institute (CFSI). The criteria development panel is charged with making recommendations to the grants program office regarding the creation and/or modification of program priorities as well as development of criteria and definitions as necessary.

The 2005 reauthorization of the AFG requires that the program office publish each year in the **Federal Register** the guidelines that describe the process for applying for grants and the criteria for awarding grants. DHS must also include an explanation of any differences between the published guidelines and the recommendations made by the criteria development panel. The guidelines and the statement on the differences between the guidelines and the criteria development panel recommendations must be published in the **Federal Register** prior to making any grants under the program. Public Law 108–375, sec. 3602, 118 Stat. 2195 (Oct. 28, 2004). We first present below the specific recommendations not incorporated into the formal rating criteria, followed by the rating criteria the Department will use.

DHS modified or did not adopt the criteria development panel's recommendations as follows:

- In the vehicle acquisition program, DHS disagreed with recommendations made by the criteria development panel for the 2005 program, and kept the panel's input from the 2004 program in place. DHS believes the recommended changes for the 2005 program would have been too restrictive in that they did not offer enough latitude and diversity in the selections of vehicles. DHS believes that the recommended priorities downplayed the diversified needs of urban and suburban departments while favoring the needs of rural departments.
- For the ''modifications to facilities'' activity, the criteria development panel provided DHS with a directory of initiatives that they would like DHS to consider as eligible under this activity. DHS has elected to stay with a relatively shorter list of eligible initiatives (vehicle exhaust extraction systems, sprinkler systems, smoke/fire alarm systems, and emergency generators). DHS has limited the number of initiatives to those focused on protection and safety for the firefighting and emergency responders, versus providing a more comfortable working environment. DHS has limited the number of eligible initiatives because certain modifications to facilities may have to undergo a historic and/or environmental review and DHS is in the process of establishing procedures to assure that all Federal regulations are followed in this respect.
- DHS placed more value on projects that affect regional benefits than the criteria development panel recommended. If, for example, two projects achieved similar scores, but one represented a regional effort, DHS would be more likely to fund that project, to further encourage regional efforts, as such efforts tend to improve interoperability.
- Wherever the program priorities took call volume into consideration, DHS elected to develop and use its own matrix, rather than the criteria panels, to provide more diversity in the possible scoring levels.
- The criteria panel wanted to require training as a pre-requisite for any grant. DHS determined that this requirement would be impracticable, as there was no guidance from the criteria panel as to what types(s) of training would satisfy each and every eligible use of funds under this broad program.
- The criteria panel recommended that DHS double the number of thermal

imaging cameras that departments may apply for. DHS has declined to implement this recommendation because there are no empirical data to indicate that the current allowance is insufficient.

Review Considerations

Fire Department Priorities

Specific rating criteria for each of the eligible programs and activities follow below. These rating criteria will provide an understanding of the grant program's priorities and the expected cost effectiveness of any proposed projects.

(1) *Operations and Firefighter Safety Program.*

(i) *Training Activities.* DHS believes that the most benefit is derived from training that is instructor-led, hands-on, and leads to a nationally sanctioned or State certification. Training requests that include Web-based home study or distance learning and the purchase of training materials, equipment, or props are a lower priority. Therefore, applications focused on national or State certification training, including train-the-trainer initiatives, will receive a higher competitive rating. Training that involves instructors, in which students must demonstrate their grasp of knowledge of the training material via testing and is integral to achieving a certification will receive a high competitive rating, but not to the extent of training that would lead to State or national certification. Neither training that is instructor-led but does not lead to a certification nor self-taught courses will be afforded a high priority.

Applications were rated more highly for those proposed programs that benefit the highest percentage of applicable personnel within a fire department or those proposed programs that will be open to other departments in the region. Training that brings the department into statutory (*e.g.*, OSHA) compliance will receive the highest consideration. Training that brings a department into voluntary compliance with national standards will also receive a high competitive rating, but not as high as the training that brings a department into statutory compliance. Training that does not help to achieve statutory compliance or voluntary compliance with a national standard will receive a low competitive rating.

Due to the inherent differences between urban, suburban, and rural firefighting characteristics, DHS has developed different priorities in the training activity for departments that service these different types of communities. However, chemical / biological / radiological / nuclear / explosives (CBRNE) awareness training has a high benefit and will receive the highest consideration regardless of the type of community served.

For fire departments serving rural communities, DHS believes that funding basic, operational-level firefighting training, operational-level rescue training, driver training, or first-responder EMS, EMT–B, and EMT–I training (*i.e.*, training in basic firefighting and rescue duties) has greater benefit than funding officer training, safety officer training, or incident-command training. In rural communities, after basic training, there is a greater cost-benefit to officer training than for other specialized types of training such as mass casualty, HazMat, advance rescue and EMT, or inspector training for rural departments.

Conversely, for departments that are serving urban or suburban communities, DHS believes there is a higher benefit to be gained by funding specialized training, such as mass casualty, HazMat, advance rescue and EMS, or inspector training than the funding of officer training, safety officer training, or operations training, which in turn has a higher benefit than basic-, operational-, or awareness-level activities. Training designated to enhance multi-jurisdictional capabilities will be afforded a slightly higher rating.

(ii) *Wellness and Fitness Activities.* DHS believes that to have an effective wellness/fitness program, fire departments must offer periodic health screenings, entry physical examinations, and an immunization program. Accordingly, applicants for grants in this category must currently offer or plan to offer with grant funds all three benefits to receive consideration and funding for any other initiatives in this activity. After entry-level physicals, annual physicals, and immunizations, high priority is given to formal fitness and injury prevention programs. Lower priority is given to stress management, injury/illness rehabilitation, and employee assistance.

DHS believes the greatest benefit will be realized by supporting new wellness and fitness programs, and therefore, applications that reflected them were accorded higher competitive ratings than those applicants that already employ a wellness/fitness program. Finally, since participation is critical to achieving any benefits from a wellness or fitness program, applications that include them are given higher competitive ratings to departments whose wellness and fitness programs mandate or provide incentives for participation.

(iii) *Equipment Acquisition.* As appropriated by Congress, the stated purpose of this grant program is to protect the health and safety of firefighters and the public from fire and fire-related hazards. As such, DHS believes that this grant program will achieve the greatest benefits by providing funds to fire departments purchasing basic firefighting equipment before any other non-firefighting equipment. Equipment that has a direct effect on firefighters' health and safety will receive a higher competitive rating than equipment that has no such effect. Equipment that promotes interoperability with neighboring jurisdictions may receive additional consideration in the cost-benefit assessment if the application makes it into the competitive range.

DHS believes this grant program will achieve the greatest benefits if DHS provides funds to fire departments purchasing basic firefighting, rescue, EMS, and CBRNE preparedness equipment that they have never owned prior to the grant or to replace used or obsolete firefighting equipment. The second priority will be to fund departments that are seeking to expand into new mission areas, and therefore those departments will receive a lower competitive rating than departments seeking reserve equipment. Additionally, among departments that serve similar types of communities, those that have high call volumes will be afforded a higher competitive rating than those that have low call volumes; in other words, those departments that are required to respond more often will receive a higher competitive rating then those that respond infrequently.

The purchase of equipment that brings the department into statutory (*e.g.*, OSHA) compliance will provide the highest benefit and therefore will receive the highest consideration. The purchase of equipment that brings a department into voluntary compliance with national standards will also receive a high competitive rating, but it will not be as high as for the training that brings a department into statutory compliance. Equipment that does not have an effect on statutory compliance or voluntary compliance with a national standard will receive a lower competitive rating.

(iv) *Personal Protective Equipment Acquisition.* One of the stated purposes of this grant program is to protect the health and safety of firefighters and the public. To achieve this goal and maximize the benefit to the firefighting community, DHS believes that it must fund those applicants needing to provide personal protective equipment (PPE) to a high percentage of their

personnel. Accordingly, the highest competitive rating in this category is given to fire departments where a large percentage of their active firefighting staff does not have any PPE. A high competitive rating is given to departments that wish to purchase enough PPE to equip 100 percent of their active firefighting staff, or 100 percent of their on-duty staff, as appropriate. Also, a high competitive rating is given to departments that are purchasing the equipment for the first time as opposed to departments replacing obsolete or substandard equipment (*e.g.*, equipment that does not meet current NFPA and OSHA standards), or purchasing equipment for a new mission. For those departments that are replacing obsolete or substandard equipment, the condition of the equipment to be replaced will be factored into the score with a higher priority given to replacing equipment that is damaged, torn, and/or contaminated.

Due to safety benefits afforded firefighters, for applications that include a request for personal alert safety system (PASS) devices, DHS will only consider funding applications that are requesting equipment that meets current national standards, *i.e.*, integrated and/or automatic or automatic-on PASS. Finally, the number of fire response calls that a department makes in a year will be considered with the higher priority going to departments with higher call volumes, while applications from departments with low call volumes will be afforded lower competitive ratings. The call volume of rural departments will be compared only to other rural departments, suburban departments will be compared only to other suburban departments, and urban departments will be compared only to other urban departments.

(v) *Modifications to Fire Stations and Facilities.* The stated purpose of this grant program is to protect the health and safety of firefighters and the public. As such, eligible projects under this activity are designed to directly protect the health and safety of firefighters. DHS believes that more benefit would be derived from modifying fire stations than would be realized by modifying fire-training facilities or other fire-related facilities. Facilities that would be open for broad usage and have a high occupancy capacity would receive a higher competitive rating than facilities that have limited use and/or low occupancy capacity. The frequency of use would also have a bearing on the benefits to be derived from grant funds. The frequency and duration of a facility's occupancy have a direct relationship to the benefits to be realized from funding in this activity. As such, facilities that are occupied or otherwise in use 24-hours-per-day/seven-days-a-week would receive a higher competitive rating than facilities used on a part-time or irregular basis.

(2) *Firefighting Vehicle Acquisition Program.* Due to the inherent differences between urban, suburban, and rural firefighting conventions, DHS has developed different priorities in the vehicle program for departments that service different types of communities. The following chart delineates the priorities in this program area for each type of community.

VEHICLE PROGRAM PRIORITIES

Priority	Urban communities	Suburban communities	Rural communities
Priority One	Aerial, Quint (Aerial < 76′), Quaint (Aerial 76′ or >), Fire Boat Rescue.	Pumper, Aerial Quint (Aerial < 76′), Quint (Aerial 76′ or >), Fire Boat, Brush/Attack.	Pumper, Brush/Attack, Tanker/Tender, Quint (Aerial < 76′)
Priority Two	Command, HazMat, Light/Air, Rehab ...	Command, HazMat, Rescue, Tanker/Tanker.	HazMat, Rescue, Light/Air, Aerial, Fire Boat, Quint (Aerial 76′ or >)
Priority Three	Foam Truck, ARFFV, Brush/Attack, Tanker/Tender, Ambulance.	Foam Truck, ARFFV, Rehab, Light/Air, Ambulance.	Foam Truck, ARFFV, Rehab, Command, Ambulance

Regardless of the type of community served, DHS believes that there is more benefit to be realized by funding fire departments that own few or no vehicles of the type they are seeking than there would be by providing vehicle funding to a department with numerous vehicles of that same type. When assessing the number of vehicles a department has within a particular class, all vehicles with similar functions are included. For example, the following can be classified in the ''pumper'' category: pumpers, engines, pumper/tankers, (with less than 1,250 gallon capacity), rescue-pumpers, quints (with aerials less than 76 feet in length), and urban interface vehicles such as Type I, II or III. Pumpers with water capacity in excess of 1,250 gallons would be considered a tanker/tender.

A higher competitive rating in the apparatus category is given to fire departments that own few or no firefighting vehicles relative to other departments serving similar types of communities. Also a higher competitive rating is given to departments that have an aged fleet of firefighting vehicles, and to those with old, high-mileage vehicles. A higher competitive rating is also given to departments that respond to a significant number of incidents relative to other departments servicing similar communities.

No competitive advantage has been assigned to the purchase of standard model commercial vehicles versus custom vehicles, or the purchase of used vehicles versus new vehicles in the preliminary evaluation of applications. It has been noted that depending on the type and size of department, the technical evaluation panelists often prefer low-cost vehicles when evaluating the cost-benefit section of the project narratives. Panelists may be provided with guidance for use in their evaluation of the reasonableness of vehicle costs. DHS reserves the right to instill funding limits on requests for vehicles whose costs DHS deems excessive or otherwise not in the best interest of the program. Finally, DHS will allow each fire department to apply for only one vehicle per year.

(3) *Administrative Costs.* Panelists assess the reasonableness of the administrative costs requested in each application and determine if it is reasonable and in the best interest of the program.

Nonaffiliated EMS Organization Priorities

DHS may make grants for the purpose of enhancing the provision of emergency medical services for nonaffiliated EMS organizations. Funding for these organizations is limited to no more than two percent (2%) of the appropriated amount. DHS believes that it is more cost-effective to enhance or expand an existing emergency medical service organization by providing training and/or equipment than it would be to create a new service. As such, communities that do not

currently offer emergency medical services but are turning to this grant program to initiate such a service will receive the lowest competitive rating because DHS does not believe there is sufficient benefit to be derived from such an investment in communities that do not currently support such a service. Specific rating criteria and priorities for each of the grant categories are provided below following the descriptions of this year's eligible programs. The rating criteria, in conjunction with the program description, provides an understanding of what standards are used for evaluation.

(1) *EMS Operations and Safety Program.*

There are five different activities available for funding under this program area: EMS training, EMS equipment, EMS personal protective equipment, wellness and fitness, and modifications to facilities. Requests for equipment and training to prepare for response to incidents involving CBRNE are available under the applicable equipment and training activities.

(i) *Training Activities.* DHS believes that the most benefit would be realized by upgrading a service that currently meets a basic life support capacity to a higher level of life support. Therefore, a higher competitive rating is given to nonaffiliated EMS organizations that are planning on going from first responder to EMT–B level. Since training is a pre-requisite to the effective use of EMS equipment, organizations whose request is more focused on training activities will receive a higher competitive rating than organizations whose request is more focused on equipment. The second priority is to elevate emergency responders' capabilities from EMT–B to EMT–I or higher.

(ii) *EMS equipment acquisition.* Since training is a pre-requisite to the effective use of EMS equipment, organizations whose request is more focused on training activities will receive a higher competitive rating than organizations whose request is more focused on equipment. Organizations who are requesting equipment to the EMT–B level and are requesting the basic support equipment will receive a higher priority. The second priority is requests seeking assistance to purchase equipment to support advance level EMS services. Items that are eligible but a lower priority include tents, shelters, generators, lights, and heating and cooling units.

(iii) *EMS personal protective equipment.* One of the stated purposes of this grant program is to protect the health and safety of the public and of first responders. To achieve this goal and maximize the benefit to the EMS community, DHS believes that it must fund those applicants needing to provide PPE to a high percentage of their personnel. Accordingly, the highest competitive rating is given in this category to organizations where a large percentage of their active EMS staff does not have adequate PPE. A high competitive rating is given to organizations that wish to purchase enough PPE to equip 100 percent of their active EMS staff, or 100 percent of their on-duty staff, as appropriate. A high competitive rating is given to organizations that are purchasing the PPE for the first time as opposed to organizations replacing obsolete or substandard equipment (*e.g.*, equipment that does not meet current NFPA and OSHA standards), or purchasing equipment for a new mission. For those organizations that are replacing obsolete or substandard equipment, the condition of the equipment to be replaced will be factored into the score, with a higher priority given to replacing equipment that is damaged, torn, and/or contaminated.

(iv) *Wellness and Fitness Activities.* DHS believes that to have an effective wellness/fitness program, nonaffiliated EMS organizations must offer periodic health screenings, entry physical examinations, and an immunization program. Accordingly, applicants for grants in this category must currently offer or plan to offer with grant funds *all three benefits* to receive consideration and funding for any other initiatives in this activity. After entry-level physicals, annual physicals, and immunizations, high priority is given to formal fitness and injury prevention programs. Lower priority is given to stress management, injury/illness rehabilitation, and employee assistance.

(v) *Modification to EMS stations and facilities.* DHS believes that more benefit would be derived from modifying an EMS station than would be realized by modifying an EMS-training facility or other EMS facility. Requests involving facilities that would be open for broad usage and have a high occupancy capacity would receive a higher competitive rating than those involving facilities that have limited use and/or low occupancy capacity. The frequency of use would also have a bearing on the benefits to be derived from grant funds. The frequency and duration of a facility's occupancy have a direct relationship to the benefits to be realized from funding in this activity. As such, facilities that are occupied or otherwise in use 24 hours per day, 7 days per week will receive a higher competitive rating than facilities used on an irregular or part-time basis.

(2) *EMS Vehicle Acquisition Program.*

Due to the inherent benefits of an ambulance or any transport vehicle to an EMS service provider, DHS deems these types of vehicles to be the highest priority. Due to the costs associated with obtaining and outfitting non-transport rescue vehicles, DHS believes non-transport rescue vehicles should have a lower competitive rating than transport vehicles. Vehicles that have a very narrow function, such as aircraft, boats, and all-terrain vehicles, will receive the lowest competitive rating. Due to the very limited funding for EMS vehicle awards, DHS anticipates that this program will be very competitive. As such, it is unlikely that DHS will fund any vehicles that are not listed as a ''Priority One'' this year. The following chart delineates the priorities in this program area.

EMS VEHICLE PRIORITIES

Priority one	Priority two	Priority three
Ambulance or transport unit to support EMT–B needs and functions.	First responder non-transport vehicles ..... Special operations vehicles	Helicopters/planes Command vehicles Rescue boats (over 13 feet in length) Hovercraft Other special access vehicles

While there are many inherent differences between urban, suburban, and rural communities, DHS has not differentiated priorities in this year's EMS vehicle program for different types of communities.

Along with the priorities illustrated above, DHS believes that there is more benefit to be realized by funding

applicants that own few or no vehicles of the type they are seeking than there would be by providing vehicle funding to an organization with numerous vehicles of that same type. When assessment of the number of vehicles an organization has within a particular class is done, it will include all vehicles with similar functions. For example, transport vehicles would be considered the same as ambulances. A higher competitive rating is given to applicants that have an aged fleet of emergency vehicles, and to those with old, high-mileage vehicles. A higher competitive rating is given to applicants that respond to a significant number of incidents relative to other organizations servicing similar communities.

(3) Administrative Costs. Panelists will assess the reasonableness of the administrative costs requested in each application and determine if it is reasonable and in the best interest of the program.

Dated: August 12, 2005.

Matt A. Mayer,

Acting Executive Director.

[FR Doc. 05–16309 Filed 8–15–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2357–05]

RIN 1615–ZA26

Extension of the Designation of Liberia for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: The designation of Liberia for Temporary Protected Status (TPS) will expire on October 1, 2005. This Notice extends the designation of Liberia for 12 months, until October 1, 2006, and sets forth procedures necessary for nationals of Liberia and aliens having no nationality who last habitually resided in Liberia with TPS to re-register and to apply for an extension of their employment authorization documents (EADs) for the additional 12-month period. Re-registration is limited to persons who registered under the current designation (which was announced on August 25, 2004). Certain nationals of Liberia (or aliens having no nationality who last habitually resided in Liberia) who previously have not applied for TPS under the current designation may be eligible to apply under the late initial registration provisions.

DATES: The extension of TPS for Liberia is effective October 1, 2005, and will remain in effect until October 1, 2006. The 60-day re-registration period begins August 16, 2005 and will remain in effect until October 17, 2005.

FOR FURTHER INFORMATION CONTACT: Colleen Cook, Residence and Status Services, Office of Programs and Regulations Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act
ASC—USCIS Application Support Center
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
GDP—Gross Domestic Product
IDP—Internally Displaced Person
NGO—Non-Governmental Organization
NTGL—National Transitional Government of Liberia
RIC—U.S. Citizenship and Immigration Services, Resource Information Center
TPS—Temporary Protected Status
UNHCR—United Nations High Commissioner for Refugees
USCIS—U.S. Citizenship and Immigration Services

What Authority Does the Secretary of Homeland Security Have To Extend the Designation of Liberia for TPS?

Under section 244 of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state (or part thereof) for TPS. 8 U.S.C. 1254a(b)(1). The Secretary of Homeland Security may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). 8 U.S.C. 1254a(a)(1).

At least 60 days before the expiration of the TPS designation or any extension thereof, section 244(b)(3)(A) of the Act requires the Secretary of Homeland Security to review, after consultation with appropriate agencies of the Government, the conditions in a foreign state designated for TPS to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of the TPS designation. 8 U.S.C. 1254a(b)(3)(A). If the Secretary of Homeland Security determines that the foreign state no longer meets the conditions for the TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act. 8 U.S.C. 1254a(b)(3)(B). Finally, section 244(b)(3)(C) of the Act provides for the extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary, a period of 12 or 18 months) unless the Secretary determines, at least 60 days before the designation or extension is due to end, that a foreign state (or part thereof) no longer meets the conditions for designation. 8 U.S.C. 1254a(b)(3)(C).

Why Did the Secretary of Homeland Security Decide To Extend the TPS Designation for Liberia?

On August 25, 2004, the Secretary of Homeland Security published a Notice in the **Federal Register** changing the justification for the TPS designation. This Notice terminated the TPS designation for Liberia due to the ongoing, armed conflict because the armed conflict had ceased. The Notice also re-designated Liberia for TPS due to ''extraordinary and temporary conditions'' caused by the past armed conflict. 69 FR 52297.

Over the past year, DHS and DOS have continued to review conditions in Liberia. Based on this review, the Department of Homeland Security has determined that a 12-month extension is warranted because the extraordinary and temporary conditions that prompted designation still persist. Further, DHS has determined that it is not contrary to the national interest of the United States to permit aliens who are eligible for TPS based on the designation of Liberia to remain temporarily in the United States. 8 U.S.C. 1254a(b)(1)(C).

On June 16, 2005, DOS recommended (DOS Recommendation) an extension of Liberia for TPS for 12-months. Although disarmament and demobilization of the warring factions has been completed with the disarmament of over 100,000 ex-combatants, funding shortfalls and a lack of sufficient rehabilitation and reintegration programs have the potential to destabilize the security situation in Liberia, and have led to riots among ex-combatants in Ganta. *Id.* In one area, ex-combatants briefly held NGO workers captive to protest the lack of rehabilitation and reintegration programs. *Id.*

The assisted and spontaneous return of refugees and internally displaced

persons (IDP) remains slow. *Id.* Although the United Nations High Commissioner for Refugees (UNHCR) began facilitating returns in October 2004, it will not begin promoting returns until after the October 2005 elections, once it is convinced that peace and stability have firmly taken hold. *Id.* The U.S. Citizenship and Immigration Services (USCIS), Resource Information Center (RIC) reported (RIC Report, June 2005) that since November 2004, approximately 130,000 IDPs have received support to return to their homes. Another 200,000 IDPs living in camps continue to receive food assistance. *Id.* Approximately 222,000 Liberian refugees of the 340,000 refugees in the region remain outside of Liberia. (DOS Recommendation).

The Liberian economy continues to perform well below the pre-war level. Despite two percent growth in GDP in the past year, the Liberian economy operates at about one-third of its pre-war level, with a GDP of less than U.S. $500 million, compared with U.S. $1 billion in 1988. (RIC Report, June 2005). The National Transitional Government of Liberia (NTGL) is unable to provide employment (unemployment is at 85 percent) or essential social services. *Id.* Eighty percent of pre-war housing stock is still reported as damaged. *Id.* Although agricultural activities have started to expand, the percent of arable land under cultivation remains at less than ten percent. *Id.*

Based upon this review, the Secretary of Homeland Security, after consultation with appropriate Government agencies, finds that the conditions that prompted the re-designation of Liberia for TPS continue to be met. 8 U.S.C. 1254a(b)(3)(A). There are extraordinary and temporary conditions in Liberia that prevent aliens who are nationals of Liberia (or aliens having no nationality who last habitually resided in Liberia) from returning in safety, assuming these aliens meet the other statutory requirements for TPS. The Secretary of Homeland Security also finds that it is not contrary to the national interest of the United States to permit aliens who meet the eligibility requirements of TPS to remain temporarily in the United States. 8 U.S.C. 1254a(b)(1)(C). On the basis of these findings, the Secretary of Homeland Security concludes that the designation of Liberia for TPS should be extended for an additional 12-month period. 8 U.S.C. 1254a(b)(3)(C).

Following inter-agency consultation on conditions in Liberia, the Department is optimistic that elections scheduled for October 2005 will further stabilize conditions in Liberia. One million Liberians have registered to vote in the elections and, currently, there are 18 registered political parties and 43 presidential candidates. (RIC Report, June 2005).

If I Currently Have Benefits Through the TPS Designation of Liberia, Should I Re-register for TPS?

Yes. If you already have received benefits through the TPS designation of Liberia, your benefits will expire on October 1, 2005. Accordingly, you must comply with the re-registration requirements described below in order to maintain TPS benefits through October 1, 2006. TPS benefits include temporary protection against removal from the United States, as well as employment authorization, during the TPS designation period. 8 U.S.C. 1254a(a)(1).

If I Am Currently Registered for TPS, or Have a Pending Application for TPS, How Do I Re-register Under the Extension?

All persons previously granted TPS under the current designation of Liberia who wish to maintain such status must re-register under the extension by filing the following:

(1) Form I–821, Application for Temporary Protected Status, without fee;

(2) Form I–765, Application for Employment Authorization (see the chart below to determine whether you must submit the $175 filing fee with Form I–765) or a fee waiver request; and

(3) A biometric service fee of $70 if you are 14 years of age or older, or if you are under 14 and are requesting an Employment Authorization Document (EAD). The biometric service fee will not be waived. 8 CFR 103.2(e)(4)(i), (iii).

(4) Unlike previous registration periods, TPS applicants do not need to submit photographs with the TPS application because a photograph will be taken when the applicant appears at an USCIS Application Support Center (ASC) for collection of biometrics.

Aliens who have previously registered for TPS but whose applications remain pending should follow these instructions if they wish to renew their TPS benefits. An application submitted without the applicable fee(s) (if required) will be returned to the applicant.

Please note that the Form I–821 has been revised and only the form with Revision Date 11/5/04 will be accepted. Submissions of older versions of Form I–821 will be rejected. Submit the completed forms and applicable fee(s), if any, to the USCIS Chicago, IL Lockbox during the 60-day re-registration period that begins August 16, 2005 and ends October 17, 2005. An interim EAD will not be issued unless the Form I–765, as part of the TPS registration package, has been pending with USCIS more than 90 days after all requested initial evidence has been received, including collection of the applicant's biometrics at an ASC. *See* 8 CFR 103.2(b)(10)(ii) and 8 CFR 274a.13(d).

Where Should an Applicant for TPS Submit His or Her Application for Re-registration or for Late Initial Registration?

The Form I–821, Form I–765, fees, and all supporting documentation should be filed at the USCIS Chicago, IL Lockbox at:

U.S. Citizenship and Immigration Services, Attn: TPS Liberia, P.O. Box 87583, Chicago, IL 60680–0583.

Or, for non-United States Postal Service (USPS) deliveries:

U.S. Citizenship and Immigration Services, Attn: TPS Liberia, 427 S. LaSalle—3rd Floor, Chicago, IL 60605.

Please note that these addresses are not the same as where you submitted your forms to register for the current TPS designation. Aliens re-registering or late initial registering for TPS under the designation of Liberia should not bring or send their TPS forms and fees directly to a USCIS district office. Failure to follow these instructions will delay processing of your TPS re-registration application and may result in your application being returned to you.

Where Can I Obtain a Copy of the Revised Form I–821 Dated 11/5/04?

TPS forms are available from the toll-free USCIS Forms line, 1–800–870–3676, from your local USCIS district office, or from the USCIS Web site: *http://www.uscis.gov*.

Who Must Submit the $175 Filing Fee for the Form I–765?

(1) Although all re-registrants must submit the Form I–765, only those re-registrants requesting an EAD, regardless of age, must submit the $175 filing fee or a properly documented fee waiver request pursuant to 8 CFR 244.20.

(2) Persons between the ages of 14 and 65 (inclusive) filing under the late initial registration provisions who are requesting an EAD must also submit the $175 fee or a fee waiver request pursuant to 8 CFR 244.20.

(3) Aliens who are submitting Form I–765 only for data-gathering purposes (as explained in the chart below) are not required to submit a $175 filing fee, nor

are they required to submit a fee waiver request.

Note that TPS re-registrants and applicants for late initial registration may wish to consider whether obtaining an EAD will be helpful to them for reasons other than verifying employment eligibility (for example, as a photo identity document and/or additional evidence of lawful presence in the United States in order to demonstrate eligibility for a driver's license in some states).

If	Then
You are re-registering for or renewing a TPS-related EAD, regardless of your age..	You must complete and file the Form I–765, Application for Employment Authorization, with the $175 fee or a fee waiver request in accordance with 8 CFR 244.20.
You are not requesting an EAD.	You must complete and file Form I–765 (for data-gathering purposes only) with no fee or fee waiver request.[1]
You are filing under the late registration provisions, are requesting an EAD, and are between the ages of 14 and 65 (inclusive)..	You must complete and file Form I–765 with the $175 fee initial or a fee waiver request in accordance with 8 CFR 244.20.
You are applying for a TPS-related EAD under the late initial registration provisions *and* are under age 14 or over age 65..	You must complete and file Form I–765 (for data-gathering purposes only) with no fee.

[1] An applicant who does not want an EAD does not need to submit the $175 fee, but must complete and submit Form I–765 for data-gathering purposes.

Who Must Submit the $70 Biometric Service Fee?

All aliens 14 years of age and older who are re-registering for TPS, renewing temporary treatment benefits, or filing for late initial registration must submit the $70 biometric service fee. In addition, since a photograph, signature, and fingerprint are required to produce an EAD, any applicant under the age of 14 choosing to apply for an EAD must submit the $70 biometric service fee. The biometric service fee will not be waived. 8 CFR 103.2(e)(4)(i), (iii).

Does TPS Lead to Lawful Permanent Residence?

No. TPS is a temporary benefit that does not lead to lawful permanent residence by itself or confer any other immigration status. 8 U.S.C. 1254a(e), (f)(1), and (h). TPS also does not cure any immigration status violations or periods of unlawful presence that may have accrued prior to an alien's grant of TPS, following withdrawal of TPS, or after termination of a TPS designation. When a country's TPS designation is terminated, TPS beneficiaries will have the same immigration status they held prior to TPS (unless that status has since expired or been terminated), or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will have no lawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation are expected to plan for their departure from the United States and may wish to apply for immigration benefits for which they may be eligible.

May I Apply for Another Immigration Benefit While Registered for TPS?

Yes. Registration for TPS does not prevent you from applying for another non-immigrant status, from filing for adjustment of status based on an immigrant petition, or from applying for any other immigration benefit or protection. 8 U.S.C. 1254a(a)(5). For the purposes of change of nonimmigrant status and adjustment of status, an alien is considered as being in, and maintaining, lawful status as a nonimmigrant during the period in which the alien is granted TPS. 8 U.S.C. 1254a(f)(4).

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. 8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii).

Does This Extension Allow Nationals of Liberia (or Aliens Having no Nationality Who Last Habitually Resided in Liberia) Who Entered the United States After October 1, 2002, To Apply for TPS?

No. This is a Notice of an extension of the TPS designation of Liberia, not a Notice re-designating Liberia for TPS. An extension of a TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those beyond the current TPS eligibility requirements for Liberia. To be eligible for benefits under this extension, nationals of Liberia (or aliens having no nationality who last habitually resided in Liberia) must have been continuously physically present since August 25, 2004, and continuously resided in the United States since October 1, 2002.

Are Certain Aliens Ineligible for TPS?

Yes. There are certain criminal and terrorism-related inadmissibility grounds that render an alien ineligible for TPS. 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony, or two or more misdemeanors, committed in the United States are ineligible for TPS under section 244(c)(2)(B) of the Act, 8 U.S.C. 1254a(c)(2)(B), as are aliens described in the bars to asylum in section 208(b)(2)(A) of the Act, 8 U.S.C. 1158(b)(2)(A).

What Is Late Initial Registration?

Some aliens who did not file for TPS during the initial registration period may be eligible for late initial registration under 8 U.S.C. 1254a(c)(1)(A) and (c)(2) and 8 CFR 244.2(f)(2) and (g). To apply for late initial registration an applicant must:

(1) Be a national of Liberia (or alien who has no nationality and who last habitually resided in Liberia);

(2) Have continuously resided in the United States since October 1, 2002;

(3) Have been continuously physically present in the United States since August 25, 2004; and

(4) Be admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the

registration period for this designation (from August 25, 2004 to February 21, 2005), he or she:

(1) Was a nonimmigrant or had been granted voluntary departure or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Is the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration within 60 days of the expiration or termination of the above-described conditions. 8 CFR 244.2(g). All late initial registration applications for TPS pursuant to the TPS extension of Liberia should be submitted to the USCIS lockbox address listed above.

What Happens When This Extension of TPS Expires on October 1, 2006?

At least 60 days before this extension of the TPS designation for Liberia expires on October 1, 2006, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, will review conditions in Liberia and determine whether the conditions for this TPS designation continue to be met at that time, or whether the TPS designation should be terminated. 8 U.S.C. 1254a(b)(3). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

Notice of Extension of Designation of TPS for Liberia

By the authority vested in the Secretary of Homeland Security under sections 244(b)(3)(A) and (b)(3)(C) of the Act, DHS has determined, after consultation with the appropriate Government agencies, that the conditions that prompted designation of Liberia for TPS continue to be met. Accordingly, DHS orders as follows:

(1) The designation of Liberia under section 244(b)(1)(C) of the Act is extended for an additional 12-month period from October 1, 2005, to October 1, 2006. 8 U.S.C. 1254a(b)(3)(C).

(2) There are approximately 3,792 nationals of Liberia (or aliens having no nationality who last habitually resided in Liberia) who have been granted TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of Liberia (or an alien having no nationality who last habitually resided in Liberia) who was granted TPS during the current designation must re-register for TPS during the 60-day re-registration period from August 16, 2005 until October 17, 2005.

(4) To re-register, the alien must file the following: (1) Form I–821, Application for Temporary Protected Status, without fee; (2) Form I–765, Application for Employment Authorization; and (3) a biometric services fee of $70 if the alien is age 14 or older, or if the alien is under age 14 and requesting an EAD. Applications submitted without the required fees will be returned to the applicant. If the alien requests an EAD, he or she must submit $175 or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An alien who does not request employment authorization must still file Form I–765 along with Form I–821, but he or she is not required to submit the fee or a fee waiver request for filing Form I–765. Failure to re-register without good cause will result in the withdrawal of TPS. 8 U.S.C. 1254a(c)(3)(C). Aliens who have previously registered for TPS but whose applications remain pending should follow these instructions to renew temporary treatment benefits. Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension ends on October 1, 2006, the Secretary of Homeland Security, after consultation with appropriate agencies of the Government, will review the designation of Liberia for TPS and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. *Id.*

(6) Information concerning the extension of designation of Liberia for TPS will be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov*.

Dated: July 29, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–16308 Filed 8–15–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22077]

Navigation Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The Navigation Safety Advisory Council (NAVSAC) will meet as required to discuss various issues relating to the safety of navigation. The meeting will be open to the public.

DATES: NAVSAC will meet on Wednesday, September 7, 2005, from 8:30 a.m. to 4 p.m.; Thursday, September 8, 2005, from 8:30 a.m. to 4 p.m.; and Friday, September 9, 2005, from 8:30 a.m. to 1 p.m. The meetings may close early if all business is finished. Written material for and requests to make oral presentations at the meeting should reach the Coast Guard on or before August 21, 2005. Requests to have a copy of your material distributed to each member of the Committee or working groups prior to the meeting should reach the Coast Guard on or before August 21, 2005.

ADDRESSES: NAVSAC will meet in the Marriott Crystal Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, VA 22202. Send written material and requests to make oral presentations to Mr. John Bobb, Commandant (G-MW), U.S. Coast Guard Headquarters, G-MW, Room 1406, 2100 Second Street SW., Washington, DC 20593–0001. This notice and related documents are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Bobb, Executive Secretary, telephone 202–267–2384, fax 202–267–4700, or e-mail at: *jbobb@comdt.uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770, as amended).

Agenda of Committee Meeting

The agenda includes the following items to be discussed:

(1) Regulated Navigation Areas and Security Zones.

(2) Enhanced Loran.

(3) Right Whale Proposed Regulations.

(4) Navigation Bridge Visibility.

(5) Report on the initial meeting of the Committee on the Maritime Transportation System.

(6) Report on Automatic Identification Systems.

(7) Report of Electronic Charting Systems and Electronic Charting Display Information Systems.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the chairs discretion, members of the public may make oral presentations during the meetings. If you would like to make an

oral presentation at the meeting, please notify the Executive Secretary no later than August 21, 2005. Written material for distribution at a meeting should reach the Coast Guard no later than August 21, 2005. If you would like a copy of your material distributed to each member of the Committee or Working Groups in advance of a meeting, please submit 20 copies to the Executive Secretary no later than August 21, 2005. You may also submit this material electronically to the e-mail address in **FOR FURTHER INFORMATION CONTACT,** no later than August 21, 2005.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact Executive Secretary as soon as possible.

Dated: August 8, 2005.

R.J. Petow,

Captain, U.S. Coast Guard, Acting Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 05–16151 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21863]

Letter of Recommendation; Proposed Broadwater LNG Project, Long Island Sound

AGENCY: Coast Guard, DHS.

ACTION: Request for comments; notice of public meeting.

SUMMARY: In accordance with the requirements in Title 33 Code of Federal Regulations (CFR), Section 127.009, the U.S. Coast Guard Captain of the Port (COTP) Long Island Sound, is preparing a Letter of Recommendation as to the suitability of Long Island Sound for liquefied natural gas (LNG) marine traffic. This Letter of Recommendation will encompass the marine safety and security aspects associated with the proposed Broadwater LNG facility. The letter of recommendation is in response to a Letter of Intent submitted by Broadwater Energy, a joint venture of Shell Oil and TransCanada Corporation, to construct and operate an offshore floating, storage and regasification unit (FSRU) for liquefied natural gas (LNG) in the New York State waters of Long Island Sound. Because the proposed facility would be located in state waters, the Federal Energy Regulatory Commission (FERC) is the lead Federal agency for this proposed project. The COTP Long Island Sound is soliciting written comments and related material, and will join FERC at four public meetings seeking comments, pertaining specifically to maritime safety and security aspects of the proposed LNG facility. In preparation for issuance of a letter of recommendation and the completion of certain other regulatory mandates, the COTP Long Island Sound will consider comments received from the public as input into the Coast Guard's assessment of potential waterway safety and port security issues associated with the proposed facility.

DATES: All written comments and related material must reach the Coast Guard on or before October 7, 2005. In addition, four public meetings will be held regarding this proposal, on the following dates and locations:

- September 13, 2005, at Stony Brook University, Charles B. Wang Center, RT 25A, Stony Brook, NY;
- September 14, 2005, at Shoreham-Wading River Middle School (Albert Prodell Middle School), 100 Randall Road, Shoreham, NY;
- September 20, 2005, at E. Lyme High School, 30 Chesterfield Road, East Lyme, CT; and
- September 21, 2005, at Branford High School, 185 East Main Street, Branford, CT;

All four public meetings will be held from 7 p.m. to 10 p.m. The comment period associated with the public meeting will remain open until October 7, 2005.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2005–21863, to the Docket Management Facility at the U.S. Department of Transportation. Comments submitted to the Coast Guard should relate to the marine safety and security aspects associated with the proposed Broadwater LNG facility. To avoid duplication, please use only one of the following methods:

1. Web site: *http://dms/dot/gov.*
2. Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.
3. Fax: (202) 493–2251.
4. Delivery: Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.
5. Federal eRulemaking Portal: *http://www.regulations.gov.*

You may also submit comments relating to the maritime safety and security of the proposed facility to Commanding Officer, U.S. Coast Guard Sector Long Island Sound. All comments received by Sector Long Island Sound will be forwarded to the Docket Management Facility. Duplicate copies of comments submitted to the Docket Management Facility need not be submitted to the COTP Long Island Sound. COTP Long Island Sound will review and consider all comments submitted to the Docket Management Facility as well as those received directly.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact LT Andrea Logman at Coast Guard Sector Long Island Sound by one of the methods listed below:

(1) Phone at (203) 468–4429;

(2) E-mail at *alogman@sectorlis.uscg.mil*; or

(3) Fax to (203) 468–4445.

If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone (202) 366–0271.

SUPPLEMENTARY INFORMATION:

Request for Written Comments

We encourage you to submit written comments and related material pertaining specifically to marine safety and security aspects associated with the proposed Broadwater LNG facility. If you do so, please include your name and address, identify the docket number for this notice (USCG–2005–21863) and give the reason for each comment. You may also submit your comments and related material by mail, electronically or hand delivery, as described in **ADDRESSES**, or you may send them by fax or e-mail using the contact information under **FOR FURTHER INFORMATION CONTACT**. To avoid confusion and duplication, please submit your comments and material by only one means.

If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Docket Management Facility or U.S. Coast Guard Sector Long Island Sound, please enclose a stamped, self-addressed postcard or envelope.

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

To view comments, as well as documents mentioned in this preamble as being available in the document, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number, USCG–2005–21863. You may also visit the Docket Management Facility in room PL–401 on the Plaza Level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Public Meeting

Due to the scope and complexity of this project, we have decided to jointly hold four public meetings with FERC to allow the public the opportunity to comment on the proposed LNG facility. The dates and locations of these meetings are listed under **DATES** above. Organizations and members of the public may provide oral statements regarding the suitability of Long Island Sound for LNG vessel traffic at these meetings. In the interest of time and use of the public meeting facility, the length of oral statements may be limited. Written comments may be submitted at the meeting or to the Docket up to October 7, 2005.

Background and Purpose

In accordance with the requirements of 33 CFR 127.007, Shell Oil and TransCanada Corporation under the joint company Broadwater LNG, submitted a letter of Intent on November 9, 2004, notifying the COTP Long Island Sound that they intend to construct and operate an offshore FSRU for LNG, named Broadwater Energy, in the New York State waters of Long Island Sound. An Amendment to the Letter of Intent was submitted on April 26, 2005, updating the location of the proposed FSRU. The proposed location of the FSRU is approximately nine (9) miles off the coast of Riverhead, New York, and about 11 miles from the nearest Connecticut shoreline.

FERC will be the lead agency for the Environmental Impact Statement (EIS) mandated by the National Environmental Policy Act. To help FERC make sure that the EIS covers the Coast Guard's Letter of Recommendation and other actions under this proposal, the Coast Guard will serve as a cooperating agency.

The proposed FSRU would serve as an LNG import terminal. LNG carriers (ships) would berth at the FSRU and LNG would be transferred from the carriers to the storage tanks located on the FSRU. The Broadwater FSRU is designed to have an onboard LNG storage capacity of up to 350,000 cubic meters (m^3). The LNG would then be re-gasified and metered into natural gas pipelines. The terminal would connect with the existing subsea Iroquois Gas Transmission System pipeline via an underwater connecting pipeline that would be about 25 miles long.

LNG would be delivered to the terminal in double-hulled LNG carriers. Typical LNG carriers currently have a carrying capacity of 135,000 m^3 (4,767,480 ft^3). The largest LNG tanker in operation has a capacity of 145,000 m^3 (5,120,627 ft^3). Current LNG carriers are approximately 900 to 1000 feet long with up to approximately a 145 foot wide beam, and draw between 36 and 39 feet of water. Larger LNG carriers capable of transporting as much as 225,000 m^3 to 250,000 m^3 (7,945,799 ft^33 to 8,828,666 ft^33) of LNG are being considered. The Broadwater FSRU would receive approximately between 2 and 3 vessels per week, or approximately 100 to 160 LNG vessels per year, depending upon natural gas demand and carrier size.

The U.S. Coast Guard exercises regulatory authority over LNG facilities which affect the safety and security of port areas and navigable waterways under Executive Order 10173, the Magnuson Act (50 U.S.C. 191), the Ports and Waterways Safety Act of 1972, as amended (33 U.S.C. 1221, *et seq.*) and the Maritime Transportation Security Act of 2002 (46 U.S.C. 701). The Coast Guard is responsible for matters related to navigation safety, vessel engineering and safety standards. The Coast Guard also has authority for LNG facility security plan review, approval, and compliance verification as provided in Title 33 CFR part 105, and recommendation for siting as it pertains to the management of vessel traffic in and around the LNG facility.

Upon receipt of a letter of intent from an owner or operator intending to build a new LNG facility, the Coast Guard COTP conducts an analysis that results in a letter of recommendation issued to the owner or operator and to the state and local governments within whose jurisdictions the proposed facility lies, addressing the suitability of the waterway to accommodate LNG vessels. Specifically, the letter of recommendation addresses the suitability of the waterway based on:

- The physical location and layout of the facility and its berthing and mooring arrangements.
- The LNG vessels' characteristics and the frequency of LNG shipments to the facility.
- Commercial, industrial, environmentally sensitive, and residential areas in and adjacent to the waterway used by the LNG vessels en route to the facility.
- Density and character of marine traffic on the waterway.
- Bridges or other manmade obstructions in the waterway.
- Depth of water.
- Tidal range.
- Natural hazards, including rocks and sandbars.
- Underwater pipelines and cables.
- Distance of berthed LNG vessels from the channel, and the width of the channel.

In addition, the Coast Guard will review and approve the facility's operations manual and emergency response plan (33 CFR 127.019), as well as the facility's security plan (33 CFR 105.410). The Coast Guard will also provide input to other Federal, State, and local government agencies reviewing the project.

FERC is the lead Federal agency responsible for licensing LNG facilities located on shore and within state waters. Under an interagency agreement, the Coast Guard will provide input to, and coordinate with, FERC on maritime safety and security aspects of the proposed Broadwater LNG project. FERC will be the lead agency for the Environmental Impact Statement (EIS) mandated by the National Environmental Policy Act. To help FERC make sure that the EIS covers the Coast Guard's Letter of Recommendation and other actions under this proposal, the Coast Guard will serve as a cooperating agency.

In order to complete a thorough analysis and fulfill the regulatory mandates cited above, the COTP Long Island Sound will be conducting an assessment of the various safety and security aspects associated with the proposed Broadwater LNG proposed project. This assessment will be accomplished through a series of workshops focusing on the areas of waterways safety, port security, and consequence management, with involvement from a broad cross-section of government and port stakeholders with expertise in each of the respective areas. The workshops will be by invitation only. However, comments

received during the public comment period will be considered as input into the assessment process.

Additional Information

Additional information about the Broadwater LNG project is available from FERC's Office of External Affairs at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using their eLibrary link. Comments relating to aspects other than marine safety and security aspects associated with the proposed Broadwater LNG facility may be submitted at this Web site. For assistance, please contact FERC online support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY contact 1–202–502–8659.

Information on Services for Individuals with Disabilities. For information on facilities or services for individuals with disabilities, or to request assistance at the meeting, contact LT A. Logman listed under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: August 9, 2005.

Peter J. Boynton,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 05–16287 Filed 8–12–05; 1:32 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–38]

Notice of Submission of Proposed Information Collection to OMB; Borrowers Personal Financial Statement for Compromise/Settlement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information is used by HUD to analyze the financial position of borrower potentially in default for the purpose of evaluating compromises, partial settlement offers, and payment arrangements. It is required of a small percentage of debtors to establish repayment.

DATES: *Comments Due Date:* September 15, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Approval Number (2502–0098) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number.

Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Borrowers Personal Financial Statement for Compromise/Settlement.

OMB Approval Number: 2502–0098.

Form Numbers: HUD–56142, HUD–56141.

Description of the Need for the Information and Its Proposed Use: The information is used by HUD to analyze the financial position of borrowers potentially in default for the purpose of evaluating compromisers, partial settlement offers, and payment arrangements. It is required of a small percentage of debtors to establish repayment.

Frequency of Submission: On occasion.

REPORTING BURDEN

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
800	1		1		800

Total Estimated Burden Hours: 800.

Status: Revision of a currently approval collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 9, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E5–4410 Filed 8–15–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4975–25]

Notice of Proposed Information Collection: Comment Request; Procedures for Appealing Section 8 Rent Adjustments

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 17, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3000 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Procedures for Appealing Section 8 Rent Adjustments.

OMB Control Number, if Applicable: 2502–0446.

Description of the Need for the Information and Proposed Use: Title II of the National Housing Act requires that the Department of Housing and Urban Development (HUD) regulate rents for certain cooperative and subsidized rental projects. Under this legislation, HUD is charged with the responsibility of determining the method of rent adjustments and facilitating these adjustments. Because rent adjustments are considered benefits to project owners, HUD must also provide some means for owners to appeal the decisions made by the Department or the Contract Administrator. This appeal process, and the information collection included as part of the process, play an important role in preventing costly litigation and ensuring the accuracy of the overall rent adjustment process.

Agency Form Numbers, if Applicable: None.

Estimation of the Total Numbers of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: The estimated total number of hours needed to prepare the information collection is 1,000. The number of respondents is 500 generating 1,000 annual responses, the frequency of response is on occasion, and the number of hours per response averages 2 hours.

Status of the Proposed Information Collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 9, 2005.

Frank L. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. E5–4459 Filed 8–15–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–39]

Notice of Submission of Proposed Information Collection to OMB; Lender Insurance Certification

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The data collection requirements consist of an electronic lender certification process whereby the lender certifies to its eligibility to participate in the Lender Insurance program. It also states that lenders must provide electronic copies of loan applications and supporting documents at FHA's request.

DATES: *Comments Due Date:* September 15, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502-Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Lender Insurance Certification.

OMB Approval Number: 2502–Pending.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The data collection requirements consist of

an electronic lender certification process whereby the lender certifies to its eligibility to participate in the Lender Insurance program. It also states that lenders must provide electronic copies of loan applications and supporting documents at FHA's request.

Frequency of Submission: Quarterly.

	Number of respondents	x	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden:	300		4		0.02		24

Total Estimated Burden Hours: 24.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 10, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E5–4460 Filed 8–15–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–40]

Notice of Submission of Proposed Information Collection to OMB; Energy Efficient Mortgage

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Lender provides information required to determine the eligibility of a mortgage to be insured under Section 513 of the Housing and Community Development Act of 1992 (Section 106 of the Energy Policy Act of 1992).

DATES: *Comments Due Date:* September 15, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502-Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Energy Efficient Mortgage.

OMB Approval Number: 2502–Pending.

Form Numbers: HUD–92903.

Description of the Need for the Information and Its Proposed Use: Lender provides information required to determine the eligibility of a mortgage to be insured under Section 513 of the Housing and Community Development Act of 1992 (Section 106 of the Energy Policy Act of 1992).

	Number of respondents	X	Annual responses	X	Hours per response	=	Burden hours
Reporting Burden:	620		1		3.72		2310

Total Estimated Burden Hours: 2,310.

Status: Existing collection in use without an OMB control number.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 11, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E5–4461 Filed 8–15–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4950–C–24A, FR–4950–C–34B]

Notice of HUD's Fiscal Year (FY) 2005 Notice of Funding Availability Policy Requirements and General Section to SuperNOFA for HUD's Discretionary Grant Programs (SuperNOFA); Notice of Extension of Application Submission Date for Areas Affected by Hurricane Dennis

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of extension of application submission date for applicants submitting applications from areas affected by Hurricane Dennis.

SUMMARY: This notice announces the extension of submission deadline dates for two programs announced in the Fiscal Year 2005 SuperNOFA, the Rural Housing and Economic Development (RHED) NOFA and the Public Housing Neighborhood Networks NOFA, for those applicants located within the states significantly affected by Hurricane Dennis including Alabama,

Florida, Georgia, and Mississippi. The submission deadline for these two funding opportunities was July 11, 2005. For those applicants located in one of these states, the revised submission date is August 22, 2005. For applicants unaffected by Hurricane Dennis, the submission deadline remains unchanged.

FOR FURTHER INFORMATION CONTACT: For the Public Housing Neighborhood Networks NOFA, contact the Public and Indian Housing Information Resource Center toll-free at 1–800–955–2232 and for Indian Tribes and Tribally Designated Housing Entities (TDHE), call toll-free at 1–800–561–5913.

For the Rural Housing and Economic Development NOFA, contact Jackie Williams, Director, Office of Rural Housing and Economic Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone (202) 708–2290 (this is not a toll-free number).

Hearing- or speech-impaired persons may access these telephone numbers by calling the toll-free Federal Information Relay Service on 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 21, 2005 (70 FR 13575), HUD published its FY2005 SuperNOFA, which announced the availability of approximately $2.26 billion in HUD assistance. In a **Federal Register** notice published on May 18, 2005 (70 FR 28553), HUD extended the application submission deadline for the Public Housing Neighborhood Networks NOFA to July 11, 2005. On May 25, 2005 (70 FR 30136), HUD reopened the NOFA competition for the RHED program and extended the deadline to July 11, 2005.

Due to Hurricane Dennis, which caused widespread power outages in the states of Alabama, Florida, Georgia, and Mississippi, the Department is extending the deadline for the RHED and Public Housing Neighborhood Networks NOFAs to August 22, 2005. This extension affects only applicants located in these four states. HUD will accept applications to the RHED program NOFA and Public Housing Neighborhood Networks program NOFA from applicants in the four affected states either through Grants.gov, or in hard copy (paper) submission consistent with the instructions in the March 21, 2005, SuperNOFA General Section, except that these affected applicants are not required to obtain a waiver from the electronic submission requirement and HUD recommends applicants use an overnight delivery method to ensure timely receipt of paper applications. Hard copy submissions should be sent to the appropriate address listed as follows:

Public Housing Neighborhood Networks Program

Department of Housing and Urban Development, Attn: Anice M. Schverish, 451 Seventh Street, SW., Room 3236, Washington, DC 20410–5000.

(Applicants to the Public Housing Neighborhood Networks Program should submit an original and two copies of the application.)

Rural Housing and Economic Development

Department of Housing and Urban Development, Attn: Jackie L. Williams, Office of Rural Housing and Economic Development, 451 Seventh Street, SW., Room 7137, Washington, DC 20410–7000.

(Applicants to the RHED program should submit an original and two copies of the application.)

Dated: August 8, 2005.

Roy A. Bernardi,

Deputy Secretary.

[FR Doc. E5–4458 Filed 8–15–05; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5001–N–01]

Transfer of Home Mortgage Disclosure Act (HMDA) Data Collection to Federal Reserve Board

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice advises mortgagees that are required by the Home Mortgage Disclosure Act (HMDA) and Regulation C of the Federal Reserve Board (Board) to submit HMDA data to HUD to submit their annual HMDA reports, due on or before March 1st of each year, to the Board of Governors of the Federal Reserve, and not to HUD.

DATES: Effective September 15, 2005.

FOR FURTHER INFORMATION CONTACT: Jerry Fasick, Office of Evaluation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 755–7500 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Who Must Report HMDA Data

All mortgagees, lenders, and loan correspondents that meet the requirements of Regulation C of the Board (see 12 U.S.C. part 203) must report each year data required by HMDA (12 U.S.C. 2801 *et seq.*). Coverage criteria and requirements are specified in ''A Guide To HMDA Reporting—Getting It Right!'' and on the Federal Financial Institutions Examination Council (FFIEC) HMDA Web site at *http://www.ffiec.gov/hmda.* Those requirements apply to for-profit mortgage-lending institutions (other than a bank, savings association, or credit union) that, in the preceding calendar year, either:

(i)(A) Originated (made credit decision on) home purchase loans, including refinancing of home purchase loans, that equaled at least 10 percent of its loan-origination volume, measured in dollars; or

(B) Originated (made credit decision on) home purchase loans, including refinancings of home purchase loans, that equaled at least $25 million; and

(ii) On the preceding December 31, had a home or branch office in a Metropolitan Statistical Area/Metropolitan Division (MSA/MD); or received applications for, originated or repurchased five or more home purchase loans, home improvement loans, or refinancings on property located in an MSA/MD; and

(iii)(A) On the preceding December 31, had total assets of more than $10 million, counting the assets of any parent corporation; or

(B) In the preceding calendar year, originated (made credit decision on) at least 100 home purchase loans, including refinancings of home purchase loans.

HMDA requires at 12 U.S.C. 2803(h) that supervised lenders, whether or not they are lenders approved by the Federal Housing Administration (FHA), submit their HMDA data to their appropriate supervising agencies, *i.e.,* the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration. Currently, all HMDA data are submitted directly to the Board for initial processing. Non-supervised lenders, regardless of whether or not they are FHA-approved, must submit their HMDA data to HUD (through the Board) with one exception. Regulation C, *Disclosure and Reporting,* at 12 CFR 203.5(a)(2), provides that a subsidiary of a bank or savings association shall submit its data directly

or through its parents to the agency that supervises the parent. Therefore, non-supervised FHA-approved lenders and loan correspondents, which are subsidiaries of supervised lending institutions, are not required to submit their HMDA data to HUD.

FFIEC HMDA Data Entry Software

The FFIEC HMDA data entry software is available for download from the FFIEC HMDA Web site. Note that the next scheduled release of the software, Version 3.10, for calendar year 2005 data collection is available by download from the FFIEC HMDA Web site. The software is free and can be utilized for editing, reporting and submitting HMDA information.

The FFIEC HMDA Web site provides detailed information on the required file specifications for HMDA reporting (*http://www.ffiec.gov/hmda/fileformats.htm*). HUD would like to emphasize that it is extremely important for an institution that uses a third-party vendor to prepare and transmit its HMDA report to notify the third-party vendor immediately of this change, *i.e.,* that non-supervised FHA-approved lenders and loan correspondents, which are subsidiaries of supervised lending institutions, are not required to submit their HMDA data to HUD. It is also important that an institution inform its vendor of the Board's file specification and editing requirements.

HMDA Editing and Reporting

In addition, an institution's HMDA data must be edited prior to submission using the FFIEC HMDA edits (*http://www.ffiec.gov/hmda/edits.htm*). Regulation C requires all HMDA data submissions to be free of validity errors prior to submission. An institution must submit a validity-free submission or the institution is at risk of noncompliance.

If an institution utilizes a third-party vendor's software package, the institution can still take advantage of the benefits of the HMDA Data Entry Software by using the editing and reporting features. The software includes editing and reporting features to help the institution verify, complete, and analyze the institution's HMDA data. The 'Import' feature will accept a valid 'hmda.dat' file created in a third-party vendor's software that meets the HMDA file specifications. Once the file has been successfully imported into the software, the user can utilize the editing and reporting features. The 'Export to Regulatory Agency via Internet e-mail' feature creates a validity error-free encrypted file that can be transmitted via Internet e-mail directly to the Board at *HMDASUB@frb.gov.* Users may download a free copy of the software at *http://www.ffiec.gov/hmda.*

Please note that reel tape submissions are not an accepted media type. Internet e-mail submission is the preferred electronic method to transmit an institution's data. Other electronic submission media types that can be used are diskette and CD–ROM. However, regardless of the media type chosen, users must follow the HMDA file specifications and edits.

HMDA Submission Checklist

- Prepare the HMDA data submission.
- Download a free copy of the FFIEC HMDA Data Entry Software (*http://www.ffiec.gov/hmda*).
- 'Import' the correctly formatted 2004 'mda.dat' file for editing purposes.
- Perform a 'Batch Edit' on the HMDA data and correct all validity errors.
- Choose the (1) 'Export' option from the Front Page. Choose the (2) 'Export to regulatory agency via Internet e-mail' option for encrypted submission to the Board.
- Address the e-mail to *HMDASUB@frb.gov,* include all the required institution information and attach the encrypted HMDA file named HMDAENCR.ENC located at the following path: C:\HMDADES\int\hmdaencr.enc.
- Send your encrypted, validity-free, HMDA data submission to the Board on or before March 1st of each year.

Submission Address

Send the encrypted e-mail file to *HMDASUB@frb.gov* for HMDA reporting on or before March 1st of each year. Sending the submission via Internet e-mail is the most efficient process for submitting the HMDA data. If an institution chooses to mail (overnight) its submission in one of the other acceptable media types—diskette or CD–ROM—the mailing address is as follows and the mailing must be postmarked by March 1 of each year:

Federal Reserve Board, ATTN: HMDA Processing, HUD, 20th & Constitution Avenue, NW., MS N502, Washington, DC 20551–0001.

HMDA Questions

Questions regarding the processing and reporting of HMDA data should be addressed to *HMDAHELP@frb.gov* or the HMDA Assistance Line on 202–452–2016.

Information Collection Requirements

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0529. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB number.

Dated: August 5, 2005.

Brian Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. E5–4457 Filed 8–15–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Sent to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; OMB Control Number 1018–0128; Marine Turtle Conservation Fund Grant Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will submit the collection of information described below to OMB for approval under the provisions of the Paperwork Reduction Act. We will use this information to determine which project proposals should be funded in accordance with the Marine Turtle Conservation Act (Pub. L. 108–266).

DATES: You must submit comments on or before October 17, 2005.

ADDRESSES: Send your comments and suggestions on specific requirements to the Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection submission, explanatory information, and/or related forms, contact Hope Grey, Information Collection Clearance Officer, at 703–358–2482 or electronically at *hope_grey@fws.gov.*

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). On July 29, 2005, OMB approved our emergency request for

information collection associated with the Marine Turtle Conservation Fund Grant Program. The supporting statement for our emergency request is available online at *http://www.fws.gov/pdm/0128SupCurrent.pdf.* The OMB control number for this collection is 1018–0128, which expires on January 31, 2006. We plan to request that OMB approve this information collection for a 3-year term. Federal agencies 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.

Proposals submitted for funding under the Marine Turtle Conservation Act are subject to a panel review, comprised of in-house and select outside technical experts. The information collected under this program's Notice of Funding Availability includes: a project summary and narrative; letter of appropriate government endorsement; brief curricula vitae for key project personnel; and complete standard forms 424, 424a and 424b. Proposals from U.S. applicants also include a copy of the organization's Negotiated Indirect Cost Rate Agreement (NIRCA) (if applicable) and a complete DI–2010. The project summary and narrative is the basis for this information collection request for approval, and allows the review panel to assess how well the project addresses the priorities identified by the Act. As all of the projects under this Act will be conducted outside the United States, the letter of appropriate government endorsement ensures that the proposed activities will not meet with local resistance or work in opposition to locally identified priorities and needs. Brief curricula vitae for key project personnel allow the review panel to assess the qualifications of project staff to effectively carry out the project goals and objectives. Although the standard forms are only required for U.S. financial assistance applicants, we ask all applicants to submit these forms in order to allow for more uniformity across all proposals. As all Federal entities are required to honor the indirect cost rates an organization has negotiated with their cognizant agency, we require all organizations with a NICRA to submit the agreement paperwork with their proposals to verify how their rate is applied in their proposed budget. The DI–2010 is a required form for all U.S. financial assistance applicants.

The information requested in this collection, outside of the required standard forms, is considered the minimum information necessary to allow the review panel sufficient technical, financial, and administrative information to determine the merits of each proposal, and to select the best projects for funding.

Title: Marine Turtle Conservation Fund Grant Program.

OMB Control Number: 1018–0128.

Service Form Numbers: N/A.

Frequency of Collection: Annually.

Description of Respondents: Foreign governments; domestic and foreign nongovernmental organizations, and individuals.

Total Annual Responses: 55 responses.

Total Annual Burden Hours: 660 hours.

We invite comments concerning this collection on: (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility; (2) the accuracy of the agency's estimate of burden on the public; (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.

Dated: August 3, 2005.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. 05–16148 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Crocodile Lake National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for Crocodile Lake Naitonal Wildlife Refuge in Monroe County, Florida.

SUMMARY: The Fish and Wildlife Service announces that a Draft Comprehensive Conservation Plan and Environmental Assessment for Crocodile Lake National Wildlife Refuge are available for review and comment. 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 develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan 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, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife observation, wildlife photography, and environmental education and interpretation.

Significant issues address in the draft plan include: threatened and endangered species; migratory birds, habitat restoration; invasive exotic species control; funding and staffing; and land acquisition.

DATES: Individuals wishing to comment on the Draft Comprehensive Conservation Plan and Environmental Assessment for Crocodile Lake National Wildlife Refuge should do so no later than October 17, 2005. Public comments were requested, considered, and incorporated throughout the planning process. Public outreach has included public scoping meetings, planning updates, and a **Federal Register** notice.

ADDRESSES: Requests for copies of the Draft Comprehensive Conservation Plan and Environmental Assessment should be addressed to the Florida Keys National Wildlife Refuge Complex, 28950 Watson Boulevard, Big Pine Key, Florida 33043; Telephone 305/872–2239. The plan and environmental assessment may also be accessed and downloaded from the Service's Internet Web site *http://southeast.fws.gov/planning/*. Comments on the draft plan may be submitted to the above address or via electronic mail to *van_fischer@fws.gov*. Please include your name and return address in your Internet message. Our practice is to make comments, including names and mailing addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which will honor to the extent allowable by law.

SUPPLEMENTARY INFORMATION: The Service developed three alternatives for managing the refuge and chose Alternative 2 as the preferred alternative.

Alternatives

Serving as a basis for each alternative, goals and sets of objectives and

strategies were developed to help fulfill the purposes of the refuge and the mission of the National Wildlife Refuge System. Objectives are desired conditions or outcomes that are grouped into sets, and for this planning effort, consolidated into three alternatives. These alternatives represent different approaches to managing the refuge while still meeting purposes and goals. Plans will be revised at least every 15 years, or earlier, if monitoring indicates management changes are warranted. Goals are common for each of the alternatives with objectives and strategies differing. A comparison of each alternative follows the general descriptions.

Alternative 1: (No Action) Continuation of current refuge management that includes basic habitat management, such as control of exotics and fundamental monitoring. This alternative represents no change from current management of the refuge and is considered a baseline. Management emphasis would continue to focus on maintaining biological integrity of habitats found on the refuge. Primary management activities include invasive exotic plan control, pest management, habitat restoration, and basic monitoring of threatened and endangered species. Alternative 1 represents the anticipated conditions of the refuge for the next 15 years assuming current policies, programs, and activities continue. The other two alternatives are compared to this alternative in order to evaluate differences in future conditions compared to baseline management.

This alternative reflects actions that include supporting recovery efforts for federally listed species, restoring hammocks, restoring wetlands, and acquiring lands from willing sellers within the acquisition boundary. Monitoring of plants and animals would be limited due to staffing constraints and limited research interest. Habitat management actions are intended to benefit all wildlife by maintaining habitat integrity.

Management coordination would occur between the refuge and the adjacent state botanical preserve. Coordination would be limited because of staffing constraints and remain focused on invasive exotics control, habitat restoration, and threatened and endangered species. Since the refuge is closed to the public, visitors would continue to be directed to the state botanical preserve. The preserve has infrastructure to accommodate visitors who want to experience being in a hardwood hammock or mangrove forest.

The refuge would remain staffed with a refuge manager and periodic interns. Researchers would be accommodated when projects benefit the refuge. The refuge would remain closed to public and commercial access.

Alternative 2: (Preferred Alternative) Increase management actions that focus greater attention on actively managing habitats to provide increased habitat value.

This alternative is the preferred alternative for managing the refuge. Under this alternative, existing management activities would continue, and some activities would be expanded. This alternative proposes to add an additional full-time biological technician to allow for expansion of activities such as monitoring, exotics control, and restoration.

The staff member would help support the additional activities proposed under this alternative.

Increasing efforts related to exotics control, pest management, and monitoring are characteristic of this alternative. This increased management actions would help to achieve the long-term goals and objectives in a timelier manner than under the ''no action'' alternative. This alternative would result in a more ecosystem-based management approach that views the refuge as a single system rather than separate habitat types. Federally listed species would still be of primary concern, but needs of other resident and migratory wildlife would also be considered.

A more proactive approach to land acquisition would be taken in order to purchase remaining inholdings. The refuge would actively contact owners of inholdings and seek to acquire the parcels. There are roughly 400 acres of inholdings that the refuge wants to acquire in order to restore distributed habitats on those parcels. Acquiring inholdings would also ensure that connectivity of refuge habitats is maintained.

Alternative 3: (Limited Public Access) Open refuge to limited public use and access while increasing management actions that focus greater attention on actively managing habitats to provide increased habitat value.

This alternative is an expanded version of Alternative 2 that allows for opening the refuge to limited public use. The refuge was established as a closed refuge and the possibility of allowing public use was considered for this alternative. Restoration of habitats may provide an opportunity to incorporate nature trails that provide access to the refuge.

These potential nature trails would need to be located in areas that would result in no disturbance to wildlife since they would be located in areas that were disturbed. The trails would also provide interpretive signs to educate visitors about refuge resources.

In addition to the nature trails, there would be a strengthening of the refuge friends group in order to provide guided tours of the refuge. Refuge staff would train volunteers to conduct tours of areas that are only accessible with a guide. This approach would open the refuge and allow visitors to experience the refuge while minimizing disturbance to sensitive wildlife areas.

Alternatives Considered, but Rejected

Opening the entire refuge to general public use and access was rejected since it would create too much disturbance to sensitive wildlife. Additionally, a full-time refuge ranger and law enforcement officer would need to be added to the staff to handle the influx of visitors. The Florida Keys receive approximately 4 million visitors per year and even a fraction of a percent of those visitors stopping at the refuge would cause impacts of unacceptable levels.

Active habitat manipulation to emulate natural disturbances (*e.g.*, hurricane micro-bursts) was discussed at length during the biological review as a possible approach to increase preferred habitat for federally listed species. This alternative centered on clearing one to five acres of mature hardwood hammock to create disturbed areas. The planning team unanimously agreed that destroying intact hardwood hammock was too controversial to undertake. However, restoring existing disturbed areas (*e.g.*, NIKE site) to a younger-aged hammock was agreed upon and incorporated into the preferred alternative.

Crocodile Lake National Wildlife Refuge is in north Key Largo approximately 40-miles south of Miami, Florida, on County Road 905. The refuge headquarters is 1.8 miles north of the U.S. Highway 1 and County Road 905 split in Key Largo, Florida. The refuge was established as a closed refuge and is not open to the general public.

Crocodile Lake National Wildlife Refuge was established in 1980 to protect critical breeding and nesting habitat for the endangered American crocodile and other wildlife. The refuge is currently comprised of 6,700 acres including 650 acres of open water. It contains a mosaic of habitat types, including tropical hardwood hammock, mangrove forest, and salt marsh. These habitats are critical for hundreds of plants and animals including six federally listed species. The refuge is unusual in that not all of the critical habitat areas are in a pristine,

undisturbed condition. A large portion of the refuge was going to be a residential development complete with canals for boating access. The dredge-spoil from the canal system was piled up in berms on the banks of the canals and became an important nesting area for the federally listed American crocodile. American crocodiles are fairly wide-spread throughout the tropics, however, in the United States, crocodiles are only found in south Florida and the Keys.

The refuge protects one of the largest remaining tracts of tropical hardwood hammock, which is a globally threatened habitat type. These diverse forests are home to hundreds of plants and animals including the federally listed Key Largo woodrat, Key Largo cotton mouse, Schaus swallowtail butterfly, Stock Island tree snail, and eastern indigo snake. These species require hammocks in order to survive. Unfortunately, most of the hammocks in Key Largo have been eliminated by development, which has lead to considerable population declines in these already imperiled species.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1977, Public Law 105–57.

Dated: June 17, 2005.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. 05–16171 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for the Florida Scrub-Jay Resulting From the Proposed Construction of a Single-Family Home in Sarasota County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Jeffrey and Patricia Adams (Applicants) request an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (Act). The Applicants anticipate removal of about 0.22 acre of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging, sheltering, and possibly nesting habitat, incidental to lot preparation for the construction of a single-family home and supporting infrastructure in Sarasota County, Florida (project). The loss of 0.22 acre of foraging, sheltering, and possibly nesting habitat is expected to result in the take of one family of scrub-jays.

The Applicants' Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the project to the scrub-jay. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. The Service has determined that the Applicants' proposal, including the proposed mitigation and minimization measures, would individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). The Service announces the availability of the Applicants' ITP application, HCP, and Screening Form for Low-Effect HCP Determinations for the incidental take application. Copies of the ITP application, HCP, and Screening Form may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to section 10 of the Act and NEPA regulations (40 CFR 1506.6).

DATES: Written comments on the ITP application, HCP, and Screening Form should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before September 15 2005.

ADDRESSES: Persons wishing to review the application, HCP, and Screening Form may obtain a copy by writing the Service's Southeast Regional Office at the address below. Please reference permit number TE096080–0 in such requests. Documents will also be available for public inspection by appointment during normal business hours at the Southeast Regional Office, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or at the South Florida Ecological Services Field Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida 32960–3559 (Attn: Field Supervisor).

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, Southeast Regional Office (see **ADDRESSES** above), telephone: 404–679–7313, facsimile: 404–679–7081; or Mr. George Dennis, Fish and Wildlife Ecologist, South Florida Ecological Services Field Office (see **ADDRESSES** above), telephone: 772–562–3909, ext. 309.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE096080–0 in such comments. You may mail comments to the Service's Southeast Regional Office (see **ADDRESSES**). You may also comment via the internet to *david_dell@fws.gov*. Please submit comments over the internet as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at either telephone number listed above (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand-deliver comments to either Service office listed above (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, 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.

The Florida scrub-jay is geographically isolated from other species of scrub-jays found in Mexico and the western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands (well-drained, sandy soil habitats supporting a growth of oak-dominated scrub). Increasing urban and agricultural development has resulted in habitat loss and fragmentation, which has adversely affected the distribution and numbers of scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

The decline in the number and distribution of scrub-jays in west-central Florida has been exacerbated by tremendous urban growth in the past 50 years. Historical commercial and residential development has occurred

on the dry soils which previously supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal west-central Florida occurs proximal to the current shoreline and larger river basins. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded, due to interruption of the natural fire regime which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

The scrub-jays reported using the subject residential lot and adjacent properties are part of a larger complex of scrub-jays located in a matrix of urban and natural settings in southern Sarasota County. The project site represents a portion of an isolated scrub-jay territory. Scrub-jays in urban areas are particularly vulnerable and typically do not successfully produce young that survive to adulthood. Persistent urban growth in this area is likely to result in further reductions in the amount of suitable habitat for scrub-jays. Increasing urban pressures are also likely to result in the continued degradation of scrub-jay habitat as fire exclusion slowly results in vegetative overgrowth. Thus, over the long term, scrub-jays are unlikely to persist in urban settings, and conservation efforts for this species should target acquisition and management of large parcels of land outside the direct influence of urbanization.

Construction of the project's infrastructure and facilities would result in harm to scrub-jays, incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with the proposed residential construction would reduce the availability of foraging, sheltering, and possible nesting habitat for one family of scrub-jays. The Applicants propose to conduct clearing activities outside of the nesting season. The Applicants propose to remove any exotic vegetation from the lot and maintain the remaining area in native vegetation for use by the resident scrub-jays. The Applicants propose to replace any scrub oaks and wax myrtles that might be removed during land clearing. The Applicants propose to avoid landscaping with trees that would grow tall (greater than 30 feet) and potentially provide perch trees for predators that could prey on scrub-jays on this lot and surrounding unimproved lots. The Applicants would not have any free-roaming cats as they can be a potential predator on young scrub-jays.

The Applicants also propose to mitigate the take of scrub-jays through contribution of $4,000 to the Sarasota County Scrub-jay Mitigation Plan Fund administered by Sarasota County. Funds in this account are earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and management. The Applicants assert that the $4,000 payment is the maximum extent of mitigation practicable for them while still allowing them to implement on-site mitigation measures.

The Service has determined that the HCP is a low-effect plan that is categorically excluded from further NEPA analysis, and does not require the preparation of an Environmental Assessment or Environmental Impact Statement. This preliminary information may be revised based on our review of any public comments that we receive in response to this notice. Low-effect HCPs are those involving: (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicants' HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Florida scrub-jay population as a whole. The Service does not anticipate significant direct or cumulative effects to the Florida scrub-jay population as a result of the project.

2. Approval of the HCP would not have adverse effects on known unique geographic, historic, or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has determined that approval of the Plan qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1, and 516 DM 6, Appendix 1). Therefore, no further NEPA documentation will be prepared.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITP will be issued for incidental take of the Florida scrub-jay. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: July 18, 2005.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. 05–16168 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

DATES: To ensure consideration, written comments must be received on or before September 15, 2005.

ADDRESSES: Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave. SW, Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, (505) 248–6920.

SUPPLEMENTARY INFORMATION:

Permit No. TE–107811.

Applicant: John Fowler, Las Cruces, New Mexico

Applicant requests a new permit for research and recovery purposes to allow survey and collection for Sacramento prickly poppy (*Argemone pleiacantha ssp. pinnatisecta*) within New Mexico.

Permit no. TE–836329

Applicant: Blanton & Associates, Austin, Texas.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys for interior least tern (*Sterna antillarum*), Mexican spotted owl (*Strix occidnetalis lucida*), southwestern willow flycatcher (*Empidonax traillii extimus*), and Concho water snake (*Nerodia paucimaculata* (=*harteri p.*)) within Arizona, New Mexico, and Texas.

Permit No. TE–108409

Applicant: Tiffany Bone, Urbana, Illinois.

Applicant requests a new permit for research and recovery purposes to allow survey and collection for Huachuca water-umbel (*Lilaeopsis schaffnerinan* var. *recurva*) within Arizona.

Authority: 16 U.S.C. 1531, *et seq.*

Dated: July 28, 2005.

Joy E. Nicholopoulos,

Acting Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 05–16176 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 5-Year Review of Tooth Cave Ground Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 5-year review of the Tooth Cave ground beetle (*Rhadine persephone*) under the Endangered Species Act of 1973 (Act). The purpose of reviews conducted under this section of the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (50 CFR 17.12) is accurate. The 5-year review is an assessment of the best scientific and commercial data available at the time of the review.

DATES: To allow adequate time to conduct this review, information submitted for our consideration must be received on or before November 14, 2005. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Information submitted on this species should be sent to the Field Supervisor, attention 5-year Review, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758. Information received in response to this notice of review will be available for public inspection by appointment, during normal business hours, at the same address.

FOR FURTHER INFORMATION CONTACT: Robert Pine, at the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758, 512–490–0057 x -248.

SUPPLEMENTARY INFORMATION:

Why Is a 5-year Review Conducted?

Section 4(c)(2)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B) and the provisions of subsections (a) and (b), to determine, on the basis of such a review, whether or not any species should be removed from the List of Endangered and Threatened Wildlife and Plants (List), or reclassified from endangered to threatened, or from threatened to endangered. The 5-year review is an assessment of the best scientific and commercial data available at the time of the review. Therefore, we are requesting submission of any new information (best scientific and commercial data) on the Tooth Cave ground beetle since the original listing as endangered in 1988 (53 FR 36029).

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Tooth Cave ground beetle.

What Could Happen as a Result of This Review?

If we find that there is new information concerning Tooth Cave ground beetle indicating a change in classification may be warranted, we may propose a new rule that could either reclassify the species from endangered to threatened (downlist) or remove the species from the List (delist). If we determine that a change in classification is not warranted, then this species will remain on the List under its current status of endangered. Any change in Federal classification would require a separate rule-making process.

What Information Is Considered in the Review?

A 5-year review considers all new information available at the time of the review. These reviews will consider the best scientific and commercial data that have become available since the current listing determination or most recent status review of each species, such as:

A. Species biology, including but not limited to population trends, distribution; abundance, demographics, and genetics;

B. Habitat conditions, including but not limited to amount, distribution, and suitability;

C. Conservation measures that have been implemented to benefit the species;

D. Threat status and trends (see five factors under heading ''How do we determine whether a species is endangered or threatened?''); and

E. Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List of Endangered and Threatened Wildlife and Plants, and improved analytical methods.

Background on the Tooth Cave Ground Beetle

The Tooth Cave ground beetle is a very small invertebrate found only underground in caves and karst features in Williamson and Travis Counties, Texas, in and near the Austin metropolitan area. The continued existence of this species depends on the ecological stability of the karst environments in which it is found. The Tooth Cave ground beetle is known only from the Cedar Park and Jollyville karst fauna regions as delineated by Veni & Associates (1992, Geologic controls on cave development and the distribution of cave fauna in the Austin, Texas, region, Report to U.S. Fish and Wildlife Service, v+77 pp.). Karst fauna regions are geographic areas delineated based on geologic continuity, hydrology, and the distribution of rare karst invertebrate species. There are seven karst fauna regions delineated in Williamson and Travis Counties.

The primary threat to the Tooth Cave ground beetle is habitat loss due to encroaching urban development. The species occurs in an area of central Texas that is undergoing continued

urbanization. Alterations of topography, vegetation and drainage patterns from urbanization can ultimately lead to changes (increases or decreases) in the moisture regime and nutrient input into the karst ecosystems. Alterations can also result in increased sedimentation in karst habitats. Karst environments are also highly susceptible to groundwater contamination, that is, the addition of pollutants to water (from either point or non-point sources) that may pass through karst habitats. Sources of this contamination include urban runoff, agricultural pesticide use, transportation and pipeline spills and landfills. Impacts from red imported fire ants (*Solenopsis invicta*), an exotic species proliferating within the range of Tooth Cave ground beetle, pose another major threat.

How Is the Tooth Cave Ground Beetle Currently Listed?

The List of Endangered and Threatened Wildlife and Plants (List) is found in 50 CFR 17.11 (wildlife) and 17.12 (plants). Amendments to the List through final rules are published in the **Federal Register**. The List is also available on the internet at *http://endangered.fws.gov/wildlife.html#Species.* The Tooth Cave ground beetle is currently listed as endangered (53 FR 36029). The recovery plan for this species was completed in 1994 (available online at *http://endangered.fws.gov/recovery/*) and describes the specific criteria needed to achieve recovery of the species.

Specific Information Requested for the Tooth Cave Ground Beetle

We are especially interested in: (1) The results of survey and monitoring efforts that provide a better understanding of current population numbers and the status, security, and location of karst features that provide habitat for this species; (2) recent information regarding the impacts of urban development on the karst environment within the range of the Tooth Cave ground beetle; (3) the impacts of red imported fire ants on the species; and (4) additional site-specific information on protective measures currently in place for this species and its habitat and the expected longevity of those measures.

Definitions Related to This Notice

The following definitions are provided to assist those persons who consider submitting information regarding the species being reviewed:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature.

B. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

C. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the five following factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Section 4(a)(1) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

Public Solicitation of New Information

We request any new information concerning the status of Tooth Cave ground beetle. See ''What information is considered in the review?'' for specific criteria. Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the supporting record, which we will honor to the extent allowable by law. There also may be circumstances in which we may withhold from the supporting record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not consider anonymous comments, however. 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.

Authority: This document is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: August 10, 2005.

Nancy J. Gloman,

Acting Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 05–16181 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–090–05–1430–EU; GP–05–0100]

Modified Competitive Sales of Public Land; Oregon, Parcel I (OR 55523) and Parcel II (OR 60928)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: This notice announces the proposed sale of two small parcels of public land, totaling 3.89 acres, located in Lane County, Oregon at not less than appraised market value. These parcels are proposed to be sold through modified competitive procedures.

DATES: Submit comments on or before September 30, 2005.

ADDRESSES: Address all written comments concerning this Notice to Steven Calish, Siuslaw Field Manager, Bureau of Land Management (BLM) Eugene District Office, P.O. Box 10226, Eugene, Oregon 97440. Electronic format submittal will not be accepted.

FOR FURTHER INFORMATION CONTACT: Cheryl Adcock (BLM), Realty Specialist, at (541) 683–6145.

SUPPLEMENTARY INFORMATION: The following described public lands in Lane County, Oregon are suitable for sale under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719). These lands are difficult and uneconomic to manage as a part of the public lands and are not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The parcels proposed for sale are identified as suitable for disposal in the Eugene District Record of Decision and Resource Management Plan, dated June, 1995. The parcels proposed for sale are identified as follows:

Parcel I (OR 55523)

Willamette Meridian, Oregon

T. 16 S., R. 6 W.
Sec. 13, lot 2.

The area described contains 1.4 acres. The appraised fair market value for Parcel I, including merchantable timber, is $7,600.

Parcel II (OR 60928)

Willamette Meridian, Oregon

T. 16 S., R. 6 W.
Sec. 13, lot 1.

The area described contains 2.49 acres. The appraised fair market value for Parcel II, including merchantable timber, is $24,100.

In accordance with 43 CFR 2710.0–6(c)(3)(ii), modified competitive sale procedures are appropriate to protect on-going uses, to assure compatibility of the possible uses with adjacent lands, and avoid dislocation of existing users. There is no public access to Parcel II. Both Parcel I and Parcel II are irregularly shaped and are part of a survey hiatus identified by the BLM in 1999.

Bidding for Parcel I is open only to the following adjacent landowners (designated bidders): Gayla Wardwell, Richard W. Guelker, Helen L. Guelker, Joshua R. John, and Douglas L. Gross.

Bidding for Parcel II is open only to the following adjacent landowners (designated bidders): Laurie Riley, Duane Riley, Brenda L. Neely, Joseph A. Neely, Wanda Parr, Michael W. Parr, David D. Little and Weyerhaeuser Company.

Both parcels will be offered for sale at public auction beginning at 10:00 a.m. (local time) on October 20, 2005, at 2890 Chad Drive, Eugene, Oregon, 97401–9336. Sale will be by sealed bid only. All sealed bids must be received by the BLM's Eugene District Office at 2890 Chad Drive, Eugene, Oregon, 97401–9336, (mailing address: P.O. Box 10226, Eugene, Oregon 97440) prior to 10:00 a.m. on October 20, 2005. Bid envelopes must be marked on the lower left front corner either, ''Sale Parcel I (OR 55523)'' or ''Sale Parcel II (OR 60928)''. Bids must be for not less than the appraised market value for each parcel specified in this Notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the ''Department of the Interior, BLM'' for not less that 10 percent of the amount bid.

Under modified competitive sale procedures, the written sealed bids will be opened and an apparent high bid will be declared at the sale. The apparent high bidder and the other designated bidders will be notified by mail. In case of a tie of bids submitted by interested designated bidders, the interested designated bidders would be given an opportunity to submit a written agreement as to the division of lands, or an additional sealed bid, meeting the above-stated requirements, within 30 days written notification of eligibility. At that time, the high bidder would be awarded the property. The total purchase price for the land shall be paid within 180 days of the date of this sale.

Additional Terms and Conditions of Sale

If either or both of the parcels are not sold on October 20, 2005, the parcel will be re-offered on a continuing basis in accordance with the competitive sale procedures described in 43 CFR 2711.3–1. Sealed bids prepared and submitted in the manner described above, will be accepted from any qualified bidder. Bids will be opened at 10 a.m. (local time), on the 14th day of each month thereafter, through December 14, 2005, unless an apparent high bid is declared prior to that date.

Federal law requires that public land may be sold only to either (1) citizens of the United States, 18 years of age or over; (2) corporations subject to the laws of any State or of the United States; (3) a State, State instrumentality or political subdivision authorized to hold property; (4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State within which the lands to be conveyed are located. Certifications and evidence to this effect will be required of the purchaser prior to issuance of a patent.

The following rights, reservations, and conditions will be included in the patent conveying the land:

1. A right-of-way for ditches and canals will be reserved to the United States under the authority of the Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

2. The patent will include a notice and indemnification statement under the Comprehensive Environmental Response, Compensation and Liability Act. All parcels are subject to the requirements of section 120(h)(42 U.S.C. section 9620) holding the United States harmless from any release of hazardous materials that may have occurred as a result of the unauthorized use of the property by other parties. No warranty of any kind, express or implied, is given by the United States as to the title, physical condition or potential uses of the parcel of land proposed for sale.

3. The patent will be issued subject to all valid existing rights and reservations of record.

A successful bid for the parcel will constitute an application for conveyance of the mineral estate in accordance with Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). A nonrefundable fee of $50.00 will be required from the prospective purchaser for purchase of the mineral interests. Those mineral interests, to be conveyed simultaneously with the sale of the land, have been determined to have no known mineral value.

In accordance with the goals in BLM Manual 2801.62A.1. and 2801.62B., the purchaser, if it is not Douglas L. Gross, at closing, will be required to grant an easement to Douglas L. Gross, for an existing driveway and utility line, which crosses Parcel I (OR 55523).

The land described herein is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of the action or 270 days from the date of publication of this notice, whichever occurs first.

Public Comments

Detailed information concerning this land sale, including the reservations, sale procedures and conditions, appraisal, planning and environmental documents, and mineral report, is available for review at the Eugene District Office, Bureau of Land Management, 2890 Chad Drive, Eugene, Oregon, 97401–9336.

Objections will be reviewed by the Eugene District Manager, who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposal will become the final determination of the Department of the Interior.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. The BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. The BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

(Authority: 43 CFR 2711.1–2(c))

Steven A. Calish,

Field Manager, Siuslaw Resource Area.

[FR Doc. 05–16161 Filed 8–15–05; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–512]

In the Matter of Certain Light-Emitting Diodes and Products Containing Same; Notice of Commission Final Determination of No Violation of Section 337 as to One Patent and Determination To Remand the Investigation as to Certain Other Patents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is no violation of 19 U.S.C. 1337 by Dominant Semiconductors Sdn. Bhd. (''Dominant'') with regard to United States Patent No. 6,576,930 and that the Commission has determined to remand the investigation with respect to certain other patents to the presiding administrative law judge.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3090, or Michelle Walters, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation based on a complaint filed by Osram GmbH and Osram Opto Semiconductors GmbH, both of Germany (collectively, ''Osram''). 69 FR 32609 (June 10, 2004). In the complaint, as supplemented and amended, Osram alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diodes and products containing the same by reason of infringement of various claims of United States Patent Nos. 6,066,861, 6,277,301, 6,613,247, 6,245,259, 6,592,780 (collectively, the ''Particle Size Patents''), United States Patent No. 6,576,930 (the '' '930 patent''), United States Patent Nos. 6,376,902, 6,469,321, 6,573,580 (collectively, the ''Lead Frame Patents''), and United States Patent No. 6,716,673 (the '' '673 patent'').

On May 10, 2005, the presiding administrative law judge (''ALJ'') issued his final initial determination (''ID'') finding the sole remaining respondent Dominant in violation of section 337, but only with respect to the '673 patent. The ALJ concluded that the asserted claims of the Particle Size Patents are invalid for indefiniteness, that the '930 patent and the Lead Frame Patents are not infringed by Dominant's accused products, and that Osram does not meet the technical prong of the domestic industry requirement with respect to the '930 patent.

On June 24, 2005, the Commission determined to review the ALJ's findings and conclusions regarding the Particle Size Patents, the '930 patent, and the Lead Frame Patents. 70 FR 37431 (June 29, 2005). The Commission declined to review the ALJ's determination of violation of section 337 with respect to the '673 patent.

Having examined the record of this investigation, including the ALJ's final ID and the submissions of the parties, the Commission has (1) determined that the Particle Size Patents are not invalid for indefiniteness with respect to the phrase ''mean grain diameter d_{50}'' or the failure to specify the basis for calculating the ''mean grain diameter d_{50}'' and particle size distribution as number or volume, construed the asserted claims, and remanded this part of the investigation to the ALJ for the purpose of determining whether there is a violation of section 337; and (2) determined that there is no violation of section 337 with regard to the '930 patent. The Commission has extended the target date of the above-captioned investigation to December 12, 2005 and instructed the ALJ to make his determination on remand by October 11, 2005. The parties are invited to file comments on the ALJ's remand determination within five business days after service of the ALJ's determination and to file responses to the comments within five business days after service of the comments. The Commission has decided to defer addressing the issue of violation of the Lead Frame Patents, as well as issues relating to remedy, public interest, and bonding, until after the ALJ issues his initial determination on remand regarding the Particle Size Patents.

Further, the Commission has determined to deny Osram's motion to admit the prosecution history of United States Application No. 10/616,783 into the record. The Commission, however, has determined to grant Dominant's motion for extension of time to submit its Response of Respondent Dominant Semiconductors Sdn. Bhd. to the Notice of Commission Determination to Review a Final Determination on Violation of Section 337.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.45 of the Commission's Rules of Practice and Procedure (19 CFR 210.45).

Issued: August 10, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–16222 Filed 8–15–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 4–05]

F.C.S.C. Meeting Notice No. 4–05; Sunshine Act

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 405) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Thursday, August 25, 2005, at 10 a.m.

Subject Matter: Issuance of Proposed Decisions and Orders in claims against Albania.

Status: Open.

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room

6002, Washington, DC 20579. Telephone: (202) 616–6988.

Mauricio J. Tamargo,

Chairman

[FR Doc. 05–16302 Filed 8–12–05; 1:05 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP)–1420]

Meeting of the Global Justice Information Sharing Initiative Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of the Global Justice Information Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *http://www.it.ojp.gov/global*.

DATES: The meeting will take place on Thursday, October 20, 2005, from 9 a.m. to 3 p.m. e.t.

ADDRESSES: The meeting will take place at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202; phone: (703) 486–1111.

FOR FURTHER INFORMATION CONTACT: J. Patrick McCreary, Global Designated Federal Employee (DFE), Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, Washington, DC 20531; phone: (202) 616–0532 (note: this is not a toll-free number); e-mail: *James.P.McCreary@usdoj.gov*.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with J. Patrick McCreary at the above address at least seven (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting.

Anyone requiring special accommodations should notify J. Patrick McCreary at least seven (7) days in advance of the meeting.

Purpose

The GAC will act as the focal point to explore and recommend policies regarding national justice information sharing issues in support of the Administration's justice priorities.

The GAC will support the development of justice information sharing concepts. It will advise the Attorney General, and the President (through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also promote strategies for accomplishing justice information sharing capabilities.

Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFE.

J. Patrick McCreary,

Global DFE, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. 05–16159 Filed 8–15–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Local Area Unemployment Statistics (LAUS) Program.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section below on or before October 17, 2005.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS has been charged by Congress (29 U.S.C. Section 1 and 2) with the responsibility of collecting and publishing monthly information on employment, the average wage received, and the hours worked by area and industry. The process for developing residency-based employment and unemployment estimates is a cooperative Federal-State program which uses employment and unemployment inputs available in State Workforce Agencies.

The labor force estimates developed and issued in this program are used for economic analysis and as a tool in the implementation of Federal economic policy in such areas as employment and economic development under the Workforce Investment Act and the Public Works and Economic Development Act, among others.

The estimates also are used in economic analysis by public agencies and private industry, and for State and area funding allocations and eligibility determinations according to legal and administrative requirements. Implementation of current policy and legislative authorities could not be accomplished without collection of the data.

The reports and manual covered by this request are integral parts of the LAUS program insofar as they insure and/or measure the timeliness, quality, consistency, and adherence to program directions of the LAUS estimates and related research.

II. Current Action

The BLS is revising the information collection request that makes up the LAUS program. All aspects of the program are automated. All data are entered directly into BLS-provided systems.

The BLS, as part of its responsibility to develop concepts and methods by which States prepare estimates under the LAUS program, developed a manual for use by the States. The manual explains the conceptual framework for the State and area estimates of employment and unemployment, specifies the procedures to be used,

provides input information, and discusses the theoretical and empirical basis for each procedure. This manual is updated on a regular schedule. The LAUS program implemented a major program redesign in January 2005. The Redesign was announced in the **Federal Register** on November 8, 2004.

The increase in the number of responses from the last collection is due to the increase in the number of areas covered by the program.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Local Area Unemployment Statistics (LAUS) Program.

OMB Number: 1220–0017.

Affected Public: State government.

Total Respondents: 52.

Frequency: Monthly and Annually.

Total Responses: 95,069.

Average Time Per Response: 1.50 hours.

Estimated Total Burden Hours: 142,298 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 9th day of August, 2005.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 05–16191 Filed 8–15–05; 8:45 am]

BILLING CODE 4510–24–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368]

Entergy Operations, Incorporated; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission, NRC) is considering issuance of an amendment to Facility Operating License No. NFP–6, issued to Entergy Operations Incorporated (the licensee), for operation of Arkansas Nuclear One Unit 2 (ANO–2), located in Pope county.

The proposed amendment would define spent fuel loading restrictions for the Holtec International HI–STORM 100 Cask System Multi–Purpose Canister (MPC)–32. The licensee will be removing spent fuel from the spent fuel pool and placing it in dry storage as early as September 2005. This activity will restore the full-core offload capability at ANO–2.

The licensee believed that the calculation that considered the requirements of 10 CFR 50.68 for loading/unloading an MPC–32 met the criteria of 10 CFR 50.59 and 10 CFR 50.36, and did not require NRC review and approval. However, based on Regulatory Information Summary (RIS) 2005–05, ''Regulatory Issues Regarding Criticality Analyses for Spent Fuel Pools and Independent Spent Fuel Storage Installations,'' the licensee submitted a pre-application letter to the NRC outlining the plans to submit a non-exigent technical specification (TS) change and justification for continued operations without prior NRC approval based on guidance contained in Administrative Letter 98–10, ''Dispositioning of Technical Specifications that are Insufficient to Assure Plant Safety,'' and Generic Letter 91–18, ''Information to Licensees Regarding Two NRC Inspection Manual Sections on Resolution of Degraded and Nonconforming Conditions and on Operabiltiy.'' In a teleconference between the licensee and the NRC staff held on July 19, 2005, the NRC stated that it did not believe ANO–2 was in compliance with 10 CFR 50.68 and, therefore, the proposed change required NRC approval prior to proceeding with cask loading activities.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The fuel handling accidents described below can be postulated to increase reactivity. However, for these accident conditions, the double contingency principle of ANS N16.1–1975 is applied. This states that it is unnecessary to assume two unlikely, independent, concurrent events to ensure protection against a criticality accident. Thus, for accident conditions, the presence of soluble boron in the SFP [spent fuel pool] water can be assumed as a realistic initial condition since its absence would be a second unlikely event.

Loading/unloading a storage cask in the SFP does not affect the previously evaluated fuel handling accidents (*i.e.*, criticality effects) in the SFP. The ANO–2 TS for SFP boron concentration ensures subcritical conditions in the SFP during fuel movement activities, whether within the SFP racks or to a storage cask during normal and accident conditions.

The cask configuration for the storage cask (MPC–32) is sufficiently similar to spent fuel racks in the SFP as to not induce new or different spent fuel assembly damage in the unlikely event of the occurrence of a fuel handling accident during storage cask loading/unloading activities. The fuel handling accident includes four drop scenarios (fuel drop horizontally on a cask, fuel drop on a fuel assembly, fuel drop next to a cask, and a fuel drop on the cask basket). The same equipment and procedural controls for controlling fuel within the SFP are utilized when loading/unloading a storage

cask. In addition, the postulated fuel handling accidents associated with loading/unloading a storage cask are bounded by current ANO–2 TS SFP requirements for minimum boron concentration.

Loading/unloading a storage cask will have no impact on the boron dilution event probability. The same controls for prohibiting a dilution event during spent fuel movement activities in the SFP are in use when loading/unloading fuel in a cask located in the cask pit.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The storage casks have the same basic design and control of a SFP rack. The cask cell walls are thicker than the SFP rack walls; the outside wall on the cask is thicker than the SFP racks and the space for mishandling is tighter than around the racks. When the cask loading pit gate is open and the Technical Specifications are applicable, the pit is in direct communications with the spent fuel pool. Boron concentrations and decay heat removal for fuel in the cask loading pit is controlled in the same manner as it is for fuel in the spent fuel pool proper.

An accident analysis for the MPC–32 was performed assuming the same SFP rack accidents that are discussed in the ANO–2 SAR [safety analysis report]. The ANO–2 TS boron concentration assures that a subcritical margin is maintained during any postulated accident condition (*i.e.*, k_{eff} [effective neutron multiplication coefficient] is less than or equal to 0.95).

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The ANO–2 TSs require for criticality concerns in the SFP that k_{eff} remain less than or equal to 0.95. For the MPC–32, the criticality analysis demonstrated that when the ANO–2 TS for SFP boron concentration is met, a loading restriction is required to ensure k_{eff} remains less than or equal to 0.95. The proposed change to the ANO–2 TS will ensure the criticality margin is maintained.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these

requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to Nicholas S. Reynolds, Esquire, Winston and Strawn, 1700 K Street, NW., Washington, DC 20006–3817, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated July 21, 2005, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated in Rockville, Maryland, this 9th day of August 2005.

For the Nuclear Regulatory Commission.

Drew G. Holland,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–4418 Filed 8–15–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301]

Nuclear Management Company, LLC; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–24 and DPR–27 issued to Nuclear Management Company, LLC (the licensee), for operation of the Point Beach Nuclear Plant (PBNP), Units 1 and 2, located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The proposed amendments would revise the licensing basis as described in the Point Beach Nuclear Plant Final Safety Analysis Report to incorporate the proposed Unit 1 reactor vessel head (RVH) drop analysis and the revised Unit 2 RVH drop analysis.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in title 10 of the Code Of Federal Regulations (10 CFR), section 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would the proposed amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed change incorporates the revised heavy load analysis into the PBNP FSAR. This analysis involves the postulated drop of the RVH [reactor vessel head] over a reactor vessel containing fuel assemblies. Assuming that the BMI [bottom mounted instrument] tubes are severed as a result of displacement of the reactor vessel, a decrease in reactor coolant inventory will occur. Thus, a RVH drop can be postulated as an initiator of a Loss of Coolant Accident (LOCA) under shutdown conditions.

A RVH drop is of sufficiently low probability such that, for Unit 1, the probability of a LOCA is not significantly increased over the current licensing basis large break LOCA. For Unit 2, the probability is unchanged from the previously approved RVH drop analysis.

For Unit 1, supplemental administrative controls have been established to assure continued availability of multiple independent sources of water to provide core cooling and makeup water well in excess of the postulated LOCA. Containment closure will also be established during this evolution. No pressurization of the reactor coolant system will occur as a result of this postulated event. For Unit 2, the previously approved administrative controls have been revised, consistent with those submitted for Unit 1 herein, to provide additional makeup water capacity.

The calculated radiological consequences of the postulated RVH drop are within those calculated for the current licensing basis large break LOCA. Therefore, the consequences of a LOCA are not increased. The proposed change is consistent with safety analysis assumptions and resultant consequences. All Technical Specifications are satisfied and required equipment is operable. Therefore, this change would not

significantly increase the probability of occurrence or consequences of any accident previously evaluated.

2. Would the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

For Unit 1, the proposed change incorporates the revised heavy load analysis into the PBNP FSAR. This analysis involves the postulated drop of the RVH over a reactor vessel containing fuel assemblies. Assuming that the BMI tubes are severed as a result of displacement of the reactor vessel, a decrease in reactor coolant inventory will occur. Thus, a RVH drop can be postulated as an initiator of a LOCA under shutdown conditions.

Adequate core cooling and makeup water remains available from core cooling water systems. Maintaining core cooling and makeup and closing containment assures that the drop of a RVH is bounded by the existing licensing basis analysis for a LOCA. The drop of a RVH was previously evaluated by the NRC for Unit 2 in a safety evaluation dated June 24, 2005. Therefore, the proposed changes would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Would the proposed amendment result in a significant reduction in a margin of safety?

Response: No.

For Unit 1, the proposed change incorporates the revised heavy load analysis into the PBNP FSAR. This analysis involves the postulated drop of the RVH over a reactor vessel containing fuel assemblies. Assuming that the BMI tubes are severed as a result of displacement of the reactor vessel, a decrease in reactor coolant inventory will occur. Thus, a RVH drop can be postulated as an initiator of a LOCA under shutdown conditions.

The frequency and consequences of a RVH drop are comparable to or within those of the current licensing basis large break LOCA. The proposed change does not alter any safety limits, limiting safety system settings, or limiting conditions for operation as defined in the Technical Specifications. The drop of a RVH was previously evaluated by the NRC for Unit 2 in a safety evaluation dated June 24, 2005. Therefore, the proposed amendment does not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendments before expiration of the 60-day period provided that its final determination is that the amendments involve no significant hazards consideration. In addition, the Commission may issue the amendments prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy

these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *hearingdocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemaking and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016, attorney for the licensee.

For further details with respect to this action, see the application for amendments dated July 24, 2005, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 10th day of August 2005.

For the Nuclear Regulatory Commission.

Harold K. Chernoff,

Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–4419 Filed 8–15–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of August 15, 22, 29, and September 5, 12, 19, 2005.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of August 15, 2005

Tuesday, August 16, 2005.

10 a.m. Meeting with Organization of Agreement States (OAS) and the Conference of Radiation Control Program Directors CRCPD) (Public Meeting) (Contact: Shawn Smith, 301–415–2620).

This meeting will be Web cast live at the Web address—*http://www.nrc.gov*.

1 p.m. Discussion of Security Issues (Closed—Ex. 3 & 9).

Week of August 22, 2005—Tentative

There are no meetings scheduled for the week of August 22, 2005.

Week of August 29, 2005—Tentative

There are no meetings scheduled for the week of August 29, 2005.

Week of September 5, 2005—Tentative

Wednesday, September 7, 2005.

9 a.m. Discussion of Security Issues (Closed—Ex. 1).

1:30 p.m. Discussion of Security Issues (Closed—Ex. 3).

Week of September 12, 2005—Tentative

There are no meetings scheduled for the week of September 12, 2005.

Week of September 19, 2005—Tentative

There are no meetings scheduled for the week of September 19, 2005. *The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html*.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301–415–7080, TDD: 301–415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: August 11, 2005.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 05–16256 Filed 8–12–05; 10:22 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 22, 2005, to August 4, 2005. The last biweekly notice was published on August 2, 2005 (70 FR 44400).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or

fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(I)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: June 20, 2005.

Description of amendments request: The proposed change would revise the Technical Specification Surveillance Requirement 3.6.1.6.2 of 3.6.1.6, ''Suppression Chamber-to-Drywell Vacuum Breakers'' for the frequency of functionally testing the suppression chamber-to-drywell vacuum breakers.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises Surveillance Requirement [SR] 3.6.1.6.2 to require performance of functional testing of each suppression chamber-to-drywell vacuum breaker every 92 days, within 12 hours after any discharge of steam to the suppression chamber from the safety/relief valves, and within 12 hours following an operation that causes any of the vacuum breakers to open.

The proposed change does not involve physical changes to any plant structure, system, or component. The suppression chamber-to-drywell vacuum breakers only provide an accident mitigation function. As such, the probability of occurrence for a previously analyzed accident is not impacted by the change to the surveillance frequency for these components. The consequences of a previously analyzed accident are dependent on the initial conditions assumed for the analysis, the behavior of the fuel during the analyzed accident, the availability of successful functioning of the equipment assumed to operate in response to the analyzed event, and the setpoints at which these actions are initiated. No physical change to suppression chamber-to-drywell vacuum breakers is being made as a result of the proposed change, nor does the change alter the manner in which the vacuum breakers operate. As a result, no new failure modes of the suppression chamber-to-drywell vacuum breakers are being introduced. The proposed quarterly surveillance frequency for the suppression chamber-to-drywell vacuum breakers is consistent with the American Society of Mechanical Engineers (ASME) Code frequency for testing these valves, will avoid unnecessary cycling and wear of the vacuum breakers, and will improve the reliability of the vacuum breakers. Based on this evaluation, there is no significant increase in the consequences of a previously analyzed event.

Therefore, the proposed change to the surveillance frequency for the suppression chamber-to-drywell vacuum breakers does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Does not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed change to the surveillance frequency for the suppression chamber-to-drywell vacuum breakers does not involve any physical alteration of plant systems, structures, or components. No new or different equipment is being installed. No installed equipment is being operated in a different manner. There is no alteration to the parameters within which the plant is normally operated or in the setpoints that initiate protective or mitigative actions. As a result no new failure modes are being introduced. Therefore, the proposed change to the surveillance frequency for the suppression chamber-to-drywell vacuum breakers does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The proposed change revises SR 3.6.1.6.2 to require performance of functional testing of each vacuum breaker every 92 days, within 12 hours after any discharge of the steam to the suppression chamber from the safety/relief valves, and within 12 hours following an operation that causes any of the vacuum breakers to open. The operability and functional characteristics of the suppression chamber-to-drywell vacuum breakers remains unchanged. The margin of safety is established through the design of the plant structures, systems, and components, through the parameters within which the plant is operated, through the establishment

of the setpoints for the actuation of equipment relied upon to respond to an event, and through the margins contained within the safety analyses. The proposed change to the surveillance frequency for the suppression chamber-to-drywell vacuum breakers does not impact the condition or performance of structures, systems, setpoints, and components relied upon for accident mitigation. As previously noted, the proposed quarterly surveillance frequency for the suppression chamber-to-drywell vacuum breakers is consistent with the ASME Code for frequency for testing these vacuum breakers, will avoid unnecessary cycling and wear of the vacuum breakers, and will improve the reliability of the vacuum breakers. The proposed change does not impact any safety analysis assumptions or results. Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Michael L. Marshall, Jr.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: June 29, 2005.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) to revise Surveillance Requirements (SR) 3.6.1.3.11 and 3.6.1.3.12 in TS 3.6.1.3, ''Primary Containment Isolation Valves (PCIVs).'' Specifically, the proposed amendment would revise the combined secondary containment bypass leakage rate limit for all bypass leakage paths in SR 3.6.1.3.11 from 0.05 to 0.10 L_a and the combined main steam isolation valve (MSIV) leakage rate limit for all four main steam lines in SR 3.6.1.3.12 from 150 to 250 standard cubic feet per hour (scfh).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The increase in the allowed secondary containment bypass leakage limit in SR 3.6.1.3.11 and the increase in the total Main Steam Isolation Valve (MSIV) leakage rate limit have been evaluated in a revision to the analysis of the Loss of Coolant Accident (LOCA). Based on the results of the analysis, it has been demonstrated that, with the requested change, the dose consequences of this limiting Design Basis Accident (DBA) are within the regulatory guidance provided by the NRC [Nuclear Regulatory Commission] for use with the AST [alternative source term]. This guidance is presented in 10 CFR 50.67, Regulatory Guide 1.183, ''Alternative Radiological Source Terms For Evaluating Design Basis Accidents At Nuclear Power Reactors,'' and Standard Review Plan (SRP) Section 15.0.1. The proposed change also updates the design basis value for the Control Room Envelope (CRE) unfiltered inleakage based on actual test results. This is acceptable because the assumed value in the analysis is more than three times the worst case test value. The proposed change does not affect the normal design or operation of the facility before the accident; rather, it affects leakage limit assumptions that constitute inputs to the evaluation of the consequences. The radiological consequences of the analyzed LOCA have been evaluated using the plant licensing basis for this accident. The results conclude that the control room and offsite doses remain within applicable regulatory limits. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change in leakage limits does not affect the design, functional performance or normal operation of the facility. Similarly, it does not affect the design or operation of any component in the facility such that new equipment failure modes are created. As such the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

This proposed license amendment involves changes in leakage rate limits for the secondary containment bypass leakage and MSIV leakage. The revised leakage rate limits are used in the LOCA radiological analysis in conjunction with the revised CRE unfiltered inleakage limit. The analysis has been performed using conservative methodologies. Safety margins and analytical conservatisms have been evaluated and have been found acceptable. The analyzed LOCA event has been carefully selected and margin has been retained to ensure that the analysis adequately bounds postulated event scenario. The dose consequences of this limiting event are within the acceptance criteria presented in 10 CFR 50.67, Regulatory Guide 1.183 and SRP Section 15.0.1. The margin of safety is that provided by meeting the applicable regulatory limits. The effect of the revision to the Technical Specification requirements has been analyzed and doses resulting from the pertinent design basis accident have been found to remain within the regulatory limits. The change continues to ensure that the doses at the exclusion area and low population zone boundaries, as well as the control room, are within the corresponding regulatory limits. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David G. Pettinari, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Section Chief: L. Raghavan.

Entergy Nuclear Operations, Inc., Docket Nos. 50–247 and 50–286, Indian Point Nuclear Generating Unit Nos. 2 and 3, Westchester County, New York

Date of amendment request: June 8, 2005.

Description of amendment request: The proposed change allows a delay time for entering a supported system Technical Specification (TS) when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed consistent with the program in place for complying with the requirements of 10 CFR 50.65(a)(4). Limiting Condition for Operation (LCO) 3.0.8 is added to the TS to provide this allowance and define the requirements and limitations for its use.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–372, Revision 4. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on November 24, 2004 (69 FR 68412), on possible amendments concerning TSTF–372, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 4, 2005 (70 FR 23252). The licensee affirmed the applicability of the following NSHC determination in its application dated June 8, 2005.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change allows a delay time for entering a supported system TS when the

inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Allowing delay times for entering supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety.

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in Regulatory Guide 1.177. A bounding risk assessment was performed to justify the proposed TS changes. The proposed LCO 3.0.8 defines limitations on the use of the provision and includes a requirement for the licensee to assess and manage the risk associated with operation with an inoperable snubber. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Section Chief: Richard J. Laufer.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: May 31, 2005.

Description of amendment request: The proposed change allows entry into a mode or other specified condition in the applicability of a Technical Specification (TS), while in a condition statement and the associated required actions of the TS, provided the licensee performs a risk assessment and manages risk consistent with the program in place for complying with the requirements of Title 10 of the Code of Federal Regulations (10 CFR), part 50, section 50.65(a)(4). Limiting Condition for Operation (LCO) 3.0.4 exceptions in individual TSs would be eliminated, several notes or specific exceptions are revised to reflect the related changes to LCO 3.0.4, and Surveillance Requirement (SR) 3.0.4 is revised to reflect the LCO 3.0.4 allowance.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–359. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 2, 2002 (67 FR 50475), on possible amendments concerning TSTF–359, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on April 4, 2003 (68 FR 16579). The licensee affirmed the applicability of the following NSHC determination in its application dated May 31, 2005.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. Being in a TS condition and the associated required actions is not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on required actions as allowed by proposed LCO 3.0.4, are no different than the consequences of an accident while entering and relying on the required actions while starting in a condition of applicability of the TS. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Entering into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. The TS allow operation of the plant without the full complement of equipment through the conditions for not meeting the TS LCO. The risk associated with this allowance is managed by the imposition of required actions that must be performed within the prescribed completion times. The net effect of being in a TS condition on the margin of safety is not considered significant. The proposed change does not alter the required actions or completion times of the TS. The proposed change allows TS conditions to be entered, and the associated required actions and completion times to be used in new circumstances. This use is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The change also eliminates current allowances for utilizing required actions and completion times in similar circumstances, without assessing and managing risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Section Chief: Richard J. Laufer.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: May 24, 2005.

Description of amendment request: The proposed amendment would delete the Technical Specification (TS) temperature limit for the safety relief valve (SRV) discharge pipe and the requirements for NRC approval of the associated engineering evaluation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No. This proposed change deletes an administrative requirement for NRC approval of an engineering evaluation to resolve a non-conforming and degraded condition that is required by NRC Generic Letter 91–18 (GL), Rev. 1, ''Information to Licensees Regarding NRC Inspection Manual Section on Resolution of Degraded and Nonconforming Conditions''. The SRVs will be maintained operable, inspected, and tested to perform their safety function as required by the current Specifications and any SRV non-conforming or degraded condition will be addressed in accordance with GL 91–18. The proposed change also deletes a Note regarding installed two-stage Target Rock SRVs. The deletion of an administrative requirement and the Note does not change the plant response to the design basis accident and does not increase the probability of inadvertent SRV operation. Therefore, the proposed change does not significantly increase the probability or consequences of any previously evaluated accidents.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No. The safety function of the SRVs is to provide over-pressure protection of the primary coolant pressure boundary and also for the automatic functions to rapidly depressurize the primary system to a pressure at which low-pressure cooling systems can provide makeup. The proposed change deletes an administrative requirement and a Note related to installed two-stage Target Rock SRVs, and does not introduce any new modes of equipment operation or failure. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No. The ability of the SRVs to perform their safety function is maintained during operation and will continue to be tested as required in accordance with TS 3/4.13, Inservice Code Testing. The proposed change deletes an administrative requirement that is adequately addressed by following GL 91–18, Rev. 1. Deletion of an administrative requirement does not reduce the margin of safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. M. Fulton, Esquire, Assistant General Counsel, Pilgrim Nuclear Power Station, 600 Rocky Hill Road, Plymouth, Massachusetts, 02360–5599.

NRC Section Chief: Darrell Roberts.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: May 24, 2005.

Description of amendment request: The proposed amendment would delete the main steam isolation valve (MSIV) twice per week partial stroke testing surveillance specified in Technical specification (TS) 4.7.A.2.b.1.c.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No. This proposed change deletes the requirement to exercise the MSIV's twice per week at power. The MSIVs will continue to be full stroke tested by the Inservice Testing Program. The MSIVs will continue to be able to perform their accident mitigation function. The plant response to the design basis accident will not change and the probability of inadvertent MSIV closure will not be increased. Therefore, the proposed change does not significantly increase the probability or consequences of any previously evaluated accidents.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No. The safety function of the MSIVs is to isolate the main steam lines in case of design basis accidents to limit the loss of reactor coolant and/or limit the release of radioactive materials. The proposed change does not introduce any new modes of equipment operation or failure. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No. The ability of the MSIVs to perform their safety function is tested during the MSIV full stroke fast closure test in accordance with TS 3.13, Inservice Testing Program. The proposed change deletes a high-risk surveillance. Deletion of the high-risk surveillance does not reduce the margin of safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. M. Fulton, Esquire, Assistant General Counsel, Pilgrim Nuclear Power Station, 600 Rocky Hill Road, Plymouth, Massachusetts, 02360–5599.

NRC Section Chief: Darrell Roberts.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: March 7, 2005.

Description of amendment request: The proposed amendment request will add two NRC approved topical report references to the list of analytical methods in Technical Specification 5.6.5, ''Core Operating Limits Report (COLR),'' that can be used to determine core operating limits. The proposed changes are:

1. Add a NRC previously approved Siemans Power Corporation (SPC) topical report reference for determination of fuel assembly critical power for previously loaded Global Nuclear Fuel (GNNF) GE14 fuel which will be co-resident with reloaded Framatome ANP ATRIUM–10 fuel.

2. Add a NRC previously approved Framatome Advanced Nuclear Power, Inc. (FRA–ANP) topical report reference for an uprated methodology for evaluation of loss coolant accident (LOCA) conditions.

The proposed changes are the result of a redesign to untilize Framatome ANP ATRIUM–10 fuel during the Unit 1 Refueling Outage 11 currently scheduled for February 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes will add two additional NRC approved topical report references to the list of administratively controlled analytical methods in Technical Specification (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' that can be used to determine core operating limits. TS 5.6.5 lists NRC approved analytical methods used at LaSalle County Station (LSCS) to determine core operating limits.

LSCS Unit 1 is scheduled to reload Framatome ANP ATRIUM–10 fuel during the Unit 1 Refueling Outage 11currently scheduled for February 2006. The proposed changes to TS Section 5.6.5 will add FRA-ANP methodologies to determine overall core operating limits for future core configurations. This change will require the listing of additional analytical methods for evaluating LOCA conditions and determining the critical power performance of the GE14 fuel. Thus, the proposed changes will allow LSCS to use the most recent FRA-ANP LOCA methodology for evaluation of ATRIUM–10 fuel and SPC critical power correlations to determine the critical power for the GE14 fuel.

The addition of approved methods to TS Section 5.6.5 has no effect on any accident initiator or precursor previously evaluated and does not change the manner in which the core is operated. The methods have been reviewed to ensure that the output accurately models predicted core behavior, have no effect on the type or amount of radiation released, and have no effect on predicted offsite doses in the event of an accident. Additionally the methods do not change any key core parameters that influence any accident consequences. Thus, the proposed changes do not have any effect on the probability of an accident previously evaluated.

The methodology conservatively establishes acceptable core operating limits such that the consequences of previously analyzed events are not significantly increased.

The proposed changes in the administratively controlled analytical methods do not affect the ability of LSCS to successfully respond to previously evaluated accidents and does not affect radiological assumptions used in the evaluations. Thus, the radiological consequences of any accident previously evaluated are not increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed changes involve TS 5.6.5 do not affect the performance of any LSCS structure, system, or component credited with mitigating any accident previously evaluated. The insertion of fuel, which has been analyzed with NRC approved methodologies, will not affect the control parameters governing unit operation or the response of plant equipment to transient conditions. The proposed changes do not introduce any new modes of system operation or failure mechanism.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—Do the proposed changes involve a significant reduction in the margin of safety.

Response: No.

The proposed changes will add two additional references to the list of administratively controlled analytical methods in TS 5.6.5 that can be used to determine core operating limits. The proposed changes do not modify the safety limits or setpoints at which protective actions are initiated and do not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety. Therefore, LSCS has determined that the proposed changes provide an equivalent level of protection as that currently provided.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Thomas S. O'Neill, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Section Chief: Gene Y. Suh.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: July 5, 2005.

Description of amendment request: The proposed amendment would modify the existing Technical Specification (TS) 3.3.1.3, ''Oscillation Power Range Monitor (OPRM) Instrumentation,'' Surveillance Requirement (SR) 3.3.1.3.5. Specifically, the thermal power level at which the OPRMs are ''not bypassed'' (enabled to perform their design function) will be changed from > 28.6 percent rated thermal power to ≥ 23.8 percent rated thermal power.

Plant-specific stability calculations are now required as part of the resolution to several generic issues associated with OPRM operability. One of the outcomes from this resolution was a change in the OPRM enabled region of the power to flow map. The thermal power level for enabling the OPRMs for Cycle 10 became > 27.2 percent rated thermal power. Since the current TS SR requirement is > 28.6 percent, the new TS SR thermal power level value is considered a non-conservative TS. The Perry Nuclear Power Plant (PNPP) is currently requiring the OPRMs to be enabled at ≥ 23.8 percent thermal power level through administrative controls. These controls will remain in place until such time that this license amendment is approved (reference NRC Administrative Letter 98–10, ''Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety,'' dated December 12, 1998).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves the use of a revised thermal power level to establish the OPRM enabled region. The OPRM enabled region is that area on the power to flow map where the OPRM System is activated to detect and suppress potential instability events. If reactor operations result in entrance into this region and a core instability is detected, the OPRM System will automatically initiate a reactor scram. The revised enabled region provides assurance that the requirements of 10CFR50, Appendix A, General Design Criteria 10 and 12 remain satisfied for current and future core designs. Though the initiation of instability events are dependent upon thermal power levels and core flows, the revision to the enabled region thermal power level value does not increase the possibility of such an event. Once the OPRMs are enabled, the OPRM System would still mitigate an instability event, if detected. The revised enabled region does not impact any OPRM detection or mitigation actions for instability events.

The OPRMs are designed to detect and suppress potential instability events. As such, the OPRMs are not credited to provide any type of detection or mitigation actions for transients or accidents described within the PNPP Updated Final Safety Analysis Report (USAR) other than instability events. Hence, revising the OPRMs enabled region will not impact the transients or accidents described within the PNPP Updated Safety Analysis Report (USAR) other than instability events.

Since the OPRMs will be enabled at a thermal power lower than analytically required, the potential for additional scrams exists. However, since the possibility of an instability event occurring in the range between the revised thermal power level and the analytical value is remote, the probability of an additional scram from occurring is not significantly increased.

Therefore, since no significant changes are being made to the plant or its design, the probability or the consequences of an accident have not increased over those previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change involves the use of a revised thermal power level to establish the OPRM enabled region. The use of a revised thermal power level to establish the OPRM enabled region does not involve a physical modification to any plant system or component, including the fuel. The revised enabled region provides assurance that the requirements of 10CFR50, Appendix A, General Design Criteria 10 and 12 remain satisfied for current and future core designs. Though the initiation of instability events are dependent upon thermal power levels and core flows, the revision to the enabled region thermal power level value does not increase the possibility of such an event, or introduce any new or different events. Once the OPRMs are enabled, the OPRM System detects and mitigates an instability event if detected. The revised enabled region does not impact any mitigation actions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change involves the use of a revised thermal power level to establish the OPRM enabled region. Once the OPRMs are enabled, the OPRM System mitigates an instability event if detected. The revised enabled region does not impact any mitigation actions. The use of a revised thermal power level to establish the OPRM enabled region does not involve a physical modification to any plant system or component, including the fuel. The revised enabled region provides assurance that the requirements of 10CFR50, Appendix A, General Design Criteria 10 and 12 remain satisfied for current and future core designs. The revised enabled region restores the margin of protection provided by the OPRMs, which had been reduced as fuel and core designs have evolved since 1994. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Gene Y. Suh.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: May 25, 2005.

Description of amendment request: The proposed change allows entry into a mode or other specified condition in the applicability of a Technical Specification (TS), while in a condition statement and the associated required actions of the TS, provided the licensee performs a risk assessment and manages risk consistent with the program in place for complying with the requirements of Title 10 of the Code of Federal Regulations (10 CFR), part 50, section 50.65(a)(4). Limiting Condition for Operation (LCO) 3.0.4 exceptions in individual TSs would be eliminated, several notes or specific exceptions are revised to reflect the related changes to LCO 3.0.4, and Surveillance Requirement (SR) 3.0.4 is revised to reflect the LCO 3.0.4 allowance.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–359. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 2, 2002 (67 FR 50475), on possible amendments concerning TSTF–359, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on April 4, 2003 (68 FR 16579). The licensee affirmed the applicability of the following NSHC determination in its application dated May 25, 2005.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. Being in a TS condition and the associated required actions is not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on required actions as allowed by proposed LCO 3.0.4, are no different than the consequences of an accident while entering and relying on the required actions while starting in a condition of applicability of the TS. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Entering into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. The TS allow operation of the plant without the full complement of equipment through the conditions for not meeting the TS LCO. The risk associated with this allowance is managed by the imposition of required actions that must be performed within the prescribed completion times. The net effect of being in a TS condition on the margin of safety is not considered significant. The proposed change does not alter the required actions or completion times of the TS. The proposed change allows TS conditions to be entered, and the associated required actions and completion times to be used in new circumstances. This use is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The change also eliminates current allowances for utilizing required actions and completion times in similar circumstances, without assessing and managing risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and

Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Evangelos C. Marinos.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: July 5, 2005.

Description of amendment request: The proposed changes to the Technical Specifications (TS) would add a reference in TS 5.65.b, ''Core Operating Limits Report (COLR),'' to permit the use of an alternate methodology, VIPRE–D/BWU code/correlation (Virginia Electric and Power Company version of the Electric Power Research Institute (EPRI) computer code VIPRE [Versatile Internals and Components Program for Reactors—EPRI] with the BWU Critical Heat Flux (CHF) correlations), to perform thermal-hydraulic analysis to predict CHF and Departure from Nucleate Boiling Ratio (DNBR) for the AREVA Advanced Mark-BW (AMBW) fuel in the North Anna cores.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The probability of occurrence or the consequences of an accident previously evaluated are not significantly increased.

Neither the code/CHF correlation pair nor the Statistical DNBR Evaluation Methodology make any contribution to the potential accident initiators and thus cannot increase the probability of any accident. Further, since both the deterministic and statistical DNBR limits meet the required design basis of avoiding DNB with 95% probability at a 95% confidence level, the use of the new code/correlation and Statistical DNBR Evaluation Methodology do not increase the potential consequences of any accident. Finally the addition of a full core DNB design limit provides increased assurance that the consequences of a postulated accident which included radioactive release would be minimized because the overall number of rods in DNB would not exceed the 0.1% level. All the pertinent evaluations to be performed as part of the cycle specific reload safety analysis to confirm that the existing safety analyses remain applicable have been performed with VIPRE–D/BWU and found to be acceptable. The use of a different code/correlation pair will not increase the probability of an accident because plant systems will not be operated in a different manner, and system interfaces will not change. The use of the VIPRE–D/BWU code/correlation pair will not result in a measurable impact on normal operating plant releases, and will not increase the predicted radiological consequences of accidents postulated in the UFSAR [Updated Final Safety Analysis Report]. Therefore, neither the probability of occurrence nor the consequences of any accident previously evaluated is significantly increased.

2. The possibility for a new or different type of accident from any accident previously evaluated is not created.

The use of VIPRE–D/BWU and its applicable fuel design limits for DNBR does not impact any of the applicable design criteria and all pertinent licensing basis criteria will continue to be met. Demonstrated adherence to these standards and criteria precludes new challenges to components and systems that could introduce a new type of accident. Setpoint safety analysis evaluations have demonstrated that the use of VIPRE–D/BWU is acceptable. All design and performance criteria will continue to be met and no new single failure mechanisms will be created. The use of VIPRE–D/BWU code/correlation or the Statistical DNBR Evaluation Methodology does not involve any alteration to plant equipment or procedures that would introduce any new or unique operational modes or accident precursors. Therefore, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

3. The margin of safety is not significantly reduced. North Anna Technical Specification 2.1 specifies that any DNBR limit Established by any used code/correlation must provide at least 95% non-DNB probability at a 95% confidence level. The use of VIPRE–D/BWU with the SDLs [Statistical Design Limits] listed in this package provides that protection, just as LYNXT/BWU [LYNXT thermal-hydraulic computer code with the AREVA BWU CHF correlations] and applicable SDLs did. The required DNBR margin of safety for the North Anna Nuclear units, which in this case is the margin between the 95/95 DNBR limit and clad failure, is therefore not reduced. Therefore, the margin of safety as defined in the Bases to the North Anna Units 1 and 2 Technical Specifications is not significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lillian M. Cuoco, Esq., Senior Counsel, Dominion Resources Services, Inc., Millstone Power Station, Building 475, 5th Floor, Rope Ferry Road, Rt. 156, Waterford, Connecticut 06385.

NRC Section Chief: Evangelos C. Marinos.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: July 14, 2005.

Description of amendment request: The proposed changes to the Technical Specifications (TS) would correct two errors in the units of measure used to determine the Overtemperature ΔT Function Allowable Value.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. The proposed changes correct errors in the unit designations used in the $f_1(\Delta I)$ equation. The actual numerical values of $f_1(\Delta I)$ calculated by the equation remain the same, only the units applied to the value are changed. The Overtemperature ΔT function allowable values are utilized by the Reactor Trip System (RTS) instrumentation to prevent reactor operation in conditions outside the range considered for accident analyses. The proposed changes will not alter the allowable values used by the RTS instrumentation. The Overtemperature ΔT allowable value is not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. As the Overtemperature ΔT allowable value is not changed, the probability or consequences of an accident previously evaluated is not significantly increased.

2. Do changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not create the possibility of a new or different kind of accident from any accident already evaluated in the UFSAR. The proposed changes correct errors in the unit designations used in the $f_1(\Delta I)$ equation. Changes do not introduce a new mode of plant operation and do not involve any physical modifications to the plant. The changes will not introduce new accident initiators. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do changes involve a significant reduction in the margin of safety?

The proposed changes do not involve a significant reduction in a margin of safety. The proposed changes correct errors in the unit designations used in the $f_1(\Delta I)$ equation. This will eliminate the possibility of an error resulting from incorrect interpretation of the equation and potential subsequent errors in the application of the equation. The allowable value of the Overtemperature ΔT function is unaffected. Therefore, the proposed changes will not significantly reduce the margin of safety as defined in the Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lillian M. Cuoco, Esq., Senior Counsel, Dominion Resources Services, Inc., Millstone Power Station, Building 475, 5th Floor, Rope Ferry Road, Rt. 156, Waterford, Connecticut 06385.

NRC Section Chief: Evangelos C. Marinos.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: December 14, 2004.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.3.G, ''Scram Discharge Volume,'' for the condition of having one or more SDV vent or drain lines with inoperable valves.

Date of issuance: July 29, 2005.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 216.

Facility Operating License No. DPR–35: The amendment revised the TSs.

Date of initial notice in ***Federal Register:*** May 24, 2005 (70 FR 29792).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 2005.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: April 8, 2004.

Brief description of amendments: These amendments relocated several Technical Specifications (TSs) from Section 6, ''Administrative Controls,'' requirements to the Quality Assurance Topical Report. Specifically, the amendments relocated (1) the Plant Operations Review Committee and Nuclear Review Board requirements, (2) the program/procedure review and approval requirements, and (3) the record-retention requirements.

Date of issuance: July 25, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 176 and 138.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the TSs.

Date of initial notice in ***Federal Register***: June 22, 2004 (69 FR 34701).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 25, 2005.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al. Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2), Beaver County, Pennsylvania

Date of application for amendments: February 22, 2005.

Brief description of amendments: The amendments revise Technical Specifications by eliminating the requirements to provide the NRC monthly operating reports and annual occupational radiation exposure reports.

Date of issuance: July 28, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 266 and 148.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register***: May 10, 2005 (70 FR 24651).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 2005.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: July 29, 2004.

Brief description of amendment: The amendment deleted the requirements from the technical specifications to maintain a hydrogen dilution system, a hydrogen purge system, and hydrogen monitors.

Date of issuance: August 1, 2005.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment No.: 265.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register***: February 15, 2005 (70 FR 7764).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 1, 2005.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: October 15, 2004.

Brief description of amendment: The amendment revises surveillance requirements related to the reactor

coolant pump flywheel inspections to extend the allowable inspection interval to 20 years.

Date of issuance: July 27, 2005.

Effective date: July 27, 2005.

Amendment No.: 218.

Facility Operating License No. DPR–72: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 1, 2005 (70 FR 9992).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 27, 2005.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: May 11, 2004.

Brief description of amendments: The amendments revise Technical Specification (TS) Surveillance Requirement 3.1.7.7 acceptance criteria from 1224 psig to 1395 psig in TS 3.1.7, ''Standby Liquid Control System.''

Date of issuance: July 25, 2005.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment Nos.: 221, 198.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 6, 2004 (69 FR 40678).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 25, 2005.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: September 8, 2004.

Brief description of amendments: The amendments revised Technical Specification 3.1.8, ''Scram Discharge Volume (SDV) Vent and Drain Valves,'' for the condition of having one or more SDV vent or drain lines with one or both valves inoperable.

Date of issuance: July 26, 2005.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment Nos.: 222 and 199.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 7, 2004 (69 FR 70721).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 26, 2005.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of application for amendments: September 8, 2004.

Brief description of amendments: The amendments revised SSES 1 and 2 Technical Specification (TS) Surveillance Requirement 3.6.1.3.6 of TS 3.6.1.3, ''Primary Containment Isolation Valves,'' to reduce the frequency of performing leakage rate testing for each primary containment purge valve with resilient seals from 184 days to 24 months.

Date of issuance: August 4, 2005.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment Nos.: 223 and 200.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 1, 2005 (70 FR 9995).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 4, 2005.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–259 Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendment: August 2, 2004 (TS–435).

Brief description of amendment: The amendment modifies the Technical Specification (TS) 3.6.3.1 required action to provide 7 days of continued operation with two Containment Atmosphere Dilution subsystems inoperable.

Date of issuance: July 18, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 255.

Facility Operating License Nos. DPR–33: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 9, 2004 (69 FR 64991).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 18, 2005.

No significant hazards consideration comments received: No.

Yankee Atomic Electric Co., Docket No. 50–29, Yankee Nuclear Power Station (YNPS) Franklin County, Massachusetts

Date of amendment request: November 24, 2003, and supplemented by letters dated December 10, 2003, December 16, 2003, January 19, 2004, January 21, 2004, February 10, 2004, March 4, 2004, April 27, 2004, August 3, 2004, September 2, 2004, September 2, 2004, September 30, 2004, November 19, 2004, December 10, 2004, and April 7, 2005. Supplemental letters provided additional clarifying information that did not expand the scope of the application as originally noticed and did not change the staff's original proposed no significant hazards consideration determination.

Description of amendment request: The amendment revises the license to incorporate a new license condition addressing the license termination plan (LTP). This amendment documents the approval of the LTP, documents the criteria for making changes to the LTP which will and will not require pre-approval by the NRC, and documents the conditions imposed with the approval of the LTP.

Date of issuance: July 28, 2005.

Effective date: Effective as of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 158.

Facility Operating License No. DPR–3: Amendment revises the license.

Date of initial notice in ***Federal Register:*** February 18, 2003 (68 FR 7823).

The Commission's related evaluation of the amendment, state consultation, and final NSHC determination are contained in a safety evaluation dated July 28, 2005.

No significant hazards consideration comments received: No.

NRC Section Chief: Claudia Craig.

Dated at Rockville, Maryland, this 8th day of August, 2005.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–4403 Filed 8–15–05; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

January 2005 Pay Adjustments

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The President adjusted the rates of basic pay and locality payments for certain categories of Federal employees effective in January 2005. This notice documents those pay adjustments for the public record.

FOR FURTHER INFORMATION CONTACT: Carey Johnston, Center for Pay and Performance Policy, Division for Strategic Human Resources Policy, Office of Personnel Management; (202) 606–2858; FAX (202) 606–0824; or e-mail to *pay-performance-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: On December 30, 2004, the President signed Executive Order 13368 (70 FR 1147, January 5, 2005), which implemented the January 2005 pay adjustment. The President made these adjustments consistent with Public Law 108–447, December 8, 2004, which authorized an overall average pay increase of 3.5 percent for General Schedule (GS) employees.

Schedule 1 of Executive Order 13368 provides the rates for the 2005 General Schedule and reflects a 2.5 percent across-the-board increase. Executive Order 13368 also includes the percentage amounts of the 2005 locality payments. (*See* Section 5 and Schedule 9 of Executive Order 13368).

The publication of this notice satisfies the requirement in section 5(b) of Executive Order 13368 that the Office of Personnel Management (OPM) publish appropriate notice of the 2005 locality payments in the **Federal Register**.

GS employees receive locality payments under 5 U.S.C. 5304. Locality payments apply in the 48 contiguous States and the District of Columbia. In 2005, locality payments ranging from 11.72 percent to 26.39 percent apply to GS employees in 32 locality pay areas. These 2005 locality pay percentages, which replaced the locality pay percentages that were applicable in 2004, became effective on the first day of the first pay period beginning on or after January 1, 2005. An employee's locality-adjusted annual rate of pay is computed by increasing his or her scheduled annual rate of basic pay (as defined in 5 U.S.C. 5302(8) and 5 CFR 531.602) by the applicable locality pay percentage. (*See* 5 CFR 531.604 and 531.605.)

Executive Order 13368 establishes the new Executive Schedule, which incorporates the 2.5 percent increase required under 5 U.S.C. 5318 (rounded to the nearest $100). By law, Executive Schedule officials are not authorized to receive locality payments.

Executive Order 13368 establishes the range of rates of basic pay for senior executives in the Senior Executive Service (SES), as established pursuant to 5 U.S.C. 5382. The minimum rate of basic pay for the SES may not be less than the minimum rate payable under 5 U.S.C. 5376 for senior-level positions ($107,550 in 2005), and the maximum rate of basic pay may not exceed the rate for level III of the Executive Schedule ($149,200 in 2005). The maximum rate of the SES rate range will increase to level II of the Executive Schedule ($162,100 in 2005) for SES members covered by performance appraisal systems that are certified under 5 U.S.C. 5307(d) as making meaningful distinctions based on relative performance. By law, SES members are not authorized to receive locality payments. Agencies with certified performance appraisal systems in 2005 for senior executives and/or senior-level (SL) and scientific or professional (ST) positions must also apply a higher aggregate limitation on pay—up to the Vice President's salary ($208,100 in 2005).

The Executive order adjusted the rates of basic pay for administrative law judges (ALJs) by 2.5 percent (rounded to the nearest $100). The maximum rate of basic pay for ALJs is set by law at the rate for level IV of the Executive Schedule, which is now $140,300. (*See* 5 U.S.C. 5372).

The rates of basic pay for members of Contract Appeals Boards are calculated as a percentage of the rate for level IV of the Executive Schedule. (*See* 5 U.S.C. 5372a.) Therefore, these rates of basic pay were increased by approximately 2.5 percent. Also, the maximum rate of basic pay for SL/ST positions was increased by approximately 2.5 percent (to $140,300) because it is tied to the rate for level IV of the Executive Schedule. The minimum rate of basic pay for SL/ST positions is equal to 120 percent of the minimum rate of basic pay for GS–15 and thus was increased by 2.5 percent (to $107,550). (*See* 5 U.S.C. 5376).

On December 13, 2004, the President's Pay Agent extended the 2005 locality-based comparability payments to certain categories of non-GS employees. The Governmentwide categories include employees in SL/ST positions, ALJs, and Contract Appeals Board members. The maximum locality rate of pay for these employees is the rate for level III of the Executive Schedule ($149,200 in 2005).

OPM published ''Salary Tables for 2005'' (OPM Doc. 124–48–6) in June 2005. This publication provides complete salary tables incorporating the 2005 pay adjustments, information on general pay administration matters, locality pay area definitions, Internal Revenue Service withholding tables, and other related information. The rates of pay shown in this publication are the official rates of pay for affected employees and are hereby incorporated as part of this notice. You may purchase copies of ''Salary Tables for 2005'' from the Government Printing Office (GPO) by calling (202) 512–1800 (outside the DC area: 1–866–512–1800) or FAX (202) 512–2250. You may order copies directly from GPO on the Internet at *http://bookstore.gpo.gov.* In addition, you can find pay tables on OPM's Internet Web site at *http://www.opm.gov/oca/payrates/index.asp.*

Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. 05–16225 Filed 8–15–05; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of MS Structured Asset Corp. To Withdraw Its SATURNS Sears Roebuck Acceptance Corp. Debenture-Backed Series 2003–1 Callable Units From Listing and Registration on the New York Stock Exchange, Inc. File No. 1–16443

August 10, 2005.

On July 7, 2005, MS Structured Asset Corp., a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its SATURNS Sears Roebuck Acceptance Corp. Debenture-Backed Series 2003–1 Callable Units (''Security''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'').

The Board of Directors (''Board'') of the Issuer approved resolutions on July 1, 2005, to withdraw the Security from listing and registration on NYSE. The Issuer stated that the following reasons factored into the Board's decision to withdraw the Security from NYSE. First, 100% of the assets of the trust in which the Security evidences an undivided beneficial interest are debentures issued by Sears Roebuck Acceptance Corp. (''SRAC''). Second, on June 2, 2005, the Commission issued an order approving the application of SRCA to voluntarily delist its debt securities listed on NYSE.

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

After this order was issued, NYSE struck SRAC's securities from listing and registration on NYSE. Third, on June 3, 2005, SRAC voluntarily filed a Form 15 pursuant to the Act with the Commission to terminate registration of its securities with the Commission. As a result, SRAC's reporting obligations and the related reporting obligations with respect to Sears, Roebuck and Co. as guarantor to SRAC's debt have been terminated under the Act. Fourth, as a result of SRAC's termination of its reporting obligations under the Act, it is necessary to terminate the Issuer's own obligations under the Act with respect to the Security in light of the delisting and deregistration of SRAC's securities.

The Issuer stated that the Security was issued in a particular type of asset-backed securities (''ABS'') transaction known as a ''repackaging'', in which the ABS constitute pass through interests in debt of an unrelated third party (''SRAC''). The SATURNS Trust 2003–1 (''Trust'') has no assets other than SRAC debentures that were purchased in the secondary market. The Issuer has no relationship to the issuer of the underlying debentures (SRAC) and has no ability to make substantive disclosure about SRAC for purposes of the Trust reporting obligation in relation to the Security. Instead, the Issuer's Security reporting obligation in relation to the Security have referred holders of the Security to publicly available reports and financial statements in relation to SRAC that were filed by SRAC. Because SRAC has ceased its reporting, there are no longer any publicly available reports about SRAC to which holders of the Security can be referred. Since it is essentially impossible for the Issuer to provide such materials because the Issuer has no right to receive such materials from SRAC, the documents governing the Security provide that the Trust should terminate following a termination of public reporting by the SRAC. The Issuer and the Trustee for the Trust have entered into an agreement which amended the documents governing the Security to allow, as an alternative, that the NYSE listing of the Security can be withdrawn and the Issuer can terminate its reporting obligations in relation to the Security. Holders of the Security who would prefer to have the previous termination terms of the Trust apply in relation to their Security are being given a right to opt out of the amendment.

The Issuer stated in its application that it has complied with NYSE's rules governing an issuer's voluntary withdrawal of a security from listing and registration by complying with all applicable laws in effect in the State of Delaware, and by providing NYSE with the required documents governing the removal of securities from listing and registration on NYSE.

The Issuer's application relates solely to the withdrawal of the Security from listing on the NYSE and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before September 2, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of NYSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–16443; or

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 1–16443. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–4421 Filed 8–15–05; 8:45 am]

BILLING CODE 8010–01–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 August 15, 2005:

A Closed Meeting will be held on Wednesday, August 17, 2005 at 10 a.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), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a) (3), (5), (6), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session and that no earlier notice thereof was possible.

The subject matters of the Closed Meeting scheduled for Wednesday, August 17, 2005, will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and an

Adjudicatory matter.

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: August 11, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–16248 Filed 8–11–05; 4:23 pm]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–28015]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

August 10, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission under provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 6, 2005, to the Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 6, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Gulf Power Company (70–10117)

Gulf Power Company (''Gulf Power''), One Energy Place, Pensacola, Florida, 32520, a wholly-owned utility subsidiary of The Southern Company (''Southern''), a registered holding company, has filed an amendment to its original declaration/application (''Amended Declaration'') under sections 6(a), 7, and 12(c) of the Act and rules 42, 53 and 54 under the Act.

By order dated June 27, 2003 (Holding Company Act Release No. 27690) (''Original Order'') Gulf Power was authorized to issue up to $450 million principal amount of senior debentures, senior promissory notes or other senior debt instruments, first mortgage bonds and preferred stock (''Senior Security Limitation'') through March 31, 2006 (''Authorization Period'').[1] In the Amended Declaration, Gulf Power is seeking authority to also issue preference stock. Any issuance of preference stock would be included within the Senior Security Limitation.

A. Description of the Preference Stock

Gulf Power proposes that each issuance of preference stock, with par or stated value of up to $100 per share (''Preference Stock''), will be sold for the best price obtainable (after giving effect to the purchasers' compensation) but for a price to Gulf Power (before giving effect to the purchasers' compensation) of not less than 98% of the par or stated value per share.

The terms of each series of Preference Stock will be established by amendment to Gulf Power's Articles of Incorporation. Each series may have a cumulative sinking fund which would retire a certain number of shares of the series annually, commencing at a specified date after the sale. In connection with the sinking fund, Gulf Power may have the non-cumulative option of redeeming up to an additional like number of shares of the series annually.

Gulf Power may determine that, in light of the current market conditions at the time any series of the Preference Stock is offered, it is in the best interest of Gulf Power and its investors and consumers that the terms of the Preference Stock provide for an adjustable dividend rate to be determined on a periodic basis, rather than a fixed rate dividend. In that event, Gulf Power proposes that the rate of dividends on the Preference Stock for an initial period would be a fixed amount or rate per annum. Periodically thereafter, the rate would be adjusted by periodic auction or remarketing procedures, or in accordance with a formula or formulae based upon certain reference rates, or by other predetermined methods.

B. Financing Parameters

Gulf Power states that except as modified below, the transaction described in the Amended Declaration will be subject to the parameters applicable to the transactions listed in the Original Order.

At all times during the Authorization Period, Gulf Power represents that it will maintain a common equity ratio of at least thirty percent of its consolidated capitalization (common equity, preferred stock, preference stock and long-term and short-term debt) as reflected in its most recent Form 10–K or Form 10–Q filed with the Commission adjusted to reflect changes in capitalization since the balance sheet date, unless otherwise authorized. With respect to the securities issuance authority proposed in the Amended Declaration: (1) Within four business days after the occurrence of a Ratings Event, Gulf Power will notify the Commission of its occurrence (by means of a letter, via fax, email or overnight mail to the Office of Public Utility Regulation) and (2) within 30 days after the occurrence of a Ratings Event, Gulf Power will submit a post-effective amendment to the Amended Declaration explaining the material facts and circumstances relating to that Ratings Event (including the basis on which taking into account the interests of investors, consumers and the public as well as other applicable criteria under the Act, it remains appropriate for Gulf Power to issue the securities for which authorization is sought in the Amended Declaration, so long as Gulf Power continues to comply with the other applicable terms and conditions specified in the Commission's order authorizing the transactions requested in the Amended Declaration). Furthermore, no securities authorized as a result of the Amended Declaration will be issued following the 60th day after a Ratings Event if any downgraded rating has not been upgraded to investment grade. Gulf Power also requests that the Commission reserve jurisdiction through the remainder of the Authorization Period over the issuance of any authorized securities pursuant to the Amended Declaration that are prohibited from being issued after the 60th day following a Ratings Event, if no revised rating reflecting an investment grade rating has been issued.

A ''Ratings Event'' will be deemed to have occurred if, during the Authorization Period (1) any outstanding security of Gulf Power that is rated is downgraded below investment grade; (2) any security to be issued by Gulf Power pursuant to the authorization sought in the Amended Declaration upon original issuance is rated below investment grade; or (3) any outstanding security of Southern that is rated is downgraded below investment grade. For purposes of this provision, a security will be deemed to be rated ''investment grade'' if it is rated investment grade by at least one

[1] Pursuant to Original Order, Gulf Power has issued $270 million in securities under the Senior Securities Limit, leaving it with authority to issue an additional $180 million under that limit. Gulf Power was also authorized to issue an aggregate of $180 million in pollution control revenue bonds under the Original Order but to date has not issued any bonds.

nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 under the Securities Exchange Act of 1934, as amended. Gulf Power requests that it be permitted to issue a security that does not satisfy the foregoing condition if the requirements of rule 52(a)(i) and rule 52(a)(iii) of the Act are met and the issue and sale of a security have been expressly authorized by the Florida Public Service Commission.

The effective cost of money on the Preference Stock will not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparative credit quality.

The proceeds from the sales of any series of Preference Stock may be used to redeem or otherwise retire Gulf Power's outstanding debt or preferred and preference stock if considered advisable. In addition proceeds may be used to pay a portion of its cash requirements to carry on its electric utility business.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4423 Filed 8–15–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52234; File No. SR–CBOE–2005–40]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Hybrid Opening System

August 10, 2005.

On May 16, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to allow the Hybrid Opening System (''HOSS'') to open an option series as long as any market participant,[3] not just the Designated Primary Market-Maker (''DPM''), has submitted an opening quote that complies with the legal width quote requirements.[4] The proposal would also change the method for determining the acceptable range the opening price must be in before the series may open to use the highest bid and the lowest offer. The Exchange submitted Amendment No. 1 on June 24, 2005.[5]

The proposed rule change was published for comment in the **Federal Register** on July 6, 2005.[6] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[7] and, in particular, the requirements of Section 6 of the Act[8] and the rules and regulations thereunder. The Commission specifically finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[9] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposal should help to ensure that all options series are promptly opened on CBOE, and may help to provide for a tighter opening price range.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CBOE–2005–40), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4424 Filed 8–15–05; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This includes a quote from a DPM, e-DPM, market maker, or a remote market maker. *See* CBOE Rule 6.45A.

[4] Even though HOSS can open a series without a DPM's quote, DPMs, as well as electronic DPMs, remain obligated under CBOE rules to timely submit opening quotes.

[5] Amendment No. 1 revised the rule text to reflect language recently approved in another filing.

[6] *See* Securities Exchange Act Release No. 51938 (June 29, 2005), 70 FR 39537.

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52235; File No. SR–MSRB–2005–12]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Concerning Solicitation and Coordination of Payments to Political Parties and Question and Answer Guidance on Supervisory Procedures Related to Rule G–37(d) on Indirect Violations

August 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 27, 2005, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB has filed with the SEC a proposed rule change consisting of an amendment to Rule G–37(c), concerning solicitation and coordination of payments to political parties, and Q&A guidance on supervisory procedures related to Rule G–37(d), on indirect violations. The text of the proposed rule change is available on the MSRB's Web site (*http://www.msrb.org*), at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 2 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule G–37(c) prohibits a dealer and its municipal finance professionals (''MFPs'') from soliciting any person or political action committee (''PAC'') to make or coordinate contributions to an official of an issuer with which the dealer is engaging or is seeking to engage in municipal securities business. The proposed amendments would also prohibit the dealer and certain MFPs[3] from soliciting any person or PAC to make or coordinate a payment to a political party of a state or locality where the dealer is engaging or is seeking to engage in municipal securities business.[4] The proposed rule amendments would specifically define any ''person''[5] to include any affiliated entity of the dealer. This clarification is intended to alert dealers and MFPs that influencing the disbursement decisions of affiliated entities or PACs may constitute a direct violation of Rule G–37(c), as amended, if the dealer or MFP solicits the affiliated entity or PAC to make or coordinate contributions to an official of an issuer or a political party of a state or locality where the dealer is engaging or is seeking to engage in municipal securities business. Accordingly, in order to ensure compliance with Rule G–37(c), dealers should consider the adequacy of their information barriers with affiliated entities, or PACs controlled by affiliated entities, to ensure that the affiliated entities' contributions, payments, or PAC disbursement decisions are neither influenced by the dealer or its MFPs, nor communicated to its MFPs.

The proposed Q&A guidance provides that, in order to ensure compliance with Rule G–27(c) as it relates to payments to political parties or PACs and Rule G–37(d), each dealer must adopt, maintain and enforce written supervisory procedures reasonably designed to ensure that neither the dealer nor its MFPs are using payments to political parties and non-dealer controlled PACs to contribute indirectly to an official of an issuer.[6] The draft Q&A guidance also explicitly states that contributing to ''housekeeping'', ''conference'' or ''overhead'' type accounts is not a safe harbor and does not alleviate the dealer's supervisory obligation to conduct this due diligence.

The Qs&As seek to provide dealers with more guidance as they develop procedures to ensure compliance with both the language and the spirit of Rule G–37. The Qs&As emphasize the necessity for adequate supervisory procedures to ensure compliance with Rule G–37(d) not only with respect to payments to political parties, but also with respect to contributions to and disbursements by dealer-affiliated (but not controlled) PACs. The Board reminds dealers that a failure to implement satisfactory written procedures to ensure compliance with Rule G–37(d) could subject the dealer to enforcement actions by the appropriate regulatory authorities.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[7] which provides that the MSRB's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will help inhibit practices that create the appearance of attempting to influence the awarding of municipal securities business through an indirect violation of Rule G–37. The MSRB also believes that the Q&A guidance will facilitate dealer compliance with Rule G–27, on supervision, and Rule G–37(d)'s prohibitions on indirect rule violations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will result in any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

On February 15, 2005 the MSRB published for industry comment draft amendments to Rule G–37(c), concerning solicitation and coordination of payments to political parties, and draft Q&A guidance on supervisory procedures related to Rule G–37(d), on indirect violations (the ''Notice'').[8] The MSRB received seven comments on the Notice.[9]

Of the seven commentators, one commentator, American Municipal, supports the adoption of the amendments to Rule G–37 and the proposed Qs&As because they will strengthen the effectiveness of the rule in preventing improper political contributions.[10] One commentator, Griffin, Kubik, believes that the existing structure of Rule G–37 is unconstitutional and complains about the existing operation of Rule G–37.[11]

[3] The proposed amendment limits MFPs who would be prohibited from soliciting or coordinating political party payments to those persons who are directly involved in the dealer's municipal securities business. The proposed language provides that only MFPs who are primarily engaged in municipal representative activities, solicitors of municipal securities business, or direct supervisors of MFPs that are ''solicitors'' or ''primarily engaged'' are prohibited from soliciting political party payments. The MSRB limited those MFPs covered by the proposed amendments to those directly involved in the municipal securities business of the dealer; recognizing that other MFPs more distant from the day-to-day operations of the dealer's municipal securities business may have other reasons to solicit or coordinate payments to political parties (*i.e.*, reasons related to other business activities of the dealer).

[4] The MSRB notes that, depending upon the facts and circumstances, an MFP's solicitation of a contribution to an issuer with which the dealer is engaging or is seeking to engage in municipal securities business or the solicitation of a political party payment to a political party of a state or locality where the dealer is engaging or is seeking to engage in municipal securities business, may also constitute a violation of Rule G–37(d) on indirect violations.

[5] ''Person'' is defined in § 3(a)(9) of the Act, to mean ''a natural person, company, government, or political subdivision, agency, or instrumentality of a government.'' Unless the context otherwise specifically requires, the terms used in MSRB rules have the meanings set forth in the Act. *See* MSRB Rule D–1.

[6] In addition, pursuant to MSRB Rule G–8(a)(xx), on records concerning compliance with Rule G–27, each dealer must maintain and keep current the records required under Rules G–27(c) and G–27(d).

[7] 15 U.S.C. 78o–4(b)(2)(C).

[8] *See* MSRB Notice 2005–11 (February 15, 2005).

[9] The Board received comment letters from the following: Sarah A. Miller, General Counsel, ABASA Securities Association (''ABASA'') to Carolyn Walsh, Senior Associate General Counsel, MSRB, dated April 11, 2005; J. Cooper Petagna, Jr., President, American Municipal Securities, Inc. (''American Municipal'') to Ms. Walsh, dated March 10, 2005; Robert E. Foran, Senior Managing Director, Bear Stearns & Co., Inc. (''Bear Stearns'') to Ms. Walsh, dated March 31, 2005; Leslie M. Norwood, Vice-President and Assistant General Counsel, Bond Market Association (''BMA'') to Ms. Walsh, dated April 1, 2005; Robert J. Stracks, Counsel, Griffin, Kubik, Stephens & Thompson, Inc. (''Griffin, Kubik'') to Ms. Walsh, dated March 30, 2005; Marc E. Lackritz, President, Securities Industry Association (''SIA'') to Ms. Walsh, dated April 5, 2005; and Terry L. Atkinson, Managing Director, UBS Financial Services Inc. (''UBS'') to Ms. Walsh, dated April 1, 2005.

[10] American Municipal also suggests that consideration be given to having the rule applied to all registered personnel and not just MFPs.

[11] This commentator complains that if an associated person of a dealer introduces or solicits municipal securities business for the dealer while

Continued

Griffin, Kubik also suggests that requiring full and immediate disclosure of dealer contributions by the recipient issuer official would be more effective in policing this arena.

The remaining five commentators express support for the MSRB's efforts to eliminate any vestiges of pay-to-play in the municipal securities industry, whether they are in the form of a direct or indirect contribution to an issuer official. However, ABASA, BMA [12], SIA and UBS assert that the Qs&As are vague thus making it impossible for broker-dealers to know exactly what standard to apply. ABASA, BMA, SIA and UBS request that the MSRB clarify the proposed Qs&As as they relate to contributions to party committees and PACs so that they establish clear standards upon which the industry may rely. BMA, SIA and UBS request that the MSRB expressly state that contributions made to national party committees and certain federal leadership PACs (controlled by members of Congress) are permitted. BMA and UBS also request that the MSRB: (1) Acknowledge that the proposed Qs&As reflect a new approach to Rule G–37's prohibition on indirect contributions and not just a restatement of the existing standard; (2) modify the prohibition on soliciting contributions to state or local parties so that broker-dealers and MFPs would be permitted to solicit contributions to the same extent they are able to make a contribution to them; and (3) clarify what is meant by ''affiliated PAC'' for purposes of erecting an informational barrier.[13] ABASA also states that the MSRB's suggested information barrier concerning past and current municipal securities business is unrealistic because much of the information is public. These specific comments are discussed in detail below.

The Draft Amendments to Rule G–37(c)(ii): The Prohibition on Soliciting Contributions to State and Local Party Committees Should Be Symmetrical to the Contributions Ban

Comments Received. BMA and UBS assert that the Rule G–37(c) amendment should be symmetrical to the contributions ban because they do not believe it makes sense to impose a greater, absolute prohibition on soliciting contributions than on making contributions. BMA recommends that dealers and MFPs be permitted to solicit contributions to the same extent they are allowed to make contributions.

MSRB Response. The proposed rule amendment is more limited than what the comment letters portray. The comment letters state that the amendment would completely prohibit MFPs from soliciting contributions to any state and local party committees when, in fact, it only prohibits solicitations by the dealer or certain MFPs for contributions to a political party of a state or locality where the dealer is engaging or is seeking to engage in municipal securities business. Thus, the proposed amendment is narrowly tailored to regulate only a dealer's or certain MFP's solicitation of other persons' payments to political parties when there can be a perception that MFPs and dealers are soliciting others to make payments to parties or PACs as an end-run around the rule and the rule's disclosure requirements.

Current Rule G–37(c) operates as an absolute prohibition on soliciting contributions for an official of an issuer with which the dealer is engaging or seeking to engage in municipal securities business and is not symmetrical with Rule G–37(b) because there is no *de minimis* exception in Rule G–37(c). Moreover, because dealers' and MFPs' payments to political parties do not trigger the automatic ban on business (unless there is an indirect violation) there is no mechanism to correlate the party payment disclosure scheme in Rule G–37 with the proposed prohibition on the solicitation and coordination of payments to political parties of states or localities where the dealer is engaging or seeking to engage in municipal securities business.

The MSRB determined that allowing dealers or certain MFPs to solicit other persons to make political party or PAC payments in states and localities where they are engaging or seeking to engage in municipal securities business creates at least the appearance of attempting to influence the awarding of municipal securities business through such payments. Moreover, without the proposed prohibition, it would be very difficult for enforcement agencies to detect such potential indirect violations because the parties solicited do not have to disclose the payments. Additionally, the arguably stricter prohibition can be justified because a violation of Rule G–37(c) does not result in an automatic ban on business.

Vagueness of the Proposed Q&A Guidance Concerning Rule G–27, on Supervision, and Rule G–37(d), on Indirect Violations

Comments Received. ABASA, BMA, SIA, and UBS request that the Qs&As be clarified because they do not present a clear objective standard as to when party and PAC contributions should be treated as indirect contributions to issuer candidates. BMA, SIA and UBS also complain that the Qs&As represent an expansion of Rule G–37. BMA suggests that if the MSRB's intent is to absolutely eliminate state and local party committee and PAC contributions, it should come out with a clear prohibition.

MSRB Response. The MSRB's intent was *not* to eliminate all state and local party committee and PAC contributions or to specify which ones would not be indirect contributions to issuer officials. The MSRB recognizes that some payments to political parties are made for reasons that have no connection with influencing the awarding of municipal securities business. The MSRB's decision to issue the proposed Q&A guidance was prompted by concern that dealers are not implementing adequate supervisory procedures reasonably designed to prevent indirect rule violations. The MSRB also voiced its concern about the emergence of recent media and other reports that issuer agents have informed dealers and MFPs that, if they are prohibited from contributing directly to an issuer official's campaign, they should contribute to the affiliated party's ''housekeeping'' account.

By voicing a concern that dealers who make such payments to parties or PACs *may* be doing so in an effort to avoid the political contribution limitations embodied in Rule G–37, the MSRB was not expanding the reach of Rule G–37. The MSRB was, however, alerting dealers to modern day political realities and practices that may prove—with hindsight—to be problematic. The MSRB was also suggesting, though not requiring, general supervisory procedures designed to help ensure that the party or PAC payments do not result in a violation of Rule G–37(d). Dealers are required to implement adequate supervisory procedures, but the MSRB's

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at the same time making political contributions to an official of a completely different local political body, the broker-dealer could face a G–37 compliance problem. In fact, assuming this was the first time the associated person solicited municipal securities business for the dealer, the contribution to an issuer official who is not the issuer official solicited would not result in a ban on doing business with the introduced issuer. It would, however, result in the associated person becoming a municipal finance professional of the dealer and being subject to Rule G–37 from the date of the solicitation activity forward.

[12] Because the Bear Stearns comment letter simply states that it supports the BMA letter, for the purposes of this discussion Bear Stearns' positions will not be separately identified. Rather, it should be understood that positions attributed to BMA are also supported by Bear Stearns.

[13] Griffin, Kubik also seeks this clarification.

suggestions about general approaches to conducting adequate due diligence are not meant to be either required procedures or a safe harbor. Ideally, an adequate supervisory procedure will prevent a Rule G–37(d) violation, but the existence of adequate supervisory procedures may only protect the firm from a resulting Rule G–27 violation should a problem later occur. A payment permitted by the dealer's supervisory procedures may still result in a violation of Rule G–37(d) if it is later proven that the MFP in question contributed with the intent to circumvent the rule. Such instance, of course, could put the dealer in a good position to seek a waiver of the resulting ban on business from the NASD.

Moreover, the proposed Qs&As do not broaden the sphere of activity that is prohibited by Rule G–37. A violation of Rule G–37(d) still will only occur when the payment is made to other entities ''as a means to circumvent the rule.'' Rule G–37(d), which prohibits anyone from ''directly or indirectly, through or by any other person or means'' doing what sections (b) and (c) prohibit has previously been challenged on the grounds that it is unconstitutionally vague. The United States Court of Appeals in *Blount* v. *SEC*[14] rejected this challenge 10 years ago. In *Blount*, the Court stated,

Although the language of section (d) itself is very broad, the SEC has interpreted it as requiring a showing of culpable intent, that is, a demonstration that the conduct was undertaken ''as a means to circumvent'' the requirements of (b) and (c). * * * The SEC states its ''means to circumvent'' qualification in general terms. The qualification appears, therefore, to apply not only to such items as contributions made by the broker's or dealer's family members or employees, but also gifts by a broker to a state or national party committee, made with the knowledge that some part of the gift is likely to be transmitted to an official excluded by Rule G–37. In short, according to the SEC, the rule restricts such gifts and contributions only when they are intended as end-runs around the direct contribution limitations.[15]

The Standards in the ''Reasons Test'' and ''Activity Test'' Need To Be Clarified

Comments Received. ABASA, BMA, SIA and UBS assert that the proposed Q&A guidance should be clarified with bright-line tests to identify the parties or PACs to which dealers and MFPs can make payments without violating Rule G–37(d), on indirect violations. In particular, the commentators object to the guidance that suggests that the dealer identify the reason for making the payment to the party or PAC (the ''reasons test'') without defining the motivation(s) that should result in a contribution being classified as an indirect contribution to an issuer official. BMA suggests that the reasons test be clarified to only cover contributions to party committees and PACs that are controlled by, or where the contribution is solicited by, an issuer official.

The commentators also object to the suggestion that dealers make inquiries to essentially ''follow the money'' to reasonably ensure that the party or PAC is not supporting one or a limited number of issuer officials (the ''activity test'') on the grounds that it is unclear. BMA asserts that the language is unclear because it could mean one of two things: (1) If the party or PAC that receives the contribution supports even one issuer official, then an indirect ban is triggered; or (2) the dealer must determine that the party's or PAC's expenditures on issuer officials constitute a large enough portion of its total expenditures such that an indirect ban is triggered. BMA and UBS ask the MSRB to revise its guidance to suggest a test based on objective criteria. UBS suggests that this objective criteria include a ''dilution standard'' that would need to include at least the following elements: (1) A threshold—50%, 60% or 70%—of a party's or PAC's expenditures used for non-issuer purposes that would be sufficient to overcome a presumption that the committee supported one or a limited number of issuer officials, and (2) a time period over which the party committee or PAC would be required to examine when calculating the threshold percentage.

MSRB Response. As discussed above, the proposed Q&A guidance does not change the existing legal framework concerning the motivation that would result in a contribution being classified as an indirect contribution to an issuer official. An MFP or dealer could be found (after the fact) to have violated Rule G–37(d) if payments to a party or PAC are intended as end-runs around the direct contribution limitations. The MSRB does not believe it is appropriate to attempt to delineate specific reasons that are permissible, and those that are not. What is important is that dealers institute adequate procedures to identify potential violations. If the dealer's procedures include making an inquiry about the reason for making the payment[16] the dealer must then exercise its judgment as to whether the facts and circumstances surrounding the payment indicate that the reason for making the contribution was to circumvent Rule G–37.

With regard to the ''activity test'' comments, the MSRB's existing Q&A guidance on this issue already states that dealers that make contributions to organizations such as political parties or PACs (as well as dealers that allow MFPs to make such payments) have a duty to make inquiries of such organizations in order to ascertain how the contributed funds will be used.[17] Following this guidance, dealers should be able to develop adequate written supervisory procedures reasonably designed to ensure that payments to political parties or PACs are not being used to circumvent the requirements of Rule G–37. The MSRB does not believe it is useful to provide ''safe harbors'' concerning parties or PACs such that a dealer or MFP could make payments to certain parties or PACs without investigating whether the payment is actually being made as a means to circumvent the requirements of Rule G–37. Such ''safe harbors'' create the potential for loopholes in Rule G–37's regulatory scheme as parties and PACs tailor their solicitations for contributions to MSRB suggested parameters.

However, the MSRB has determined to revise the guidance and remove some of the specific due diligence suggestions to focus on reminding dealers that each dealer is required under Rule G–27, on supervision, to evaluate its own circumstances and develop written supervisory procedures reasonably designed to ensure that the conduct of the municipal securities activities of the dealer and its associated persons are in compliance with Rule G–37(d), on indirect violations. After evaluating its own circumstances, a dealer could determine that adequate supervisory procedures would include some of the commentators' suggested due diligence procedures.

[14] *Blount* v. *SEC*, 61 F.3d 938, (D.C. Cir. 1995), *rehearing and suggestion for rehearing en banc denied* (1995), *certiorari denied by* 517 U.S. 1119, 116 S.Ct. 1351, 134 L.Ed.2d 520 (1996).

[15] *Id.* at 948.

[16] To the extent that dealers are concerned that the act of inquiring about persons' reasons for making payments to PACs and political partiers may chill political speech, the procedure could require persons to give negative assurances that the party or PAC payment is not being made as a means to circumvent the requirements of Rule G–37.

[17] *See* Rule G–37 Questions and Answers No. III. 5, *reprinted in* MSRB Rule Book. *See also* Rule G–37 Questions and Answers Nos. III.3 and III.4, *reprinted in* MSRB Rule Book.

National Party Committees and Federal Leadership PACs Should Be Expressly Permitted

Comments Received. BMA, SIA and UBS request that, while they believe contributions to national party committees and federal leadership PACs appear to be permitted under the due diligence standards established by the proposed Qs&As, the MSRB should expressly state that contributions made to a national party committee or federal leadership PAC are permitted under the proposed Qs&As as long as (1) the contribution was not solicited by an issuer official, and (2) the party committee or leadership PAC is not controlled by an issuer official.

MSRB Response. Essentially, the commentators are asking the MSRB to create a safe harbor for certain national party committees and federal leadership PACs. The creation of such a safe harbor would be a departure from the intended reach of Rule G–37(d). As noted above, the Court of Appeals in *Blount* expressly recognized that Rule G–37(d) was originally intended to prevent payments to both *national* and state parties used as a ''means to circumvent'' Rule G–37. Moreover, although BMA, SIA and UBS essentially assert that when a contribution is not solicited by an issuer official and the party leadership PAC is not controlled by an issuer official the national party committees and federal leadership PACs can not be used as a means to circumvent Rule G–37, such a position is inconsistent with public perception.[18] Additionally, the Supreme Court's recent decision in *McConnell* v. *Federal Election Commission*,[19] emphasized the potential for payments to a political party to have undue influence on the actions of the elected officeholders belonging to the same party. *McConnell* upheld new federal statutory restrictions on soft money donations that were neither solicited by candidates nor used by the party to aid specific candidates. Given public perception and the Supreme Court's pronouncements, the MSRB believes it is reasonable to require dealers to be responsible for having adequate supervisory procedures that obligate the dealer to exercise its judgment concerning whether contributions to any party or PAC are being made as a means to circumvent the provisions of Rule G–37.

The Existence of a ''Safe-Harbor'' for Payments to ''Housekeeping'' or ''Conference'' Accounts

Comments Received. The BMA and UBS assert that the MSRB's statements in the Notice are a departure from prior statements because previously the MSRB recognized a ''safe-harbor'' that expressly permitted contributions to ''conference accounts'' of state and local party committees. ABASA also states that the MSRB has with the draft Qs&As, in effect, outlawed contributions to housekeeping and similar accounts.

MSRB Response. The MSRB's statements in the Notice about the status of ''housekeeping'' or ''conference'' type accounts were made to correct a misconception about these types of accounts. Although the MSRB never recognized such accounts as a safe-harbor, the MSRB learned that some dealers might have believed that payments to a ''housekeeping'' type account could not result in an indirect violation of Rule G–37. The SEC's approval order of certain early amendments to Rule G–37 demonstrates that the MSRB never intended for dealers to treat payments to administrative accounts as a safe harbor.[20]

In 1995, the MSRB filed and the SEC approved amendments to Rule G–37's disclosure requirements to require dealers to record and report all *payments* to parties by dealers, PACs, MFPs and executive officers regardless of whether those payments constitute *contributions*. In the 1995 SEC Approval Order, the SEC reiterated that the party payment disclosure requirements are intended to help ensure that dealers do not circumvent the prohibition on business in the rule by indirect contributions to issuer officials through payments to political parties. The SEC explained that the need for the language amendment was motivated by attempts by dealers and/or political parties to assert that contributions to administrative type accounts did not fall within the rule's regulatory ambit. In the 1995 SEC Approval Order, the SEC states:

> Certain dealers and other industry participants have notified the MSRB that certain political parties currently are engaging in fundraising practices which, according to these political parties, do not invoke the application of rule G–37. For example, some of these entities currently are urging dealers to make payments to political parties earmarked for expenses other than political contributions (such as administrative expenses or voter registration drives). Since these payments would not constitute ''contributions'' under the rule, the recordkeeping and reporting provisions would not apply. The MSRB is concerned, based upon this information, that the same pay-to-play pressures that motivated the MSRB to adopt rule G–37 may be emerging in connection with the fundraising practices of certain political parties described above.[21]

In addition, in August 2003, when the MSRB published a notice on indirect rule violations of Rule G–37, the MSRB referenced the 1995 SEC Approval Order and specifically stated that, ''The party payment disclosure requirements were intended to assist in severing any connection between payments to political parties (*even if earmarked for expenses other than political contributions*) and the awarding of municipal securities business.'' [22]

The Term Affiliated PAC Should Be Clarified

The BMA states that, while the proposed Qs&As suggest that a broker-dealer establish an informational barrier between it and its affiliated PAC, the MSRB does not clarify what it means by the term ''affiliated PAC.'' The BMA also states that the MSRB should clarify ''affiliated PAC'' to mean a PAC that is controlled by a wholly owned affiliate of the broker-dealer.

MSRB Response. The MSRB has accepted the suggestion that the term ''affiliated PAC'' should be defined in the guidance and has revised the guidance to provide that for the purposes of this guidance the term ''affiliated PAC'' means a PAC controlled by an affiliated entity of a dealer. An ''affiliated entity'' is an entity that controls, is controlled by or is under common control with the dealer. This use of the term ''affiliated'' is consistent with the use of the term in the MSRB's proposed amendments to Rule G–38(b)(ii), on consultants.[23]

Recommendations Concerning Information Barriers

Comments Received. ABASA states that the MSRB's suggestion that dealers establish an information barrier

[18] *See e.g.*, Spina, Naples favors one underwriter GOP backer gets 80% of county bond business, even at $500,000 higher cost, *The Buffalo News*, April 6, 2005 at p. A1 (suggesting that an MFP's contributions to a PAC run by House Majority Leader Tom Delay were transferred to the congressional campaign of a sitting issuer official that awarded 14 of 24 bond deals to firms that the MFP was associated with).

[19] *McConnell* v. *Federal Election Commission*, 540 U.S. 93, 124 S.Ct. 619 (Dec. 10, 2003).

[20] *See* Securities Exchange Act Release No. 35446 (SEC Order Approving Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G–37 on Political Contributions and Prohibitions on Municipal Securities Business, and Rule G–8, on Recordkeeping) (March 6, 1995), 60 FR 13496 (March 13, 1995) (''1995 SEC Approval Order'').

[21] *Id.* at 13498.

[22] MSRB Notice 2003–32 (August 6, 2003) at pp. 1–2 (emphasis added).

[23] *See* Securities Exchange Act Release No. 51561 (April 15, 2005), 70 FR 20782 (April 21, 2005) (File No. SR–MSRB–2005–04).

prohibiting sharing information about prior negotiated municipal securities business as well as current and planned solicitations between the dealer, its MFPs and any affiliated PAC is unrealistic because much of the information is public.

MSRB Response. The MSRB has revised the language relating to the municipal securities business information barrier to suggest that dealers prohibit the dealer and its MFPs from directly providing or coordinating information about prior negotiated municipal securities business as well as current and planned solicitations to any affiliated PAC.

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–MSRB–2005–12 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–MSRB–2005–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the MSRB's offices. 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–MSRB–2005–12 and should be submitted on or before September 6, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4425 Filed 8–15–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52226; File No. SR–NASD–2004–045]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change, To Adopt NASD Rule 2111 to Prohibit Members From Trading Ahead of Customer Market Orders

August 9, 2005.

I. Introduction

On March 12, 2004, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt NASD Rule 2111 (''Manning for Market Orders''). The proposal prohibits members from trading for their own account at prices that would satisfy a customer market order, unless the member immediately thereafter executes the customer market order. On February 16, 2005, NASD amended the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on February 25, 2005.[4] The Commission received one comment letter on the proposal.[5] On August 3, 2005, NASD filed an amendment which incorporated its response to comments.[6] This order approves the proposed rule change, as modified by Amendment No. 1, and provides notice of filing and grants accelerated approval of Amendment No. 2.[7]

II. Summary of Comments

The Commission received one comment letter on the proposed rule change.[8] The commenter stated that it generally supported the concept of market order protection but cited a number of concerns with the proposal. The following is a summary of the concerns raised by the commenter.

- *The Rule Should Permit Additional Flexibility With Respect to the Requirement that Members Cross Standing Customer Market Orders*

The commenter stated that certain member firms' systems are not able to execute agency crosses if the order resides with the market maker, but the systems are able to proprietarily buy from the market seller and allocate to the market buyer at the same price (*i.e.* effect a riskless principal transaction).[9] Thus, the commenter recommended that the proposed rule change be amended to allow a member that holds a customer market order that has not been immediately executed ''to execute such order in any reasonable manner that meets the pricing requirements of the

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[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Amendment No. 1.

[4] *See* Securities Exchange Act Release No. 51230 (February 18, 2005), 70 FR 9408.

[5] *See* letter from Amal Aly, Vice President and Associate General Counsel, and Ann Vlcek, Vice President and Associate General Counsel, Securities Industry Association (''SIA'') to Jonathan G. Katz, Secretary, Commission, dated March 18, 2005 (''SIA Letter'').

[6] *See* Amendment No. 2 modified the proposed rule text to state that a member could satisfy the proposal's crossing requirement by contemporaneously buying from the seller and selling to the buyer at the same price.

[7] The Commission recently approved a related proposal, SR–NASD–2004–089, that requires members to provide price improvement to customer limit orders under certain circumstances. *See* Securities Exchange Act Release No. 52210 (August 4, 2005).

[8] *See* footnote 5, *supra.*

[9] *See* SIA Letter at 2.

rule, and is consistent with the terms of the order.'' [10] The commenter pointed out that proposed NASD Rule 2111(c) allows a member that has not immediately executed a customer order, and holds multiple orders on both sides of the market that have not been executed, to cross or otherwise execute the order in a manner that is reasonable, and is consistent with the objectives of NASD Rule 2111(c) as well as with the terms and conditions of the order.[11] However, when a member does not hold multiple orders on both sides of the market, proposed NASD Rule 2111(c) requires that the member cross the order with any market order, marketable limit order, or non-marketable limit order priced better than the best bid or offer.[12]

Second, the commenter expressed concern that flickering quotes would create significant compliance and technological challenges for member firms because the rule requires member firms to cross marketable limit orders even if such limit orders were marketable only for a brief period of time.[13] The commenter suggested that the proposed rule change should recognize some small period of time in which a given quote would not subject a marketable limit order to the rule's protections.[14]

• *Certain Order Types Should be Excluded from the Rule*

The commenter stated that NASD should specifically exclude certain types of market orders from the rule's protection.[15] Specifically, the commenter said that orders that are (i) entered on a ''not held'' basis; (ii) executed on an agency basis where the customer specifically asks that the order be executed on an agency basis; and (iii) for accounts where the member is bound by another regulation limiting or prohibiting principal transactions, should be excluded from the protections of the rule.[16] The commenter stated that ''not held'' orders should be exempted from the proposed rule change because a member is granted discretion in executing ''not held'' orders and requiring that a member execute such orders fully and promptly would not be consistent with the terms of the order.[17]

• *The Rule Should Only Apply to Orders Executed on Nasdaq or in the Over-the-Counter Market*

The commenter suggested that the proposed rule change should only apply to orders executed on Nasdaq or in the over-the-counter (''OTC'') market because the New York Stock Exchange already has a similar rule.[18] The commenter said that limiting the application of the proposed rule change would further recent industry efforts to discourage duplicative regulation.[19]

• *The Proposed Rule Change Should Allow Firms to More Fully Utilize Information Barriers to Segregate Non-Market Making Desks From Other Customer Order Flows*

The commenter stated that the proposed rule change should allow firms to more fully utilize information barriers to segregate non-market making desks from other customer order flows.[20] The commenter believes that where members are able to implement effective internal controls, such as information barriers, which operate ''to prevent non-market making desks from obtaining knowledge of customer market orders held at the market making desk, those other non-market making desks * * * [should be able to] continue to trade in a principal capacity at prices that are the same as or inferior to the customer market orders held at market making desk.'' [21] Therefore, the commenter urged that in order for there to be consistent treatment of both market orders under NASD Rule 2111 and limit orders under IM–2110–2 (''Manning''), NASD should recognize the use of information barriers under the proposed rule change.[22]

III. NASD Response to Comments

In response to the comments, the NASD amended the filing.[23] In response to the commenter's statement that some of its members' systems are not able to execute agency crosses when the order resides with the market maker, and thus so long as a customer's market order is executed at the proper price, the rule should not mandate the manner in which the order is executed, NASD amended the proposal's rule text. Specifically, Amendment No. 2 addresses the concern by allowing members to execute such orders on a riskless principal basis. As amended, the rule states that ''a member can satisfy the crossing requirement by contemporaneously buying from the seller and selling to the buyer at the same price.''

Regarding the commenter's concern that the proposal would require a member to cross a marketable limit order even if that limit order were marketable only for a brief period of time due to flickering quotes, NASD responded that because the proposal would require the matching of both marketable and non-marketable limit orders that would meet the requirements of the pending market order, the changing marketability or non-marketability of a particular limit order as a result of flickering quotes is not an issue. The NASD recognized that flickering quotes may increase the difficulty in determining the appropriate price of a market order, but such quotes would not dictate whether a particular marketable or non-marketable limit order should be crossed pursuant to the proposed rule.

In response to the commenter's suggestion that certain order types should be excluded from the rule's protection, NASD clarified how NASD Rule 2111 would apply to the order types mentioned. First, regarding ''not held'' orders, NASD stated that for orders for which a customer has granted the member discretion with respect to time or price, those orders would not be considered market orders for the purposes of the rule. Second, regarding orders where the customer specifically asks that the order be handled on an agency basis, the NASD stated that, with regard to those orders where no other regulation limits or prohibits a principal transaction, the rule would apply. Third, with respect to orders for accounts where the member is bound by another regulation limiting or prohibiting principal transactions with customer orders, NASD noted that, consistent with prior interpretations of Manning, the obligation to execute a trade with a customer following a separate proprietary trade on the same side of the market does not apply if the orders subject to the restrictions are sent to another broker-dealer for execution; the obligations under NASD Rule 2111 apply, however, if such orders are not routed elsewhere for execution. NASD reiterated that these interpretations do not change a member's best execution obligations under NASD Rule 2320.

Concerning the commenter's argument that the proposal should apply only to orders executed on Nasdaq or in the OTC market, NASD stated that the proposal is based on a member's obligations relating to just and equitable principles of trade with respect to the treatment of customer market orders, and therefore NASD believes that the proposed rule should apply to customer market orders regardless of where the orders are ultimately executed.

[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.* at 2–3.
[17] *Id.* at 2.
[18] NYSE Rule 92.
[19] *See* SIA Letter.
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *See* footnote 6, *supra.*

In response to the commenter's suggestion that the proposal should allow firms to more fully utilize information barriers to segregate non-market making desks from other customer order flows, NASD stated that it has issued guidance in connection with Manning concerning the extent to which a trading desk other than the firm's market-making desk could trade for its own account while the market-making desk held protected customer limit orders on its books.[24] NASD states that the same guidance would apply for the instant proposal.

IV. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change, the comment letter, and NASD's response, and finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities association[25] and, in particular, the requirements of section 15A(b)(6) of the Act,[26] which requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest. The Commission believes that the proposal is reasonably designed to ensure that customer market orders are executed quickly and fairly. Indeed, paragraph (a) of the rule requires a member to ''make every effort to execute a customer market order that it receives fully and promptly.''

Regarding the commenter's concerns that so long as a customer's market orders are executed at the proper price under the rule, the proposed rule change should not mandate that the orders be crossed, the NASD amended NASD Rule 2111(c) to allow for members to execute a customer order as a riskless principal to satisfy the crossing requirement. Regarding the commenter's concern that under the rule a firm must cross a marketable limit order even if the order were only marketable for a brief period of time, the NASD recognized that flickering quotes may increase the difficulty in determining the appropriate price of a market order, but such quotes would not dictate whether a particular marketable or non-marketable limit order should be crossed pursuant to the proposed rule. The Commission believes that the proposed rule change reasonably addresses the manner in which member firms need to execute customer market orders under various market conditions. The requirements of the rule are only triggered if the member fails to execute a market order fully and promptly.

The Commission agrees with the NASD's analysis with respect to whether certain types of market orders should be excluded from the rule. The Commission believes that the proposed rule change allows sufficient flexibility to accommodate those order types by, for example, not considering a ''not held'' order to be a ''market'' order for purposes of the proposed rule change.

Concerning the commenter's argument that the rule should only apply to orders executed on Nasdaq or in the OTC market, the Commission agrees with NASD that applying the proposed rule change to NASD members executing customer market orders across all equities markets will help better assure that customer orders receive the protections of the rule, regardless of where the orders ultimately are executed. The commenter did not state that the NASD rule is inconsistent with the NYSE's rule.

In response to the commenter's assertion that the proposed rule change should permit firms to more fully utilize information barriers to segregate non-market making desks from other customer order flows, the Commission believes the NASD's position—that its existing Manning guidance with respect to information barriers will apply to the proposed rule change—adequately addresses the commenter's concern.

The Commission finds good cause to approve Amendment No. 2 before the 30th day after the date of publication of notice of filing in the **Federal Register**. NASD filed Amendment No. 2 in response to comments it received after the publication of the notice of filing of the proposed rule change.[27] Because Amendment No. 2 is responsive to the commenter's concerns and explains how the rule applies, the Commission finds good cause for accelerating approval of Amendment No. 2.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 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–2004–045 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2004–045. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2004–045 and should be submitted on or before September 6, 2005.

VI. Conclusion

It is therfore ordered, pursuant to section 19(b)(2) of the Act,[28] that the proposed rule change (SR–NASD–2004–045), as modified by Amendment No. 1 thereto, be, and it hereby is, approved and that Amendment No. 2 be, and hereby is, approved on an accelerated basis.

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[24] *See Notice to Members* 95–43 (June 1995) and *Notice to Members* 03–74 (November 2003).

[25] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78*o*–3(b)(6).

[27] *See* footnote 6, *supra.*

[28] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4412 Filed 8–15–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52221; File No. SR–PCX–2005–74]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto To Trade Shares of Certain Vanguard International Equity Index Funds Pursuant to Unlisted Trading Privileges

August 8, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 22, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary PCX Equities, Inc. (''PCXE'' or ''Corporation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. PCX amended the proposed rule change on July 28, 2005.[3] The Commission is publishing this notice and order to solicit comments on the proposal, as amended, from interested persons and to approve the proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly owned subsidiary PCXE, proposes to trade shares of the following exchange traded funds (''ETFs'') based on three Vanguard International Equity Indices pursuant to unlisted trading privileges (''UTP'') based on PCXE Rule 5.5(j)(3):

- Morgan Stanley Capital International Inc. (''MSCI'') Europe Index (ticker symbol: VGK)
- MSCI Pacific Index (ticker symbol: VPL); and
- MSCI Emerging Markets Select Index (ticker symbol: VWO).

The text of the proposed rule change is available from the Exchange's Web site (*http://www.pacificex.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to trade, pursuant to UTP, Vanguard Index Participation Equity Receipts, which are securities issued by the three funds (''VIPER Shares''). The MSCI Europe Index and the MSCI Pacific Index are market-capitalization-weighted indices that are designed to measure developed market equity performance in Europe and the Pacific region, respectively. Each MSCI country index is created separately and then aggregated, without change, into the larger regional index. The MSCI Europe Index is comprised of securities from 16 of 50 countries for which MSCI has indices.[4] The MSCI Pacific Index is comprised of securities from 5 of the 50 countries for which MSCI has indices.[5] The MSCI Emerging Markets Select Index is comprised of securities from 18 of the 50 countries for which MSCI has indices.[6] The Commission previously approved the original listing and trading of the VGK, VPL, and VWO on the American Stock Exchange (''Amex'').[7]

The Exchange deems these VIPER Shares to be equity securities, thus rendering trading in these securities subject to the Exchange's existing rules governing the trading of equity securities. PCX will trade these ETFs during the hours that the Intraday Indicative Value (''IIV'') is disseminated.[8]

The Exchange understands that the listing exchange, Amex, will disseminate the following information for each ETF on a daily basis through the facilities of the Consolidated Tape Association (''CTA''): Recent net asset value (''NAV''), shares outstanding, and estimated cash amount and total cash amount per creation unit. In addition, the Exchange understands that Amex will make the following information available on its Web site: Daily trading volume, closing price, NAV, and final dividend amounts to be paid for each VIPER Share. The closing prices of the deposit securities are readily available from, as applicable, the relevant exchanges, automated quotation systems, published or other public sources in the relevant country, or on-line information services such as Bloomberg or Reuters. The exchange rate information required to convert such information into U.S. dollars is also readily available in newspapers and other publications and from a variety of on-line services.

To provide updated information relating to each ETF for use by investors, professionals, and persons wishing to create or redeem the VIPER Shares, Amex disseminates through the facilities of the CTA: (1) continuously throughout the trading day, last sale information for each ETF; and (2) every 15 seconds throughout the trading a day, the estimated IIV of each ETF as calculated by a third party.

The IIV may not reflect the value of all securities included in the applicable underlying index. In addition, the IIV does not necessarily reflect the precise composition of each index at a particular point in time. Therefore, the IIV on a per-share basis disseminated during Amex's regular trading hours should not be viewed as a real-time

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange modified the trading hours in which it proposes to trade these exchange traded funds.

[4] Currently, the MSCI Europe Index includes Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

[5] Currently, the MSCI Pacific Index includes Australia, Hong Kong, Japan, New Zealand, and Singapore.

[6] Currently, the MSCI Emerging Markets Select Index includes Argentina, Brazil, Chile, China, Czech Republic, Hungary, India, Indonesia, Israel, Korea, Mexico, Peru, Philippines, Poland, South Africa, Taiwan, Thailand, and Turkey. This information on countries represented in the indices is current as of February 25, 2005. Telephone conversation between Tania J.C. Blanford, Staff Attorney, PCX, and Natasha Cowen, Attorney, Division of Market Regulation, Commission, on July 13, 2005.

[7] *See* Securities Exchange Act Release No. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (SR–Amex–2004–05) (''Original Listing Order'').

[8] The IIV is the estimated net asset value, which is disseminated by Amex every 15 seconds throughout the trading day. The IIV is designed to give investors a sense of the relationship between a basket of securities that are representative of those owned in the ETF and the share price of the ETF on an intraday basis.

update of the NAV of a particular fund, which is calculated only once a day. While the IIV disseminated by Amex at the start of the trading day is expected to be generally close to the value of the particular fund's holdings on a per-share basis, it is possible that the value of the portfolio of securities held by a fund may diverge from the value of the deposit securities during any trading day. In such case, the IIV would not precisely reflect the value of the fund portfolio. The Exchange expects, however, that during the trading day, while the relevant foreign markets are open for trading, the IIV of a fund can be expected to closely approximate the value per share of the portfolio of securities for each fund, except under unusual circumstances.

For the MSCI Pacific Index, there is no overlap in trading hours between the foreign markets and Amex. Therefore, for this fund, the IIV utilizes closing prices (in applicable foreign currency prices) in the principal foreign market for securities in the fund portfolio, and converts the price to U.S. dollars. Those values are updated every 15 seconds during Amex trading hours to reflect changes in exchange rates between the U.S. dollar and the applicable foreign currency.

The MSCI Europe Index and Emerging Markets Select Index, both of which include companies trading in markets with trading hours overlapping regular Amex trading hours, the third-party calculator updates the applicable IIV every 15 seconds to reflect price changes in the principal foreign market and converts such prices into U.S. dollars based on the current exchange rate. When the foreign market or markets are closed but Amex is open for trading, the IIV is updated every 15 seconds to reflect changes in exchange rates after the foreign markets close.

The Exchange represents that, if the MSCI ceases to maintain or to calculate the value of the index on a periodic basis or if the value of the index ceases to be widely available, the Exchange would cease trading these VIPER Shares.

In connection with the trading of these three ETFs, PCX would inform its Equity Trading Permit (''ETP'') Holders in an Information Circular of the special characteristics and risks associated with trading these ETFs, including how the VIPER Shares are created and redeemed, the requirement that ETP Holders deliver a prospectus or product description to investors purchasing any of these ETFs prior to or concurrently with the confirmation of a transaction, applicable Exchange rules, how information about the value of the underlying index is disseminated, trading information, and the applicability of suitability rules. The Information Circular will also discuss any applicable exemptive, no-action, and interpretive relief granted by the Commission.

Before an ETP Holder recommends a transaction in one of the proposed ETFs, the ETP Holder must determine that the ETF is suitable for the customer as set forth in PCXE Rule 9.2(a)–(b).

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in these ETFs. The Exchange believes that these procedures are adequate to monitor such trading.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [9] in general and Section 6(b)(5) of the Act [10] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest. In addition, the Exchange believes that the proposal is consistent with Rule 12f–5 under the Act [11] because it deems the VIPER Shares to be equity securities, thus rendering trading in the VIPER Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would 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

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–74 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–PCX–2005–74. 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–74 and should be submitted on or before September 6, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the

[9] 9 15 U.S.C. 78s(b).

[10] 15 U.S.C. 78s(b)(5).

[11] 17 CFR 240.12f-5.

[12] In approving this rule change, as amended, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Act,[13] which requires that an exchange have rules designed, among other things, 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 in general to protect investors and the public interest. The Commission believes that this proposal will benefit investors by increasing competition among markets that trade VGK, VPL, and VWO.

In addition, the Commission believes that the proposal is consistent with Section 12(f) of the Act,[14] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[15] The Commission notes that it previously approved the listing and trading of these three ETFs on Amex.[16] The Commission also believes that the proposal is consistent with Rule 12f–5 under the Act,[17] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems these VIPER Shares to be equity securities, thus rendering trading in these VIPER Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[18] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last sale information regarding these ETFs are disseminated through the facilities of the CTA. Furthermore, Amex disseminates the estimated IIV of each ETF every 15 seconds throughout the trading day. The Exchange represents that if MSCI ceases to maintain or to calculate the value of an index or if the value of an index ceases to be widely available, it would cease trading an ETF based on the index.

Finally, the Commission notes that, if any of these ETFs should be delisted by Amex, the original listing exchange, PCX would no longer have authority to trade the ETF pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

1. PCX surveillance procedures are adequate to properly monitor the trading of these ETFs on a UTP basis.

2. Prior to the commencement of trading of these ETFs on the Exchange, PCX will distribute an information circular to its members explaining the terms, characteristics, and risks of trading these ETFs.

3. PCX will require an ETP Holder with a customer that purchases shares of any of these ETFs on the Exchange to provide that customer with a product prospectus and will note this prospectus delivery requirement in the information circular.

This approval order is conditioned on PCX's adherence to these representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of these three ETFs on Amex to be consistent with the Act.[19] The Commission presently is not aware of any issue that should cause it to revisit that earlier finding or preclude the trading of these ETFs on PCX pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for these ETFs.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–PCX–2005–74), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

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[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78*l*(f).

[15] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[16] *See* Original Listing Order, *supra* note 7.

[17] 17 CFR 240.12f–5.

[18] 15 U.S.C. 78k-1(a)(1)(C)(iii).

[19] *See* Original Listing Order, *supra* note 7.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52225; File No. SR–PCX–2005–19]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Proposed New Listing Fees

August 8, 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 February 28, 2005, the Pacific Exchange, Inc. (''PCX''), through its wholly owned subsidiary PCX Equities, Inc. (''PCXE'' 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 PCXE. On June 15, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its Schedule of Fees and Charges (''Schedule''), as follows: (1) implement new initial listing fees specifically for common stock issued in initial public offerings (''IPOs'')[4] and listed exclusively by the PCXE for trading on the Archipelago Exchange (''ArcaEx''), a facility of the PCXE, and make related modifications to the initial listing fees; (2) exempt from initial listing fees already-public issues which are listed and/or quoted on other marketplaces (''Transfer Listings''), whether or not dually listed; (3) exempt from annual maintenance fees transfer listings for the first 12 calendar months after listing, whether or not dually listed; (4) revise the annual maintenance fees; and (5) revise the additional shares listing fees.

The text of the proposed rule change is available on PCX's Web site, *http://*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange (a) modified the text of the proposed rule change to clarify the implementation of the proposed rule change and to add provisions regarding American Depositary Receipts and American Depositary Shares and (b) provided further information regarding the purpose of the proposal.

[4] An ''IPO'' is the first public sale, issuance or distribution of stock by a company. IPOs include ''spin-offs'' where a company's common shares are issued or distributed to shareholders of the ''parent'' company subject to registration under the Act.

www.pacificex.com, at PCX's Office of the Secretary, and at the Commission's Public Reference Section.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCXE 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. PCXE 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 Exchange proposes to increase certain portions of its listing fees and make a number of related modifications. PCXE has determined that such increases are necessary to help ensure sufficient cost recovery resulting from expenditures for operations, technology and infrastructure incurred in connection with ArcaEx's listings initiative.[5] ArcaEx has made and continues to make substantial investments in resources, services and value-added products that are readily available for listed companies, including a recently launched data product that provides a wide variety of market-related information to issuers.[6] The Exchange also developed the proposed revised Schedule in order to compete effectively with other markets for new listings on the basis of cost and value. Considering the nature and breadth of the benefits and services available to listed issuers, the Exchange believes that the proposed revised Schedule offers listed issuers significant economic benefits. Moreover, notwithstanding these proposed increases and modifications to the Schedule, these fees are generally lower than comparable listing fees at other marketplaces.[7]

Summary of Current and Proposed Fees

(a) Initial Listing Fees. Currently, the one-time initial listing fee for common stock is based on whether the issue is dually listed on the New York Stock Exchange, the American Stock Exchange, or the Nasdaq National Market. If an issue is dually listed, the initial listing fee is fixed at $10,000 per issue; otherwise, the initial listing fee is fixed at $20,000 per issue. The initial listing fee for additional classes of common stock, preferred stock, warrants, debit instruments, purchase rights and units is $2,500, regardless of whether such securities are also listed elsewhere. These fees apply to each issue listed, regardless of shares outstanding or listing tier classification.

PCXE proposes initial listing fees specifically for common stock listed in conjunction with IPOs. For IPOs listed exclusively on Tier I,[8] PCXE proposes initial listing fees based on the aggregate total shares outstanding, as follows:

Aggregate total shares outstanding[9]	Initial listing fee
Less than 10,000,000	$25,000
10,000,001 to 30,000,000	75,000
30,000,001 to 75,000,000	100,000
Greater than 75,000,000	125,000

The Exchange proposes an IPO Tier I initial listing fees based on a sliding scale of the issuer's aggregate total shares outstanding. With this tiered structure the Exchange intends to reflect the time and resources necessary to review listing applications that correspond generally to the size of issuers, the complexity of capital structures and financial statements, and the sophisticated nature of business plans and transactions.

For IPOs listed exclusively on Tier II,[10] the Exchange proposes a fixed initial listing fee of $25,000. The Exchange believes this fixed fee is appropriate because Tier II listed issuers are typically smaller-capitalized issuers with relatively shorter operating histories than Tier I qualified issuers. Further, a fixed fee for these issuers will enable the Exchange to compete for listings of this size with other marketplaces.

For IPOs that dually list, the Exchange proposes an exemption from initial listing fees. The Exchange also proposes an exemption from initial listing fees for Transfer Listings, whether exclusively or dually listed. These exemptions apply regardless of Tier classification or shares outstanding. The Exchange believes these exemptions are appropriate in order for the Exchange to effectively compete for dual listings.[11] The applicable fees to list additional classes of common stock, preferred stock, warrants, debit instruments, purchase rights and units will remain unchanged.

The Exchange proposes to implement these new IPO and Transfer Listing fees for all listing applications submitted on or after April 1, 2005, should the Commission approve the proposed rule change. The current fees will continue to apply to issues already listed or applications that are pending as of March 31, 2005.

(b) Annual Maintenance Fees. Currently, the annual maintenance fees are fixed and based on whether the issue is dually listed on the New York Stock Exchange, American Stock Exchange, or the Nasdaq National Market. For dually listed securities, the maintenance fee is $1,000 per issue; otherwise, the maintenance fee is $2,000 per issue. For each additional issue, the annual maintenance fee is $500. The annual minimum fee is $1,000 and the annual maximum fee is $5,000. Moreover, annual maintenance fees are not incurred in the year of listing; rather, they are payable beginning in the first full calendar year following the year of listing.

The Exchange proposes to adopt specific annual maintenance fees for exclusive IPO listings. For Tier I exclusive IPO listings, PCXE proposes to adopt annual maintenance fees based on the aggregate total shares outstanding, as follows: [12]

[5] The Exchange represents that the proposed listings fees modifications, including the proposed exemptions from certain listing fees, will not negatively impact the Exchange's regulatory program.

[6] The Exchange acknowledges that a number of the proposed changes represent significant increases from prior listing fees. However, PCXE believes that the initial listing and related fees are extremely dated as the Exchange has not modified them in a number of years. Further, following the 2002 alliance between PCX and Archipelago that established the Archipelago Exchange as a facility of the Exchange, the Exchange has committed extensive resources and efforts to develop and support the listings program. Since then, the Exchange continued to operate under an antiquated Schedule and now finds that some modifications, which include some increases to certain fees, are necessary to operate the listings program and effectively compete in the marketplace.

[7] *See* listing fees of the American Stock Exchange (*http://www.amex.com*) and the Nasdaq National Market (*http://www.nasdaq.com/about/nasdaq_listing_req_fees.pdf*).

[8] *See* PCXE Rule 5.2(c).

[9] The Exchange will determine the issuer's aggregate total shares outstanding as reported by the issuer in its periodic filings with the Commission or other publicly available information.

[10] *See* PCXE Rule 5.2(k).

[11] The Exchange expends similar time, energy and resources in processing issuers that dual list. However, the Exchange has made a business decision to forgo the initial listing fee for competitive purposes and anticipates that it will make up the cost in other listings related fees and future listing business.

[12] Similar to the initial listing fees, the purpose of the tiered pricing based on aggregate total shares outstanding is to charge the listed company a maintenance fee depending on the time, energy and

Continued

Aggregate total shares outstanding	Annual maintenance fee
Less than 10,000,000	$15,000
10,000,001 to 50,000,000	20,000
50,000,001 to 100,000,000	35,000
Greater than 100,000,000	50,000

For Tier II exclusive IPO listings, PCXE proposes to adopt an annual maintenance fee of $12,500, regardless of shares outstanding. Consistent with current practice, the Exchange will not assess these annual maintenance fees for the year of listing, but rather, will first assess them for the first full calendar year following the year of listing.

For dual IPO and Transfer Listings, the Exchange proposes an exemption from annual maintenance fees for the first 12 calendar months following listing for competitive purposes.[13] At the end of this 12-month period, the Exchange will assess, on a pro-rated basis, the applicable annual maintenance fee for the balance of the then current calendar year.[14] Thereafter, for exclusive Transfer Listings, the Exchange will assess an annual maintenance fee based on the fees set forth above for exclusive IPOs, depending on Tier classification. For dual listings (including dual IPO and Transfer Listings), the Exchange will assess a fixed annual maintenance fee of $10,000, regardless of Tier classification or shares outstanding. The Exchange intends to make these assessments at the beginning of the calendar year for that year. If any such dual listing subsequently lists exclusively, the Exchange will assess an annual maintenance fee based on the fees set forth above for exclusive IPOs, starting in the first full calendar year following the change to an exclusive listing.

PCXE proposes to implement these revised annual maintenance fees for all listing applications submitted on or after April 1, 2005, should the Commission approve the proposed rule change. For all issues already listed, and listing applications pending, as of March 31, 2005, the current annual maintenance listing fees will continue to apply.

In addition, the Exchange proposes to increase the maximum annual maintenance fee payable by a single issuer for all issues listed from $5,000 to $90,000, in order to be consistent with the fee changes proposed herein. Annual maintenance fees will not be pro-rated or reduced for securities that delist for any reason.

(c) Additional Shares Listing Fee. Currently, the fee applicable to issuers to list additional shares is $.0025 per share listed, with a $500 minimum and a $7,500 maximum per application. The maximum total charge per year is $15,000.

The Exchange proposes to make a number of modifications to the Additional Shares Listing Fee. For all exclusive listings, including exclusive IPO and transfer listings, the Exchange proposes to eliminate the per share fee entirely for the first 99,999 additional shares per application. The Exchange proposes to eliminate the fee on these shares so as not to assess issuers for small additional issuances and also to enhance its ability to effectively compete with other marketplaces.[15] For such listings, the $.0025 per share fee will remain the same, and will be assessed beginning on each additional share listed above 99,999. The Exchange also proposes increased maximum charges for listed issuers that choose to list additional shares, that is, to increase the $7,500 maximum charge per application to $15,000 and the $15,000 annual maximum charge to $30,000. These increases may potentially result in increased additional share charges for issuers, depending on the nature and size of the additional issuance. The $500 minimum charge (per application) will remain unchanged.

For all dual listings, the Exchange proposes to eliminate the fee entirely for the first 99,999 additional shares per application in order to effectively compete with other marketplaces. The Exchange also proposes to eliminate the fee on these shares so as not to assess issuers for small additional issuances. For such listings, the $.0025 per share fee will be assessed beginning on each additional share listed above 99,999. The Exchange also proposes to modify the annual maximum charge applicable to such listings to $14,000 so as to provide for an increased limitation for listed issuers that choose to list additional shares, which will result in charges that are beyond the current maximum charges. The minimum and maximum charge per application will remain unchanged. The Exchange further proposes an exemption from such additional share fees for all dual IPO and dual transfer listings for the 12 calendar months after listing. Thereafter, such listings will be subject to the additional shares listing fee as set forth above.

Lastly, for dually listed American Depositary Receipts (''ADRs'') and American Depositary Shares (''ADSs'') only, the Exchange proposes to decrease the maximum additional shares listing charge per year to $10,000 and maintain the minimum charge per application at $500 and the maximum per application charge at $7,500. These fees shall only be assessed on the ADRs and ADSs that are listed. The Exchange's proposed revisions to the additional shares listing fees, as applicable, will apply to all currently listed issuers starting April 1, 2005, should the Commission approve the proposed rule change.

Implementation

PCXE proposes to implement the revised initial and annual maintenance listings fees, as applicable, for all applications submitted on or after April 1, 2005, should the Commission approve the proposed rule change. For all issues listed, and listing applications pending, as of March 31, 2005, the current initial and annual maintenance listing fees will continue to apply. The Exchange's proposed revisions to the additional shares listing fees will apply going forward to all currently listed issuers starting April 1, 2005, should the Commission approve the proposed rule change.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)[16] of the Act, in general, and Section 6(b)(4)[17] of the Act, in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and other persons using its facilities.

resources necessary, given the size of the listed issuer.

[13] In February 2004, Nasdaq determined that it would not charge entry, annual or additional listing fees for a one-year period from the date of listing on Nasdaq for any NYSE listed security that dually listed on Nasdaq between January 12, 2004 and December 31, 2004. *See* Securities Exchange Act Release No. 49286 (February 19, 2004), 69 FR 8999 (February 26, 2004) (SR–NASD–2004–004). Subsequently, Nasdaq exempted from entry and additional listing fees those NYSE issuers remaining dually listed after the one-year period and those NYSE issuers dually listing thereafter, but imposed an annual fee of $15,000 on such issuers at the end of their first year on Nasdaq. *See* Securities Exchange Act Release No. 51005 (January 10, 2005), 70 FR 2917 (January 18, 2005) (SR–NASD–2004–142).

[14] For example, an issuer that transfers a listing in June 2005 will be subject to the exemption and will not be assessed annual maintenance fees until June of 2006 (prorated for 2006) when the issuer would ordinarily be assessed annual maintenance fees in January 2006 for the first full calendar year after listing.

[15] Nasdaq does not charge issuers for the first 49,999 additional shares listed each quarter. *See supra* note 7.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not solicit or receive any written comments 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 the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–19 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–PCX–2005–19. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–19 and should be submitted on or before September 6, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–4426 Filed 8–15–05; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending July 29, 2005

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2005–21999.
Date Filed: July 27, 2005.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 USA–EUR Fares 0101 dated 19 July 2005.
Resolution 015h—USA Add-ons between USA and UK.
Intended effective date: 1 October 2005

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 05–16188 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–62–P

[18] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending July 29, 2005.

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2005–22001.
Date Filed: July 27, 2005.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 17, 2005.
Description: Application of Hawaii Island Air, Inc., requesting certificate authority to conduct scheduled domestic air transportation with aircraft of more than 60 seats in addition to the scheduled air transportation that the Applicant is currently conducting as a commuter air carrier with aircraft of fewer than 60 seats.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 05–16189 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at Beverly Municipal Airport, Beverly, Massachusetts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: The FAA is requesting public comment on the City of Beverly, Massachusetts' request to change 10.3 acres of vacant land located in the approach to Runway 34 to industrial use. The land will be sold to an abutter for expansion of a manufacturing building. The land was acquired under FAAP 9–19–026–D603. The disposition

of proceeds from the disposal of airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

DATES: Comments must be received on or before September 15, 2005.

ADDRESSES: Documents are available for review by appointment by contacting Mr. Robert Mezzetti, Airport Manager at Beverly Municipal Airport, 46 L.P. Hendersen Road, Beverly, Massachusetts 01915, Telephone 978–921–6072 or by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone 781–238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on July 25, 2005.

LaVerne F. Reid,

Manager, Airports Division, New England Region.

[FR Doc. 05–16157 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance, Southern Illinois Airport, Carbondale-Murphysboro, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is giving notice that a portion of the airport property will be exchanged with the Southern Illinois University. A portion of the property to be exchanged (.0254 acre) was originally acquired in fee on July 20, 1948, with partial Federal funding. The remaining property (.7266 acre was acquired by Southern Illinois Airport Authority (SIAA) on August 16, 2001, in a previous exchange with the Southern Illinois University (SIU). This release will be an even exchange of land (.752+/-acre) between SIAA and SIU. The Exhibit 'A' Property Line Map (Exhibit 1) and the Airport Layout Plan (Exhibit 2) depicts the exchange.

The University proposes to construct four (4) buildings which will result in the new Transportation Education Center at the airport. The sponsor anticipates greater future opportunities for the airport due to the reputation of the University and its renowned programs. It has been determined that one of the buildings will cause a line-of-site obstruction with the Air Traffic Control Tower if it is built in its proposed location. In order to eliminate the conflict, an even exchange of the property and a different construction location has been proposed.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires that property to be used for an aeronautical purpose.

DATES: Comments must be received on or before September 15, 2005.

FOR FURTHER INFORMATION CONTACT: E. Lindsay Butler, Program Manager, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone Number 847–294–7723/FAX Number 847–294–7046. Documents reflecting this FAA action may be reviewed at this same location or at the Southern Illinois Airport, Carbondale-Murphysboro, Illinois.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA intends to authorize the exchange of the subject airport property at Southern Illinois Airport, Carbondale-Murphysboro, Illinois. Approval does not constitute a commitment by the FAA to financially assist in exchange of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. If appropriate, the disposition of proceeds from the exchange of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

Issued in Des Plaines, Illinois on June 10, 2005.

Larry H. Ladendorf,

Acting Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 05–16155 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amendment to notice published August 3, 2005, page 44716.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collections. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on April 12, 2005, page 19144. A change has been made to the total estimated burden on the public for this collection.

DATES: Comments must be submitted on or before September 15, 2005. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Pilot Schools—FAR 141.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0009.

Form(s): FAA Form 8420–8.

Affected Public: A total of 546 pilot schools.

Abstract: 49 U.S.C. 44707 authorizes certification of civilian schools giving instruction in flying. 14 CFR part 141 prescribes requirements for pilot schools certification. Information collected is used for certification and to determine compliance. The respondents are applicants who wish to be issued pilot school certificates and associated ratings.

Estimated Annual Burden Hours: An estimated 29,770 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department,

including whether the information will have practical utility, the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 9, 2005.

Judith D. Street,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 05–16156 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–22097]

Request for Information on New Commercial Vehicle Safety Inspection Concepts

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

ACTION: Notice of request for information (RFI).

SUMMARY: FMCSA invites comments, suggestions and creative ideas on new operational concepts that will improve commercial vehicle safety inspections through more thorough performance-based inspections. Commercial vehicle roadside safety inspections represent one of the most effective tools for monitoring and regulating the condition of the in-use commercial vehicle fleet, as well as for auditing and enforcing driver and operational-related safety practices, including hours of service, proper driver credentialing, and other safety aspects of commercial vehicle equipment and operations. New technologies such as advanced sensor and on-board diagnostics as well as wireless communications offer the potential for dramatically improving the effectiveness and efficiency of the roadside commercial vehicle safety inspection process. This Request for Information directly supports the Agency's top priority initiative—Comprehensive Safety Analysis 2010, or CSA–2010—which is a top-to-bottom review of how FMCSA can best develop and manage programs that are most effective in improving motor carrier safety.

DATES: Send your comments on or before October 17, 2005.

ADDRESSES: You may submit comments identified by any of the following methods. Please identify your comments by the FMCSA Docket Number FMCSA–2005–22097.

- Web site: *http://dms.dot.gov*. Follow instructions for submitting comments to the Docket.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Management Facility, 400 Seventh Street, SW., Plaza level, Washington, DC 20590–0001.
- Hand Delivery: Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go *http://regulations.gov*. Follow the on-line instructions for submitting comments.

Docket: For access to the Docket Management System (DMS) to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available electronically 24 hours each day, 365 days each year. If you want notification of receipt of your comments, please include a self-addressed, stamped envelope, or postcard or print the acknowledgement page that appears after submitting comments on-line.

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

FOR FURTHER INFORMATION CONTACT: Jeff Loftus, Federal Motor Carrier Safety Administration, Office of Research and Technology at (202) 385–2363 *jeff.loftus@fmcsa.dot.gov*. Office hours are from 9 a.m. to 5 p.m. e.s.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Statistics show there are 8 million trucks and buses that travel 208 billion miles on our nation's highways each year, and commercial vehicle miles traveled are forecasted to grow approximately 2 percent annually. In addition, truck traffic will increase approximately 25 percent over the next 10 years. Therefore, the need for developing new innovative inspection concepts-of-operation that leverage new technologies, result in more thorough performance-based inspections, and improve cost effectiveness is a high priority for FMCSA.

Commercial vehicle roadside safety inspections, targeted to higher risk carriers (as determined by prior roadside inspection and crash history), and conducted annually by 10,000 roadside safety inspectors, uncover some type of violation related to the vehicle condition, driver credentials, or hours of service in well over 80% of all inspections. In 2004, the approximately 3 million roadside safety inspections resulted in 1 million out-of-service violations and 7.2 million total violations.

FMCSA is attempting to develop feasible operational concepts for partially or fully automating the commercial vehicle inspection process. Greater automation has the potential to improve the quality of inspections, increase the number of vehicles screened and inspected, and/or enable faster inspections, resulting in improved effectiveness, efficiency, and most of all safety

Under the current safety inspection process, vehicle and driver inspections are delineated by different ''levels''. The North American Standard Driver/Vehicle Inspection or ''Level 1'' inspection involves all driver documentation and a complete vehicle inspection. The time taken for a Level 1 inspection is typically about 30–40 minutes, so improving the speed with which inspections are performed would be a benefit to carriers in terms of their operational efficiency.

There are 5 additional inspection levels. A Level 2 inspection, called a ''Walkaround Driver/Vehicle Inspection,'' is the same as a Level 1, except there is no checking under the vehicle. A Level 3 inspection, called a ''Driver Only Inspection,'' involves only a review of driver documentation and carrier credentials. A Level 4 inspection, called a ''Special Study,'' can involve any aspect of the inspection process and is usually done for data-gathering purposes. A Level 5 inspection, called a ''Vehicle Only Inspection,'' includes only the vehicle portion of a Level 1 inspection (conducted without a driver present). Finally, a Level 6 inspection, called ''Enhanced Radioactive Inspection,'' is the most comprehensive inspection of all due to the hazardous material in the cargo.

In addition, the Federal Highway Administration's (FHWA) Office of

Freight Management and Operations oversees state enforcement of heavy truck and bus size and weight standards in the United States. Compliance with Federal weight regulations is checked by state DOT personnel, often in coordination with the various levels of commercial vehicle inspections performed by state enforcement personnel. In past years, FHWA has explored the use of various weigh-in-motion (WIM) technologies to prescreen vehicles for their conformance with maximum weight restrictions. In this current research effort, FMCSA, with its focus on conducting safety inspections, is working with FHWA in their research on use of new technologies for vehicle weight enforcement. Therefore, leveraging technology for weight enforcement purposes will be considered in this project in addition to any new safety inspection concepts developed under it.

This project falls under the DOT Intelligent Transportation Systems (ITS) Program. Section 5204(j)(2) of the Transportation Equity Act for the 21st Century, Pub. L. 105–178 (TEA–21), provides that an ITS project involving surveys, questionnaires, or interviews is exempt from the requirements of the Paperwork Reduction Act, Chapter 35 of Title 44 of the U.S. Code. TEA–21 Section 5204(j)(2) states: ''Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.'' 23 U.S.C.A. 502 Note.

Definitions

Inspection Process: This research effort involves investigating ways in which wireless and other advanced its technologies may be applied to improve aspects of ''the inspection process''. This phrase should be interpreted broadly to include: (1) Screening activities (*e.g.*, screening of driver identification and related safety information, vehicle identification, credentials, etc.); (2) the inspection itself (*e.g.*, Level 1 inspection process); and (3) other related information technology issues that affect both the time spent on an inspection and the quality of an inspection, (*e.g.*, data communications; data input from inspectors; lack of data automation; lack of consolidation of databases/information systems, etc.).

Purpose

The purpose of this effort is to request information on new technology concepts that can help improve the efficiency, effectiveness, and long-term results of performance-based commercial vehicle safety inspections. Information collected will serve as one of many inputs into an exploratory research and technology project looking at various advanced inspection concepts for getting data from the vehicle to the roadside. The project is not directly related to FMCSA's Advance Notice of Proposed Rulemaking titled, ''Electronic On-Board Recorders for Hours-of-Service Compliance,'' Docket FMCSA–2004–18940, published in the **Federal Register** on September 1, 2004 (69 FR 53386).

Questions for Response

1. For the existing safety inspection levels (1–6) referred to above, current procedures for conducting these are for the most part ''manual'', *i.e.*, an inspector manually checks items via visual, hands-on procedures. What new operational concept(s) might be developed to more fully automate commercial vehicle screening and inspections to allow more and better quality inspections to be performed (particularly on high-risk carriers)? Please describe the new concept(s).

2. Considering both vehicle and driver-related inspection items, which systems or parameters might lend themselves to being accurately monitored by on-board sensors? Please comment on all that apply.

3. If some of the items identified in question 2 are NOT currently available in an electronic format on most vehicles (*e.g.*, DOT number), how could this information be made available electronically to enable wireless transmission from the vehicle?

4. In the future, if on-board technology could be used to monitor vehicle and driver status and electronically maintain driver history, and if these data are wirelessly transmitted to the inspection site, please rank order the following in terms of usefulness for selecting (screening) vehicles for further (manual) inspection (1 being most important and 12 being the least important):

__Tire Condition
__Vehicle Weight
__Driver Qualifications
__Lighting system
__Exhaust System
__Vehicle Inspection History
__Brake Condition
__Driver HOS
__Carrier Performance
__Suspension
__Steering
__Other (please specify)

5. The items identified in the response to questions 2 through 4 might be used to define a ''safety data message set'' that could be transmitted via wireless communication to the roadside for the purposes of automated screening and/or inspection of commercial vehicles. Please comment on the feasibility of implementing a new screening and/or inspection system that utilizes such a safety data message set. What key issues (technical, economic, institutional, operational, etc.) would need to be addressed to develop and implement such an inspection concept?

6. If on-board technology, as described above, were implemented for screening commercial vehicles, how should the information be presented to inspectors? (select one)

(a) A simple fault/no-fault for each system based on predetermined ''rules'' or algorithms that define ''fault'' using system-specific performance measures. For example, a listing of those systems or items for which a ''failure'' was detected would be transmitted to the inspection site.

(b) A ''snapshot'' of recently recorded performance or operational values being measured for each system (*e.g.*, data stored within the last 30 minutes of operation). The exact format and methodology for recording the ''snapshot'' data would again be developed as an industry standard much like standardized emissions data.

(c) Actual real-time feeds of parameters being measured by the on-board diagnostic equipment, (*e.g.*, ''live'' feed of tire pressures, brake condition sensing, etc.).

(d) Other.

7. When/how should this information be available to the inspection site?'' (select one).

(a) Well before the inspection station (perhaps 2 miles) so that a decision to inspect/not inspect can be made and a return signal sent within sufficient time to allow the truck to enter or bypass the station.

(b) Upon entering the exit ramp for inspection, but before scales/scale house at about the same point where WIM equipment is often positioned.

(c) In front of scale house to allow visual inspection.

(d) Anytime/anywhere while vehicle is on the highway upon request from any computer terminal (including mobile).

(e) Other.

8. If the on-board sensors report all vehicle systems are functioning properly, what other conditions/information would be needed in order for the commercial vehicle to be permitted to bypass the inspection station, even if it were randomly sampled for inspection? (select one)

(a) None. If all sensors report no fault, the truck may bypass the station.

(b) Would still need/want USDOT registration number to check carrier history.

(c) Would still need/want CDL or other license information to check driver history.

(d) For trucks randomly sampled for inspection, no matter what information about the carrier, driver or truck was transmitted, the truck would still need to pass in front of inspectors at slow speed to allow for quick visual inspection.

(e) Other.

9. Please rank the following concerns/challenges with implementing an ''automated'' wireless type of safety inspection concept, with 1 being the greatest concern and 5 being the least concern.

(a) __Privacy concerns

(b) __Electronic falsification of data

(c) __Accuracy of measured data

(d) __Operator resistance to implementation

(e) __Added operational and maintenance requirements

(f) __Other (please specify)

10. Regarding driver HOS violations, what would be sufficient to transmit to the inspection station? (select one)

(a) A simple ''in-violation'' versus ''no-violation'' signal.

(b) Information that indicates if an operator is approaching a violation threshold.

(c) The actual HOS for each rule (*e.g.,* 60-hr., 70 hr., etc.).

(d) The complete logbook regardless of status of violation.

(e) Other.

11. Regarding the options described below, which would you deem more helpful for improving the overall screening, inspection process, and safety of commercial vehicles and why? (select one)

Option 1: Utilize on-board vehicle sensors to monitor brake wear, tire pressure, and other critical parameters. Also, electronically identify the driver CDL information using smart cards/readers and electronically coded U.S. DOT and license numbers. Combine all electronic information (vehicle health, CDL, and carrier identifier data) to form a ''safety data message set'' that could be wirelessly transmitted from the vehicle to a fixed or mobile roadside inspection station, or other locations as needed. This data could be used to eliminate portions of a manually-performed vehicle inspection, reduce the amount of time spent inspecting each truck, improve effectiveness, and assist in identifying which trucks to inspect. Information could be sent to carriers as well to provide vehicle diagnostic and driver data for fleet safety management purposes. In the future, when sufficient accuracy and system security (anti-tampering) can be assured, a new automated inspection level could be defined, *i.e.,* ''Level 7,'' where citations would be given to the drivers and automatically sent to carriers.

Option 2: Implement a screening procedure whereby vehicle, carrier, and driver identifier-only information (*i.e.,* no ''real-time'' vehicle health or driver status data) could be downloaded wirelessly from each vehicle well in advance of the weigh/inspection station. The information could then be used to query databases containing driver history and credentialing data, past vehicle inspection history, and carrier-safety-rating data. Vehicle weight would be monitored using in-road (WIM) equipment and correlated with the identifier information obtained wirelessly.

Option 3: Similar to Option 2, except carrier and vehicle identifier data are obtained from roadside equipment only (no transponder on vehicle) using high-accuracy video that reads DOT and license numbers. Vehicle weight would be monitored using in-road (WIM) equipment and correlated with the identifier data.

Option 4: Maintain the same procedures currently used, but increase the number of trucks inspected through use of additional manpower and facilities.

__Option 1 __ Option 2 __ Option 3 __ Option 4

Comments:

12. What technology for wirelessly transmitting data from the vehicle to the roadside inspection site should be favored and why? (select one)

__Wi-Fi__Cellular__Satellite__Other __Any and all of the above

Comments:

13. As noted earlier, on average, a heavy duty commercial vehicle (tractor-trailer) is likely to receive an inspection approximately once per year with trucks from higher risk carriers often inspected more frequently. How frequently would inspections need to occur before carriers and operators (particularly high-risk carriers) would begin to significantly modify their behavior relative to vehicle maintenance and driver compliance? Once a month? Once a week? Other? If a subset of inspection information could be electronically screened at all inspection sites (*i.e.,* brake, tire, and lighting system diagnostic data; electronic hours-of-service record; CDL information; and carrier and vehicle identification data), how would this impact carrier and operator behavior?

14. If such a program were implemented on a national scale (together with high-speed WIM technology), it could reduce the amount of time vehicles spend at roadside inspection facilities. Depending on the cost of implementing such technology from the motor carrier's perspective, the increase in efficiency may well be cost beneficial. However, it has been argued that such new technology systems are often adopted by ''good carriers'' and, as such, they do little to improve the safety of poorer performing carriers. Please comment on possible strategies and approaches for implementing a nationwide wireless vehicle inspection program that would encourage broad-based participation from a significant percentage of motor carriers. Could a voluntary program with incentives be successful (identify and explain potential incentives)? Should a phased-in regulatory approach be considered? Other?

15. Please provide any other comments on the safety benefits, technical barriers, institutional challenges and/or costs of implementation associated with a wireless, automated safety inspection program.

Issued on: August 5, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–16163 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Waiver Petition Docket Number FRA–2002–11809]

North County Transit District; Supplementary Notice of Waiver Request; Notice of Public Hearing; and Extension of Comment Period

As a supplement to North County Transit District's (NCTD) Petition for Approval of Shared Use and Waiver of Certain Federal Railroad Administration Regulations (the waiver was granted by the FRA on June 24, 2003), NCTD seeks a permanent waiver of compliance from additional sections of Title 49 of the CFR for operation of its SPRINTER rail line between Oceanside, CA and Escondido, CA. *See* Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and

Conventional Equipment, 65 FR 42529 (July 10, 2000). See also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).

In this regard, NCTD has advanced the design and construction of the SPRINTER rail line towards implementation and in the process, has identified the following additional regulations from which it hereby seeks waivers: 49 CFR part 223 Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses, Section 223.9(c), and part 229 Railroad Locomotive Safety Standards, Section 229.125(a).

As a result of the comments received by FRA concerning this waiver petition, FRA has determined that a public hearing is necessary before a final decision is made on this petition. A public hearing was originally scheduled for July 27, 2005. However, due to the unavailability of some of the interested parties, FRA opened the public hearing and announced that a second public hearing would be scheduled in this matter. Accordingly, a public hearing is set to begin at 9:30 a.m. on September 14, 2005, in Rooms 4438 and 4440 at the Department of Transportation Headquarters Nassif Building, 400 7th Street, SW., Washington, DC 20590. Interested parties are invited to present oral statements at this hearing.

The hearing will be informal and conducted in accordance with FRA's Rules of Practice (49 CFR part 211.25) by a representative designated by FRA. FRA's representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition without cross-examination. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given an opportunity to do so in the same order in which initial statements were made. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

In addition, FRA is extending the comment period in this proceeding until September 23, 2005. FRA reserves the right to announce a further extension of the comment period for the purpose of receiving post-hearing submissions should that appear appropriate in the judgment of the Board based on testimony received at the public hearing.

All communications concerning these proceedings should identify the appropriate docket number (Waiver Petition Docket Number FRA–2002–11809) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

Issued in Washington, DC on August 11, 2005.

Michael Logue,

Deputy Associate Administrator.

[FR Doc. 05–16282 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2005–21015]

Central New York Railroad Corporation, Norfolk Southern Corporation, and New York, Susquehanna and Western Railway Corporation; Notice of Public Hearing and Extension of Comment Period

The Central New York Railroad Corporation, Norfolk Southern Corporation, and New York, Susquehanna and Western Railway Corporation have jointly petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the interlocking, automatic block signal, and traffic control systems, on the single and double main tracks, between CP Sparrow Bush, milepost 89.9, near Port Jervis, New York, and, CP BD, milepost 213.0, near Binghamton, New York, a distant of approximately 123 miles. This block signal application proceeding is identified as Docket Number FRA–2005–21015.

FRA has issued a public notice seeking comments of interested parties and is conducting its own field investigation in this matter. However, after examining the carrier's proposal and numerous letters of comments from interested parties; FRA has determined that a public hearing is necessary before a final decision is made on this proposal. FRA is also extending the comment period to one week beyond the date of the public hearing. If information received at the public hearing warrants the need to extend the comment period further, a separate notice will be published indicating such extension.

Accordingly, a public hearing is hereby set for 9 a.m. daylight-saving time, on Wednesday, September 28, 2005, in Conference Room 1, on the 18th floor, of the State Office Building, at 44 Hawley Street, in Binghamton, New York 13901. Interested parties are invited to present oral statements at the hearing.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a non adversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

In addition, FRA is extending the comment period to October 5, 2005. All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2005–21015) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the

comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on August 10, 2005.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 05–16152 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2005 22108]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before October 17, 2005.

FOR FURTHER INFORMATION CONTACT: Richard Walker, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–5076, Fax: 202–366–6988; or e-mail: *Richard.walker@dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Inventory of American Intermodal Equipment.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0503.

Form Numbers: None.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: This collection consists of an intermodal equipment inventory that provides data essential to both the government and the transportation industry in planning for the most efficient use of intermodal equipment. Further, this collection is intended to assure that containers and related intermodal equipment are obtainable in the event of a national emergency.

Need and Use of the Information: The information contained in the inventory provides data about U.S-based companies that own or lease intermodal equipment and is essential to both government and industry in planning for contingency operations.

Description of Respondents: Owners of U.S. steamship and intermodal equipment leasing companies.

Annual Responses: 22 responses.

Annual Burden: 66 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street Southwest, Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit*. Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. e.d.t. (or e.s.t.), Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov*.

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

By Order of the Maritime Administrator.

(Authority: 49 CFR 1.66.)

Dated: August 10, 2005.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–16228 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 22107]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VIKING IV.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–22107 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before September 15, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 22107. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Gordon, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5468.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel VIKING IV is:

Intended Use: ''Private passenger charter.''

Geographic Region: Serving coastal waterways of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida.

Dated: August 10, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–16227 Filed 8–15–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The OCC, 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 a proposed information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comments concerning an information collection titled ''Bank Secrecy Act/Money Laundering Risk Assessment.''

DATES: Written comments should be submitted by August 24, 2005.

ADDRESSES: Direct all written comments to the Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to *REGS.COMMENTS@OCC.TREAS.GOV*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to Mark Menchik, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503. Electronic mail address is *mmenchik@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary H. Gottlieb or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC has submitted the Bank Secrecy Act/Anti-Money Laundering Risk Assessment (Risk Assessment) to OMB under the emergency processing procedures in 5 CFR 1320.13. Further, the OCC has requested OMB action under these procedures by August 24, 2005. Thereafter, the OCC will seek clearance of the Risk Assessment under OMB's standard procedures.

Title: Bank Secrecy Act/Anti-Money Laundering Risk Assessment.

OMB Number: [1557–To be assigned].

Form Number: N/A.

Abstract: The Risk Assessment will enhance the ability of examiners and bank management to identify and evaluate any Bank Secrecy Act/Anti-Money Laundering risks associated with the banks' products, services, customers, and locations. As new products and services are introduced, existing products and services change, and the banks expand through mergers and acquisitions, management's evaluation of money laundering and terrorist financing risks must evolve as well. Absent appropriate controls, such as this risk assessment, these lines of business, products, or entities could elevate Bank Secrecy Act/Anti-Money Laundering risks.

Type of Review: New collection.

Affected Public: Businesses or other for-profit.

Number of Respondents: 2,042.

Total Annual Responses: 2,042.

Frequency of Response: Annually.

Total Annual Burden Hours: 21,364.

All comments will be considered in formulating the subsequent submission and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 4, 2005.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 05–16140 Filed 8–15–05; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8846

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8846, Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

DATES: Written comments should be received on or before October 17, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

OMB Number: 1545–1414.

Form Number: 8846.

Abstract: Employers in food or beverage establishments where tipping is customary can claim an income tax credit for the amount of social security and Medicare taxes paid (employer's share) on tips employees reported, other than on tips used to meet the minimum wage requirement. Form 8846 is used by employers to claim the credit and by the IRS to verify that the credit is computed correctly.

Current Actions: There are no changes being made to the Form 8846 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 68,684.

Estimated Time Per Respondent: 7 hr., 10 min.

Estimated Total Annual Burden Hours: 492,465.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 9, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–4417 Filed 8–15–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, September 1, 2005, from 12 p.m. to 1 p.m. e.t.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, September 1, 2005, from 12 p.m. to 1 p.m. e.t. via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: various IRS issues.

Dated: August 9, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–4413 Filed 8–15–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, September 12, 2005, at 2 p.m. central time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Monday, September 12, 2005, at 2 p.m. central time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org*. This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for additional information.

The agenda will include the following: various IRS issues.

Dated: August 9, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–4414 Filed 8–15–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, September 6, 2005, from 11 a.m. to 12 p.m. e.t.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Tuesday, September 6, 2005, from 11 a.m. to 12 p.m. e.t. via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: Various IRS issues.

Dated: August 9, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–4415 Filed 8–15–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is reviewing public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service brought forward by the Area and Issue Committees.

DATES: The meeting will be held Thursday, September 15, 2005, 1 p.m. to 5 p.m., Friday, September 16, 2005, 8:30 a.m. to 5 p.m., and Saturday, September 17, 2005, 8 a.m. to Noon, Pacific time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or 414–297–1611.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Thursday, September 15, 2005, 1 p.m. to 5 p.m., Friday, September 16, 2005, 8:30 a.m. to 5 p.m., and Saturday, September 17, 2005, 8 a.m. to noon, Pacific time, at the Flamingo Las Vegas, 3555 Las Vegas Boulevard South, Las Vegas, NV 89109. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611, or write Barbara Toy, TAP Office, MS–1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to 414–297–1623, or you can contact us at *http://www.improveirs.org*.

The agenda will include the following: Monthly committee summary report, discussion of issues brought to the joint committee, office reports, and discussion of next meeting.

Dated: August 8, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–4416 Filed 8–15–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0014]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 15, 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. 2900–2900–0014.''

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. 2900–0014'' in any correspondence.

Title: Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status, VA Form 28–1905.

OMB Control Number: 2900–0014.

Type of Review: Extension of a currently approved collection.

Abstract: VA case managers use VA Form 28–1905 to identify program participants and provide specific guidelines on the planned program to facilities providing education, training, or other rehabilitation services. Facility officials certify that the claimant has enrolled in the planned program and submit the form to VA. VA uses the data collected to ensure that claimants do not receive benefits for periods for which they did not participate in any rehabilitation, special restorative or specialized vocational training programs.

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 April 28, 2005 at pages 22172–22173.

Affected Public: Not-for-profit institutions, Individuals or households, Business or other for-profit, Farms, Federal Government, and State, Local or Tribal Government.

Estimated Annual Burden: 6,833 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Semi-annually.

Estimated Number of Respondents: 41,000.

Estimated Total Annual Responses: 82,000.

Dated: August 9, 2005.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. 05–16238 Filed 8–15–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0618]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521) this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 15, 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. 2900–0618.''

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. 2900–0618'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application by Insured Terminally Ill Person for Accelerated Benefit (38 CFR 9.14(e).

OMB Control Number: 2900–0618.

Type of Review: Extension of a currently approved collection.

Abstract: An insured person who is terminally ill may request a portion of the face value of his or her Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI) prior to death. If the insured want to receive a portion of the SGLI or VGLI he or she must submit a Servicemembers' and Veterans' Group Life Insurance Accelerated Benefits Option application. The application must include a medical prognosis by a physician stating the life expectancy of the insured person and a statement by the insured on the amount of accelerated benefit he or she choose to receive. The application is obtainable by writing to the Office of Servicemembers' Group Life Insurance ABO Claim Processing, 290 West Mt. Pleasant Avenue, Livingston, NJ 07039, or calling 1–800–419–1473 or downloading the application via the Internet at *http://www.insurance.va.gov*.

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 April 4, 2005 at pages 17146–17147.

Affected Public: Individuals or households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden Per Respondent: 12 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 200.

Dated: August 9, 2005.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. 05–16239 Filed 8–15–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92–463 (Federal Advisory Committee Act) that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held on September 14–15, 2005. On September 14, 2005 the meeting will be held in Room 230, VA Central Office, 810 Vermont Avenue, NW., Washington, DC, from 8:30 a.m., until 5 p.m. On September 15, 2005, the meeting will be held at the American Legion Building, 1608 K Street, NW., Washington, DC, from 9 a.m., until 12 p.m. This meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology by assessing the capability of VA health care facilities to meet the medical, psychological, and social needs of older veterans and by evaluating VA facilities designated as Geriatric Research, Education, and Clinical Centers (GRECCs).

The meeting will feature presentations on VA research initiatives in areas that affect aging, the White House Conference on Aging, and performance oversight of the VA Geriatric Research, Education, and Clinical Centers.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties can provide written comments for review by the Committee in advance of the meeting to Mrs. Marcia Holt-Delaney, Office of Geriatrics and Extended Care (114), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Individuals who wish to attend the meeting should contact Mrs. Delaney, Program Analyst, at (202) 273–8540.

Dated: August 8, 2005.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–16143 Filed 8–15–05; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 70, No. 157

Tuesday, August 16, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 391, 590, and 592

[Docket No. 03–027P]

RIN 0583–AD12

Changes in Fees for Meat, Poultry, and Egg Products Inspection Services—Fiscal Years 2005–2008

Correction

In proposed rule document 05–14296 beginning on page 41635 in the issue of July 20, 2005, make the following correction:

On page 41638, in Table 5, in the second column, in the entry second from the bottom, the Travel and Operating Costs figure should read, ''8.28.''

[FR Doc. C5–14296 Filed 8–15–05; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RME Docket Number R08–OAR–2004–CO–0005; FRL–7936–9]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class 1 Visibility Protection

Correction

In proposed rule document 05–15053 appearing on page 44075 in the issue of Monday, August 1, 2005, make the following correction:

In the first column, under the heading **SUMMARY**, in the 16th line, ''controversial'' should read ''noncontroversial''.

[FR Doc. C5–15053 Filed 8–15–05; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–7947–4]

Identification of Ozone Areas for Which the 1-Hour Standard Has Been Revoked and Technical Correction to Phase 1 Rule

Correction

In rule document 05–15218 beginning on page 44470 in the issue of Wednesday, August 3, 2005, make the following corrections:

§81.305 [Corrected]

1. On page 44475, in §81.305, in the first column, the heading ''**California—Ozone (1-Hour Standard)[2]**'' should read ''**California—Ozone (1-Hour Standard)[4]**''.

2. On the same page, in §81.305, in the first column, under the corrected heading ''**California—Ozone (1-Hour Standard)[4]**'', in the second line, ''[2]'' should read ''[4]''.

[FR Doc. C5–15218 Filed 8–15–05; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52131; File No. SR–NASD–2005–093]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to NASD Rule 3370

Correction

In notice document E5–4117 beginning on page 44707 in the issue of Wednesday, August 3, 2005, make the following correction:

On page 44709, in the first column, in the first full paragraph, in the last last line, ''August 23, 2005'' should read ''August 24, 2005''.

[FR Doc. Z5–4117 Filed 8–15–05; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21337; Airspace Docket No. 05–ACE–16]

Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Storm Lake, IA

Correction

In rule document 05–15311 beginning on page 44465 in the issue of Wednesday, August 3, 2005, make the following corrections:

§ 71.1 [Corrected]

1. On page 44466, in § 71.1, in the first column, under *Paragraph 6002 Class E airspace designated as surface areas.*, in the second line, ''**ACT IA E2 Storm Lake, IA**'', should read ''**ACE IA E2 Storm Lake, IA**''.

2. On the same page, in § 71.1, in the first column, under *Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*, in the second line, ''**ACT IA E5 Storm Lake, IA**'' should read ''**ACE IA E5 Storm Lake, IA**''.

[FR Doc. C5–15311 Filed 8–15–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
August 16, 2005

Part II

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 537

Burmese Sanctions Regulations; Interim Final Rule

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 537

Burmese Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Interim final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending and reissuing in their entirety the Burmese Sanctions Regulations to implement Executive Order 13310 of July 28, 2003, which placed new sanctions on Burma.

DATES: *Effective Date:* August 16, 2005.

Comments: Written comments must be received no later than October 17, 2005.

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

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Agency Web Site: *http://www.treas.gov/offices/enforcement/ofac/comment.html.*
- Fax: Chief of Records, (202) 622–1657.
- Mail: Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Instructions: All submissions received must include the agency name and the FR Doc. number that appears at the end of this document. Comments received will be posted without change to *http://www.treas.gov/ofac,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. To read background documents or comments received, go to *http://www.treas.gov/ofac.*

FOR FURTHER INFORMATION CONTACT: Chief of Licensing, tel.: (202) 622–2480 or Chief of Policy Planning and Program Management, tel.: (202) 622–4855, Office of Foreign Assets Control, or Chief Counsel, tel.: (202) 622–2410, Office of Chief Counsel (Foreign Assets Control), Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This file is available for download without charge in ASCII and Adobe Acrobat readable (*.PDF) formats at *GPO Access. GPO Access* supports HTTP, FTP, and Telnet at *http://fedbbs.access.gpo.gov.* It may also be accessed by modem dialup at (202) 512–1387 followed by typing ''/GO/FAC.'' Paper copies of this document can be obtained by calling the Government Printing Office at (202) 512–1530. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac,* or via FTP at *ofacftp.treas.gov.* Facsimiles of information are available through the Office's 24-hour fax-on-demand service: Call (202) 622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On May 20, 1997, in response to the Burmese government's large-scale repression of, and violence against, the democratic opposition, President Clinton issued Executive Order 13047, determining that these actions and policies of the Government of Burma constituted an unusual and extraordinary threat to the national security and foreign policy of the United States and declaring a national emergency to deal with that threat. Executive Order 13047 prohibits new investment in Burma by U.S. persons and any facilitation by a U.S. person of new investment in Burma by a foreign person.

On July 28, 2003, the Burmese Freedom and Democracy Act of 2003 (BFDA) was signed into law, to restrict the financial resources of Burma's ruling military junta, the State Peace and Development Council (SPDC). The BFDA requires the President to ban the importation into the United States of products of Burma, beginning 30 days after the date of enactment of the BFDA, as well as to consider blocking the assets of certain SPDC members and taking steps to prevent further financial or technical assistance to Burma until certain conditions are met.

To implement the BFDA and to take additional steps with respect to the Government of Burma's continued repression of the democratic opposition in Burma, the President issued Executive Order 13310 (the ''Order'') on July 28, 2003. The Order blocks all property and interests in property of the persons listed in the Annex to the Order and of certain persons determined, at a future point, by the Secretary of the Treasury, in consultation with the Secretary of State, to meet the criteria set forth in the Order. It also bans the importation into the United States of products of Burma (while waiving the ban where it would conflict with the international obligations of the United States under certain conventions on diplomatic and consular relations and similar agreements) and the exportation or reexportation to Burma of financial services from the United States or by U.S. persons. The Order exempts from its blocking and financial service prohibitions any transactions pursuant to pre-May 21, 1997 agreements between a U.S. person and any entity in Burma. It authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Order.

In implementation of the Order, the Office of Foreign Assets Control (''OFAC'') is amending the Burmese Sanctions Regulations, 31 CFR part 537 (the ''Regulations''), and, due to the extensive nature of these amendments, reissuing the Regulations in their entirety. Section 537.201 of the Regulations implements section 1 of the Order and blocks all property and interests in property of (1) persons listed in the Annex to the Order; and (2) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be senior officials of the Government of Burma or of certain Burmese political organizations, or to be owned or controlled by, or acting for or on behalf of, any person whose property or interests in property are blocked pursuant to the Order.

Section 537.202 of the Regulations implements section 2 of the Order. Section 537.202(a) prohibits the exportation or reexportation of financial services to Burma from the United States or by U.S. persons, wherever located. The term *exportation or reexportation of financial services to Burma* is defined in § 537.305 of the Regulations to mean any activity with a monetary aspect, including, but not limited to, banking services, insurance services, and brokering services. A note to § 537.305 explains the unique nature of this defined term. Section 537.202(b) prohibits any approval, financing, facilitation, or guarantee by a U.S. person, wherever located, of a foreign person's transaction in cases in which that transaction would be prohibited if engaged in by a U.S. person.

Section 537.203 of the Regulations implements section 3 of the Order and prohibits the importation into the United States of articles that are products of Burma.

The pre-existing prohibition on new investment in Burma is set forth in § 537.204.

Section 537.206 of the Regulations implements section 4 of the Order and prohibits any transaction by a U.S. person or within the United States that evades or avoids, or that has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Order.

Exemptions from the prohibitions contained in the Regulations are set forth in § 537.210. Paragraphs (a), (b) and (d) of § 537.210 contain the exemptions from the President's powers under the International Emergency Economic Powers Act (50 U.S.C. 1702), as set forth in § 203 of that act. Paragraph (c) of section 537.210 implements section 13 of the Order by exempting from the prohibitions contained in the Regulations activities undertaken pursuant to pre-May 21, 1997 contracts, other than those for the importation of Burmese products, between U.S. persons and either the Government of Burma or a nongovernmental entity in Burma.

Subpart C of the Regulations contains definitions of terms used in the Regulations. Subpart D contains interpretations clarifying the prohibitions of this part. Transactions otherwise prohibited by this part but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart D of the Reporting, Procedures and Penalties Regulations set forth in part 501 of chapter V of title 31, Code of Federal Regulations. Penalties for violations of the Regulations are set forth in subpart G of part 537.

As part of several general licenses issued prior to the publication of these regulations, OFAC had authorized certain transfers through financial institutions whose property or interests in property were blocked pursuant to § 537.201(a), provided that the account was not on the books of a financial institution that was a U.S. person. The text explaining this authorization has been removed from particular license sections and, to denote general application, appears in § 537.404, an interpretive section that explains the circumstances under which transactions incident to licensed transactions are authorized.

Public Participation; Procedural Requirements

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. However, this rule is being issued in interim form, and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments may address the impact of the Regulations on the submitter's activities, whether of a commercial, noncommercial or humanitarian nature, as well as changes that would improve the clarity and organization of the Regulations.

The period for submission of comments will close October 17, 2005. The Department will consider all comments postmarked before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the submission be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such submissions to the originator without considering them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form.

All public comments on these Regulations will be a matter of public record. Copies of the public record concerning these Regulations will be made available not sooner than November 14, 2005 and will be obtainable from OFAC's Web site *(http://www.treas.gov/ofac)*. If that service is unavailable, written requests for copies may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220, Attn: Chief, Records Division.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting and Procedures Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 537

Administrative practice and procedure, Banks, Banking, Blocking of assets, Burma, Exports, Foreign trade, Humanitarian aid, Imports, Information, Investments, Loans, New Investment, Penalties, Reporting and recordkeeping requirements, Services, Specially Designated Nationals, Transportation.

■ For the reasons set forth in the preamble, part 537 of 31 CFR chapter V is revised to read as follows:

PART 537—BURMESE SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Subpart B—Prohibitions

Subpart C—General Definitions

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C 1601–1651, 1701–1706; Sec. 570, Pub. L. 104–208, 110 Stat. 3009; Pub. L. 108–61, 117 Stat. 864; E.O. 13047, 62 FR 28301, 3 CFR 1997 Comp., p. 202; E.O. 13310, 68 FR 44853, 3 CFR 2004 Comp., p. 241.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 537.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 537.201 Prohibited transactions involving certain blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to 12:01 a.m. eastern daylight time, July 29, 2003, all property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13310 of July 28, 2003 (68 FR 44853, July 30, 2003); and

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State,

(i) To be a senior official of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, or any successor entity to any of the foregoing, or

(ii) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property or interests in property are blocked pursuant to this section.

NOTE TO PARAGRAPH (a) OF § 537.201: The names of persons whose property or interests in property are blocked pursuant to § 537.201(a) are announced in the **Federal Register**, published on OFAC's Web site, and incorporated on an ongoing basis with the identifier [BURMA]into Appendix A to this chapter V.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property or interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to 12:01 a.m. eastern daylight time, July 29, 2003) the

registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

§ 537.202 Prohibited exportation or reexportation of financial services to Burma.

Except as authorized, and notwithstanding any contracts entered into or any license or permit granted prior to July 29, 2003, the exportation or reexportation of financial services to Burma, directly or indirectly, from the United States or by a U.S. person, wherever located, is prohibited.

§ 537.203 Prohibited importation of products of Burma.

Except as otherwise authorized, and notwithstanding any contracts entered into or any license or permit granted prior to August 28, 2003, the importation into the United States of any article that is a product of Burma is prohibited.

NOTE TO § 537.203: Section 3(b) of the Burmese Freedom and Democracy Act of 2003 provides that the prohibition contained in this section may be waived by the President for any or all articles that are a product of Burma if the President determines and notifies specified committees of Congress that to do so is in the national interest of the United States. Therefore, the Office of Foreign Assets Control will not issue licenses authorizing transactions prohibited under this section in the absence of such a waiver process. The President's waiver functions and authorities under section 3(b) have been delegated to the Secretary of State.

§ 537.204 Prohibited new investment in Burma.

Except as otherwise authorized, new investment, as defined in § 537.311, in Burma by U.S. persons is prohibited.

NOTE TO § 537.204: Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (*Public Law 104–208*) provides that the prohibition contained in this section may be waived, temporarily or permanently, by the President if he determines and certifies to Congress that the application of this sanction would be contrary to the national interests of the United States. Licenses are thus not available for purposes of authorizing transactions prohibited under this section in the absence of such a waiver determination and certification to Congress.

§ 537.205 Prohibited facilitation.

(a) Except as otherwise authorized, U.S. persons, wherever located, are prohibited from approving, financing, facilitating, or guaranteeing a transaction by a person who is a foreign person where the transaction would be prohibited if performed by a U.S. person or within the United States.

(b) With respect to new investment in Burma, the prohibition against facilitation does not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology unless such contract includes any of the activities described in § 537.311(a)(2), (3) or (4).

NOTE TO § 537.205: This section's prohibitions include, but are not limited to, the approval, financing, facilitation, or guarantee of transactions prohibited by either section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Pub. L. 104–208), or the Burmese Freedom and Democracy Act of 2003 (Pub. L. 108–61). The prohibitions of these two statutes may be waived by the President upon the making of certain determinations and notification to Congress. Therefore, the Office of Foreign Assets Control will not issue licenses authorizing the approval, financing, facilitation, or guarantee of the transactions prohibited by these statutes in the absence of such waivers.

§ 537.206 Evasions; attempts; conspiracies.

(a) Any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this part is prohibited.

NOTE TO § 537.206: *See* § 537.303 for a definition of the term *effective date.*

§ 537.207 Effect of transfers violating the provisions of this part.

(a) Any transfer after July 28, 2003, that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 537.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before July 29, 2003 shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 537.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 537.207: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Except to the extent otherwise provided by law or unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, at or since 12:01 a.m. eastern daylight time, July 29, 2003, there existed an interest of a person whose property or interests in property are blocked pursuant to § 537.201(a).

§ 537.208 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 537.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 537.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 537.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 537.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property or interests in property are blocked pursuant to § 537.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 537.209 Expenses of maintaining blocked property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 a.m. eastern daylight time, July 29, 2003, all expenses incident to the maintenance of physical property blocked pursuant to § 537.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 537.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 537.210 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part, other than those set forth in § 537.203, do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The prohibitions contained in this part, other than those set forth in § 537.203, do not apply to the importation from any country, or the exportation to any country, whether commercial or otherwise, of information or informational materials, regardless of format or medium of transmission.

NOTE TO PARAGRAPH (b)(1) of § 537.210: Section 537.203 prohibits the importation of products of Burma into the United States pursuant to the Burmese Freedom and Democracy Act of 2003. Therefore, the importation into the United States of information or informational materials that are products of Burma is not exempt from the prohibition set forth in § 537.203. However, such transactions are authorized by the general license set forth in § 537.515.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property or interests in property are blocked pursuant to § 537.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt from regulation or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to § 537.201(a) are prohibited.

(c) *Pre-1997 contracts.* The prohibitions contained in this part, other than those set forth in § 537.203, do not apply to any activity undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that was entered into by a U.S. person with the Government of Burma or a non-governmental entity in Burma prior to 12:01 a.m. eastern daylight time on May 21, 1997.

(d) *Travel Exemption.* The prohibitions contained in this part, other than the prohibition against the importation into the United States of

products of Burma set forth in § 537.203, do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage (other than importation of baggage that comes within the prohibition set forth in § 537.203) for personal use, maintenance within any country, including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel, including nonscheduled air, sea, or land voyages.

NOTE TO § 537.211: *See* the authorizations relating to the importation of certain personal and household effects set forth in §§ 537.511 and 537.514.

Subpart C—General Definitions

§ 537.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 537.201 held in the name of a person whose property or interests in property are blocked pursuant to § 537.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 537.302 Economic development of resources located in Burma.

(a) The term *economic development of resources located in Burma* means activities pursuant to a contract the subject of which includes responsibility for the development or exploitation of resources located in Burma, including making or attempting to make those resources accessible or available for exploitation or economic use. The term shall not be construed to include not-for-profit educational, health, or other humanitarian programs or activities.

(b) *Examples:* The economic development of resources located in Burma includes a contract conferring rights to explore for, develop, extract, or refine petroleum, natural gas, or minerals in the ground in Burma; or a contract to assume control of a mining operation in Burma, acquire a forest or agricultural area for commercial use of the timber or other crops, or acquire land for the construction and operation of a hotel or factory.

§ 537.303 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to prohibited transfers or other dealings in blocked property or interests in property of persons listed in the Annex to Executive Order 13310 of July 28, 2003 (68 FR 44853, July 30, 2003), 12:01 a.m. eastern daylight time, July 29, 2003;

(b) With respect to prohibited transfers or other dealings in blocked property or interests in property of persons designated pursuant to § 537.201(a)(2), the earlier of the date on which either actual notice or constructive notice is received of such person's designation;

(c) With respect to the exportation or reexportation of financial services to Burma prohibited by § 537.202, 12:01 a.m. eastern daylight time, July 29, 2003;

(d) With respect to the importation into the United States of products of Burma prohibited by § 537.203, 12:01 a.m. eastern daylight time, August 28, 2003;

(e) With respect to new investment prohibited by § 537.204, 12:01 a.m. eastern daylight time, May 21, 1997.

§ 537.304 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 537.305 Exportation or reexportation of financial services to Burma.

The term *exportation or reexportation of financial services to Burma* means:

(a) The transfer of funds, directly or indirectly, from the United States or by a U.S. person, wherever located, to Burma; or

(b) The provision, directly or indirectly, to persons in Burma of insurance services, investment or brokerage services (including but not limited to brokering or trading services regarding securities, debt, commodities, options or foreign exchange), banking services, money remittance services; loans, guarantees, letters of credit or other extensions of credit; or the service of selling or redeeming traveler's checks, money orders and stored value.

NOTE TO § 537.305: This defined term has not appeared in other parts of 31 CFR chapter V and is specifically tailored to further the goals of the sanctions prohibitions set forth in this part.

§ 537.306 Foreign person.

The term *foreign person* means any person that is not a U.S. person.

§ 537.307 Government of Burma.

The term *Government of Burma* means the Government of Burma (sometimes referred to as Myanmar), its agencies, instrumentalities and controlled entities, and the Central Bank of Burma.

§ 537.308 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a) OF § 537.307: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 537.309 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (*e.g.*, ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 537.310 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 537.309: *See* § 501.801 of this chapter on licensing procedures.

§ 537.311 New investment.

(a) The term *new investment* means any of the following activities if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma on or after May 21, 1997:

(1) The entry into a contract that includes the economic development of

resources located in Burma, as defined in § 537.302;

(2) The entry into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

(3) The purchase of a share of ownership, including an equity interest, in the economic development of resources located in Burma; or

(4) The entry into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation.

(b) The term *new investment* shall not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology unless such contract includes any of the activities described in paragraph (a)(2), (a)(3) or (a)(4) of this section.

§ 537.312 Nongovernmental entity in Burma.

The term *nongovernmental entity in Burma* means a partnership, association, trust, joint venture, corporation, or other organization, wherever organized, that is located in Burma or exists for the exclusive or predominant purpose of engaging in the economic development of resources located in Burma or derives its income predominantly from such economic development, and is not the Government of Burma.

§ 537.313 Person.

The term *person* means an individual or entity.

§ 537.314 Product of Burma.

The term *product of Burma* means goods of Burmese origin pursuant to rules of origin of U.S. Customs and Border Protection.

§ 537.315 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 537.316 Resources located in Burma.

The term *resources located in Burma* means any resources, including natural, agricultural, commercial, financial, industrial and human resources, located within the territory of Burma, including the territorial sea, or located within the exclusive economic zone or continental shelf of Burma.

§ 537.317 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 537.318 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 537.319 U.S. depository institution.

The term *U.S. depository institution* means any entity (including its foreign branches) organized under the laws of the United States or of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies and United States bank holding companies) and is subject to regulation by federal or state banking authorities.

§ 537.320 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 537.321 U.S. person.

The term *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 537.322 U.S. registered broker or dealer in securities.

The term *U.S. registered broker or dealer in securities* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that:

(a) Is a ''broker'' or ''dealer'' in securities within the meanings set forth in the Securities Exchange Act of 1934;

(b) Holds or clears customer accounts; and

(c) Is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

§ 537.323 U.S. registered money transmitter.

The term *U.S. registered money transmitter* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that is a money transmitter, as defined in 31 CFR 103.11(uu)(5), and that is registered pursuant to 31 CFR 103.41.

Subpart D—Interpretations

§ 537.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 537.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 537.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 537.201(a), unless there exists in the property another interest that is blocked pursuant to § 537.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 537.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 537.404 Transactions incidental to a licensed transaction authorized.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) A transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 537.201(a), except as provided in paragraph (b) of this section; or

(2) A transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property, except as provided in paragraph (b) of this section.

(b) Transactions licensed pursuant to subpart E of this part and those transactions falling within the scope of paragraph (a) of this section are authorized even though they may involve transfers to or from an account of a financial institution whose property or interests in property are blocked pursuant to § 537.201(a), provided that the account is not on the books of a financial institution that is a U.S. person.

§ 537.405 Provision of services.

(a) Except as provided in § 537.210, the prohibitions on transactions involving blocked property contained in § 537.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property or interests in property are blocked pursuant to § 537.201(a); or

(2) With respect to property interests subject to § 537.201.

(b) *Example:* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property or interests in property are blocked pursuant to § 537.201(a).

NOTE TO § 537.405: See §§ 537.507 and 537.508 on licensing policy with regard to the provision of certain legal or medical services, respectively.

§ 537.406 Offshore transactions.

The prohibitions in § 537.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property that the U.S. person knows, or has reason to know, is held in the name of a person whose property or interests in property are blocked pursuant to § 537.201(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are blocked pursuant to § 537.201(a) has or has had an interest since the effective date.

§ 537.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 537.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 537.408 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 537.201 if effected after the effective date.

§ 537.409 Activities under pre-May 21, 1997 agreements.

Section 537.210(c) exempts from all prohibitions contained in this part, except those contained in § 537.203, activities undertaken by a U.S. person pursuant to an agreement entered into prior to May 21, 1997, between a U.S. person and the Government of Burma or a nongovernmental entity in Burma. A U.S. person who is a party to a pre-May 21, 1997 agreement falling outside the scope of § 537.203 may enter into subsequent agreements with foreign persons where such agreements are pursuant to, or in exercise of rights under, the pre-May 21, 1997 agreement and are specifically contemplated by the pre-May 21, 1997 agreement. The exercise of rights under a pre-May 21, 1997 agreement falling outside the scope of § 537.203 may include the exercise of options to extend the contract, depending on such factors as the degree of specificity with which the option to extend is described in the pre-May 21, 1997 agreement, and the degree to which the party wishing to renew can enforce its decision to exercise the option.

§ 537.410 Contracts and subcontracts regarding economic development of resources in Burma.

Section 537.204 prohibits new investment in Burma by U.S. persons. Section 537.311 defines the term *new investment* to include certain contracts providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma. With respect to entry into such contracts, only the following will be considered new investment in Burma:

(a) Entry into contracts for supervision and guarantee at the highest level of project management, such as entry into a contract with a development project's sponsor or owner to become a prime contractor or general manager for a development project;

(b) Entry into subcontracts where the functional scope of the subcontractor's obligations is substantially similar to that of a prime contractor's or general manager's obligations for a development project; or

(c) Entry into a contract or subcontract where the consideration includes a share of ownership in, or participation in the royalties, earnings or profits of, the economic development of resources located in Burma.

§ 537.411 Purchase of shares in economic development projects in Burma.

The purchase, directly or indirectly, from the Government of Burma or a nongovernmental entity in Burma of shares of ownership, including an equity interest, in the economic development of resources located in Burma is prohibited unless the purchase is pursuant to an agreement entered into prior to May 21, 1997.

§ 537.412 Investments in entities involved in economic development projects in Burma.

(a) The purchase of shares in a third-country company that is engaged in the economic development of resources located in Burma is prohibited by § 537.204 where the company's profits are predominantly derived from the company's economic development of resources located in Burma.

(b) If a U.S. person holds shares in an entity which subsequently engages predominantly in the economic development of resources located in Burma or subsequently derives its income exclusively or predominantly from such economic development, the U.S. person is not required to relinquish its shares, but may not purchase additional shares. Divestiture of the shares in such an entity to a foreign person—otherwise constituting the facilitation of that foreign person's investment in Burma—is authorized under general license pursuant to § 537.524.

§ 537.413 Sale of interest in economic development projects in Burma.

The sale to a foreign person of a U.S. person's equity or income interest in a development project in Burma constitutes facilitation of that foreign person's investment in Burma, unless pursuant to a pre-May 21, 1997 agreement. Such a sale, however, is authorized by general license under § 537.524.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 537.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart D, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 537.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited by this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 537.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 537.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to § 537.201(a) has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

NOTE TO § 537.504: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 537.208 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 537.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 537.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 537.208, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 537.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to persons whose property or interests in property are blocked pursuant to § 537.201(a).

§ 537.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property or interests in property are blocked pursuant to § 537.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 537.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 537.201(a) is prohibited except to the extent otherwise provided by law or unless specifically licensed in accordance with § 537.207(e).

§ 537.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 537.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 537.509 Official activities of the U.S. Government and certain international organizations.

All transactions and activities otherwise prohibited by this part that are for the conduct of the official business of the United States Government, the United Nations, the World Bank, or the International Monetary Fund are authorized. This section does not authorize any importation into the United States of any article that is a product of Burma.

§ 537.510 Third-country diplomatic and consular funds transfers.

All transactions that are related to funds transfers otherwise prohibited by §§ 537.201 and 537.202 and that are for the conduct of diplomatic or consular activities of third-country diplomatic or consular missions in Burma are authorized.

§ 537.511 Importation of accompanied baggage and household effects of U.S. diplomatic and consular officials.

U.S. diplomatic or consular officials entering the United States directly or indirectly from Burma are authorized to engage in all transactions incident to the importation into the United States of products of Burma as accompanied baggage or household effects, provided that such products are not intended for any other person or for sale and are not otherwise prohibited from importation under applicable United States laws.

§ 537.512 Importation for official or personal use by foreign diplomatic and consular officials.

All transactions incident to the importation into the United States of any article that is a product of Burma that is destined for official or personal use by personnel employed by a diplomatic mission or consulate in the United States are authorized, provided that such article is not intended for any other person or for sale and is not otherwise prohibited from importation under applicable United States laws.

§ 537.513 Importation and exportation of diplomatic pouches.

All transactions in connection with the importation into the United States or the exportation from the United States of diplomatic pouches and their contents are authorized.

§ 537.514 Importation of certain personal and household effects.

(a) A U.S. person who maintained a residence in Burma prior to July 28, 2003, is authorized to import into the United States personal and household effects that are products of Burma, including accompanied baggage and articles for family use, provided the imported items were purchased by the U.S. person prior to July 28, 2003, have been actually used abroad by the U.S. person or by other family members arriving from the same foreign household, are not intended for any other person or for sale, and are not otherwise prohibited from importation.

(b) A national of Burma who arrives in the United States after July 28, 2003, is authorized to import into the United States personal and household effects that are products of Burma, including accompanied baggage and articles for family use, provided the imported items are ordinarily incident to the Burmese national's arrival in the United States, have been actually used abroad by the Burmese national or by other family members arriving from the same foreign household, are not intended for any other person or for sale, and are not otherwise prohibited from importation.

§ 537.515 Importation of information or informational materials.

The importation of information or informational materials that are products of Burma and all transactions directly incident to such importation are authorized.

§ 537.516 Importation of Burmese-origin articles and incidental transactions.

(a) The importation of an article that is a product of Burma, otherwise prohibited by § 537.203, is authorized, provided the article was purchased prior to July 28, 2003, shipped from Burma to the United States prior to August 28, 2003, and is not property in which a person whose property or

interests in property are blocked pursuant to § 537.201(a) has an interest.

(b) All transactions otherwise prohibited by §§ 537.201 and 537.202 that are directly incident to the importation into the United States of an article that is a product of Burma are authorized, provided that:

(1) The importation is authorized pursuant to paragraph (a) of this section; or

(2) The importation occurred prior to August 28, 2003, and was not from a person whose property or interests in property are blocked pursuant to § 537.201(a).

(c) All transactions otherwise prohibited by §§ 537.201 and 537.202 that are directly incident to the importation into a country other than the United States or Burma of an article that is a product of Burma are authorized, provided that:

(1) The article was purchased prior to July 28, 2003, shipped from Burma prior to August 28, 2003, and is not property in which a person whose property or interests in property are blocked pursuant to § 537.201(a) has an interest; or

(2) The importation occurred prior to August 28, 2003, and was not from a person whose property or interests in property are blocked pursuant to § 537.201(a).

(d) Financing agreements with respect to the importations described in paragraphs (a), (b) and (c) of this section may be performed only according to their terms and may not be extended or renewed.

§ 537.517 Noncommercial, personal remittances.

(a)(1) U.S. depository institutions, U.S. registered brokers or dealers in securities, and U.S. registered money transmitters are authorized to process transfers of funds to or from Burma or for or on behalf of an individual ordinarily resident in Burma in cases in which the transfer involves a noncommercial, personal remittance, provided the following conditions are met:

(i) The transfer is not by, to, or through a person whose property or interests in property are blocked pursuant to § 537.201(a), except as explained in § 537.404 of this part; and

(ii) Total remittances to the territory of Burma in any consecutive 3-month period do not exceed $300 per Burmese household, regardless of the number of individuals comprising the household.

(2) Noncommercial, personal remittances do not include charitable donations to or for the benefit of an entity or funds transfers for use in supporting or operating a business.

NOTE TO PARAGRAPH (a) OF § 537.517: U.S. persons may make charitable donations to nongovernmental organizations in Burma that are authorized to operate pursuant to § 537.523, provided that the donations are made pursuant to § 537.523 and the terms of the authorization.

(b) The transferring institutions identified in paragraph (a) of this section may rely on the originator of a funds transfer with regard to compliance with paragraph (a) of this section, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance with paragraph (a) of this section.

(c) This section does not authorize transactions with respect to property blocked pursuant to § 537.201, except as explained in § 537.404(b) of this part.

§ 537.518 Transactions incident to exportations to Burma.

All transactions otherwise prohibited by §§ 537.201 and 537.202 that are ordinarily incident to an exportation to Burma of goods, technology or services, other than financial services, are authorized, provided the exportation is not to or on behalf of a person whose property or interests in property are blocked pursuant to § 537.201(a). This section does not authorize a financial institution that is a U.S. person to advise or confirm any financing by a person whose property or interests in property are blocked pursuant to § 537.201(a).

§ 537.519 Activities undertaken pursuant to certain pre-May 21, 1997 agreements.

Except as prohibited by § 537.203, U.S. persons are authorized to engage in any activity, or any transaction incident to an activity, undertaken pursuant to an agreement entered into prior to 12:01 a.m., eastern daylight time, on May 21, 1997, or pursuant to the exercise of rights under such an agreement, provided that the parties to the agreement include:

(a) The Government of Burma or a nongovernmental entity in Burma, and

(b) An entity organized under the laws of a foreign state.

NOTE TO § 537.519: The authorization contained in § 537.519 pertains to pre-May 21, 1997 contracts between foreign business entities and either the Government of Burma or a nongovernmental entity in Burma. Pre-May 21, 1997 contracts between U.S. persons and the Government of Burma or a nongovernmental entity in Burma are exempt from all prohibitions contained in this part except those contained in § 537.203. *See* § 537.210 (exemptions).

§ 537.520 Payments for overflights of Burmese airspace.

Payments to Burma of charges for services rendered by the Government of Burma in connection with the overflight of Burma or emergency landing in Burma of aircraft owned or operated by a U.S. person or registered in the United States are authorized.

§ 537.521 Operation of accounts.

The operation of an account in a U.S. financial institution for an individual ordinarily resident in Burma, other than an individual whose property or interests in property are blocked pursuant to § 537.201(a), is authorized, provided that each transaction processed through the account:

(a) Is of a personal nature and not for use in supporting or operating a business;

(b) Does not involve a transfer directly or indirectly to Burma or for the benefit of individuals ordinarily resident in Burma unless authorized by § 537.517; and

(c) Is not otherwise prohibited by this part.

§ 537.522 Certain transactions related to patents, trademarks and copyrights authorized.

(a) All of the following transactions in connection with patent, trademark, copyright or other intellectual property protection in the United States or Burma, except for those transactions prohibited by § 537.203, are authorized:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright or other form of intellectual property protection;

(2) The receipt of a patent, trademark, copyright or other form of intellectual property protection;

(3) The renewal or maintenance of a patent, trademark, copyright or other form of intellectual property protection; and

(4) The filing and prosecution of opposition or infringement proceedings with respect to a patent, trademark, copyright or other form of intellectual property protection, or the entrance of a defense to any such proceedings.

(b) This section authorizes the payment of fees currently due to the United States Government, or of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States, in connection with the transactions authorized in paragraph (a) of this section. Payment effected pursuant to the terms of this paragraph may not be made from a blocked account.

(c) This section authorizes the payment of fees currently due to the

Government of Burma, or of the reasonable and customary fees and charges currently due to attorneys or representatives within Burma, in connection with the transactions authorized in paragraph (a) of this section.

(d) Nothing in this section affects obligations under any other provision of law.

§ 537.523 Authorization of nongovernmental organizations to engage in humanitarian or religious activities.

(a) Specific licenses may be issued on a case-by-case basis authorizing nongovernmental organizations to engage in transactions otherwise prohibited by §§ 537.201 and 537.202 that are necessary for their humanitarian or religious activities in Burma. Applications for specific licenses must include:

(1) The organization's name in English, in the language of origin, and any acronym or other names used to identify the organization;

(2) Address and phone number of the organization's headquarters location;

(3) Identification of field offices and partner offices, including addresses and organizational names used;

(4) Identification of key staff, such as directors and senior officers, at the organization's headquarters and partner offices, including the nationality, citizenship, current country of residence, place and date of birth, and current position of each person identified;

(5) Identification of subcontracting organizations, if any, to the extent known or contemplated at the time of the application;

(6) Existing sources of income, such as official grants, private endowments, commercial activities;

(7) Financial institutions that hold deposits on behalf of or extend lines of credit to the organization (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronym or other names used to identify the individuals or organizations);

(8) Independent accounting firms, if employed in the production of the organization's financial statements (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronym or other names used to identify the individuals or organizations);

(9) A detailed description of the organization's humanitarian, environmental or religious activities and projects in countries or geographic areas subject to economic sanctions pursuant to this chapter V, including, if applicable, a summary of all information provided in grant proposals or funding requests made in connection with the proposed activities;

(10) Most recent official registry documents, annual reports, and annual filings with the pertinent government, as applicable; and

(11) Names and addresses of organizations to which the applicant currently provides or proposes to provide funding, services or material support, to the extent known at the time of the application, as applicable.

(b) This section does not authorize transfers from blocked accounts.

NOTE TO § 537.523: Authorization pursuant to this section does not excuse a U.S. person from compliance with other applicable U.S. laws governing the exportation or reexportation of U.S.-origin goods, software, or technology (including technical data). *See, e.g.*, the Export Administration Regulations administered by the U.S. Department of Commerce (15 CFR parts 730–774).

§ 537.524 Divestiture of U.S. person's investments in Burma.

All transactions, except those prohibited by § 537.203, related to the divestiture or transfer to a foreign person of a U.S. person's share of ownership, including an equity interest, in the economic development of resources located in Burma are authorized. U.S. persons participating in such a transaction valued at more than $10,000 are required, within 10 business days after the transaction takes place, to file a report for statistical purposes with the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue NW.–Annex, Washington, DC 20220.

§ 537.525 Transactions related to U.S. citizens residing in Burma.

To the extent otherwise prohibited, U.S. citizens who reside on a permanent basis in Burma are authorized to pay their personal living expenses and engage in other transactions in Burma ordinarily incident to their routine and necessary personal maintenance.

§ 537.526 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers (collectively, ''written publications''), in paper or electronic format. This section does not apply if the parties to the transactions described in this paragraph include the State Peace and Development Council of Burma or the Union Solidarity and Development Association of Burma, or any successor entity to any of the foregoing entities, or any person, other than personnel of academic and research institutions, acting or purporting to act directly or indirectly on behalf of the foregoing entities with respect to the transactions described in this paragraph. Pursuant to this section, the following activities are not prohibited, provided that U.S. persons ensure that they are not engaging, without specific authorization, in the activities identified in paragraph (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3) Augmenting written publications through the addition of items such as photographs, artwork, translation, and explanatory text;

(4) Substantive and artistic editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that are not necessary and ordinarily incident to the publishing and marketing of written publications as described above. For example, this section does not authorize U.S. persons to transfer funds to Burma relating to the following:

(1) The provision or receipt of individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) The creation or undertaking of a marketing campaign for any person with respect to any service or product other than a written publication, or the

creation or undertaking of a marketing campaign of any kind for the benefit of the State Peace and Development Council of Burma or the Union Solidarity and Development Association of Burma; or

(3) The operation of a publishing house, sales outlet, or other office in Burma.

(c) This section does not authorize U.S. persons to engage in transactions constituting the exportation or reexportation of financial services to Burma that relate to the services of publishing houses or translators in Burma unless such activity is primarily for the dissemination of written publications in Burma.

(d) This section does not authorize:

(1) The importation into the United States of any article that is a product of Burma other than information and informational materials;

(2) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (ITAR), the Export Administration Regulations, 15 CFR parts 730 through 774 (EAR), or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11(y) of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of information subject to license application requirements under the EAR. These EAR license application requirements cover not only the exportation of information controlled on the Commerce Control List, 15 CFR part 774, but also the exportation of any information subject to the EAR where a U.S. person knows or has reason to know that the information will be used, directly or indirectly, with respect to certain nuclear, missile, chemical and biological weapons, and nuclear-maritime end-uses. In addition, U.S. persons are precluded from exporting any information subject to the EAR to certain restricted end-users, as provided in the Commerce Department's end-user and end-use based controls set forth at 15 CFR part 744; or

(5) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of information subject to licensing requirements under the ITAR, or exchanges of information that are subject to regulation by other government agencies.

Subpart F—Reports

§ 537.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 537.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $11,000 per violation may be imposed on any person who violates or attempts to violate any license, order, or regulation issued under the Act;

(2) Whoever willfully violates or willfully attempts to violate any license, order, or regulation issued under the Act, upon conviction, shall be fined not more than $50,000, and if a natural person, may also be imprisoned for not more than 10 years; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 537.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice.*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 537.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed 60 days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within the Director's discretion, the Office of Foreign Assets Control will agree to withhold issuance of the

prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 537.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at the Director's discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in typewritten form and signed by the respondent or a representative thereof. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to Respond.* Where OFAC receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control have been codified in the Appendix to the Reporting, Procedures and Penalties Regulations, 31 CFR part 501.

(g) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 537.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.*—(1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 537.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 537.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart D, of this chapter.

§ 537.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13047 of May 20, 1997 (62 FR 28299, May 22, 1997) and Executive Order 13310 of July 28, 2003 (68 FR 44853, July 30, 2003), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 537.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to record keeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: June 10, 2005.

Robert W. Werner,

Director, Office of Foreign Assets Control.

Approved: July 25, 2005.

Stuart A. Levey,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 05–16144 Filed 8–11–05; 9:03 am]

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Federal Register

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August 16, 2005

Part III

Environmental Protection Agency

40 CFR Part 136

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Wastewater and Sewage Sludge; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[OW–2004–0014; FRL–7952–7]

RIN 2040–AE68

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Wastewater and Sewage Sludge; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation would amend the ''Guidelines Establishing Test Procedures for the Analysis of Pollutants'' under section 304(h) of the Clean Water Act (CWA), by adding analytical test procedures for enumerating the bacteria, *Escherichia coli* (*E. coli*) and enterococci, in wastewater; and by adding analytical test procedures for enumerating fecal coliforms and *Salmonella* in sewage sludge to the list of Agency-approved methods. Specifically, EPA is proposing both membrane filter (MF) and multiple-tube fermentation (MTF, *i.e.*, multiple-tube, multiple-well) methods for *E. coli* and enterococci bacteria in wastewater, and MTF methods for fecal coliforms and *Salmonella* in sewage sludge. EPA's approval of these methods will help Regions, States, communities, and environmental laboratories better assess public health risks from microbiological pollutants.

DATES: Comments must be received on or before October 17, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. OW–2004–0014, by one of the following methods:

I. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

II. Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

III. E-mail: *OW-docket@epamail.epa.gov,* Attention Docket ID No. OW–2004–0014.

IV. Mail: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

V. Hand Delivery: EPA Water Center, EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW–2004–0014. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OW–2004–0014. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Water Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Robin K. Oshiro, Office of Science and Technology (4303–T); Office of Water, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566–1075 (e-mail: *Oshiro.Robin@epa.gov*).

SUPPLEMENTARY INFORMATION:

A. Does This Action Apply to Me?

EPA Regions, as well as States, Territories and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits that must comply with the technology-based and water quality-based requirements of the Clean Water Act (CWA). In doing so, NPDES permitting authorities, including States, Territories, and Tribes, make several discretionary choices when they write a permit. These choices include the selection of pollutants to be measured, monitoring requirements, permit conditions (*e.g.*, triggers), and, in many cases, limits in permits. EPA's NPDES regulations (applicable to all authorized State NPDES programs) require monitoring results to be reported at the intervals specified in the permit, but in no case less frequently than once per year. Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 (see 40 CFR 122.41(j)(4), 122.44(i)(1)(iv) and 122.44(i)(2)). Therefore, entities with NPDES permits may potentially be regulated by actions proposed in this rulemaking. In addition, when an authorized State, Territory, or Tribe certifies Federal licenses under CWA section 401, they must use the standardized analysis and sampling procedures. Categories and entities that could potentially be regulated include:

Category	Examples of potentially regulated entities
Federal, State, Territorial, and Indian Tribal Governments.	Federal, State, Territorial, and Tribal entities authorized to administer the NPDES permitting program; Federal, State, Territorial, and Tribal entities providing certification under Clean Water Act section 401.
Industry	Facilities that must conduct monitoring to comply with NPDES permits.

Category	Examples of potentially regulated entities
Municipalities	POTWs that must conduct monitoring to comply with NPDES permits.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability language at 40 CFR 122.1, (NPDES purpose and scope), 40 CFR 136.1 (NPDES permits and CWA), 40 CFR 503.32 (Sewage sludge and pathogens). If you have questions regarding the applicability of this action to a particular entity, consult the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

I. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

II. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

III. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

IV. Describe any assumptions and provide any technical information and/or data that you used.

V. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

VI. Provide specific examples to illustrate your concerns, and suggest alternatives.

VII. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

VIII. Make sure to submit your comments by the comment period deadline identified.

3. *Docket Copying Costs.* Copies of analytical methods published by EPA are available for a nominal cost through the National Technical Information Service (NTIS); U.S. Department of Commerce; 5285 Port Royal Road; Springfield, VA 22161, or call (800) 553–6847. Copies of the EPA methods cited in this proposal may be obtained from Robin K. Oshiro; Office of Science and Technology (4303–T); Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW., Washington, DC 20460, or call (202) 566–1075. Copies of several of the EPA methods cited in this proposal may also be downloaded from the EPA Office of Water, Office of Science and Technology, home page at *http://www.epa.gov/waterscience/methods/.* Copies of all methods are also available in the public record for this proposal.

Table of Contents

I. Statutory Authority

EPA is proposing this action pursuant to the authority of sections 301(a), 304(h), 405(d) and (e), and 501(a) of the Clean Water Act (''CWA'' or the ''Act''), 33 U.S.C. 1311(a), 1314(h), 1361(a). Section 301(a) of the Act prohibits the discharge of any pollutant into navigable waters unless, among other things, the discharge complies with a National Pollutant Discharge Elimination System (NPDES) permit issued under section 402 of the Act. Section 304(h) of the Act requires the Administrator of the EPA to ''* * * promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to [section 401 of this Act] or permit application pursuant to [section 402 of this Act].'' Section 501(a) of the Act authorizes the Administrator to '' * * * prescribe such regulations as are necessary to carry out this function under [the Act].'' EPA generally codifies its test procedures in the Code of Federal Regulations (including analysis and sampling requirements) for CWA programs at 40 CFR part 136, though some specific requirements are in other sections (*e.g.*, 40 CFR 503.8).

II. Explanation of Today's Action

A. Methods for NPDES Compliance Monitoring

This proposal would make available membrane filter (MF) methods and a suite of Multiple Tube Fermentation (MTF) methods (*i.e.*, multiple-tube, multiple-well) including culture and enzyme-substrate techniques available for enumerating (*i.e.*, determining organism density) *E. coli* and enteroccoci in wastewaters and fecal coliforms and *Salmonella* in sewage sludge as part of State, Territorial, Tribal, and local water quality and sewage sludge monitoring programs.

EPA selected the methods based on data generated by EPA laboratories, or submissions to the ATP program. Since multiple studies using different method versions and different statistical analyses generated the EPA laboratory data, the test procedures in today's rule must be evaluated against the end-users' needs based on data quality objectives. EPA recommends that all new proposed

alternative methods be compared to the appropriate EPA approved reference method before adopting it for that matrix to ensure that the proposed method generates data of comparable quality. For full details regarding alternative microbial methods, see the EPA Microbiological Alternate Test Procedure (ATP) Protocol for Drinking Water, Ambient Water, and Wastewater Monitoring Methods (EPA 821–B–03–004). Full citations for methods and validation data reports are provided in the References section and are included in the docket for today's proposed rulemaking.

1. Membrane Filtration (MF) and Multiple Tube Fermentation (MTF) Methods

Membrane filtration is a direct-plating method in which sample dilutions/volumes are filtered through 0.45 μm membrane filters that are subsequently transferred to petri plates containing selective primary isolation agar or an absorbent pad saturated with selective broth. The total sample volume to be analyzed may be distributed among multiple filters and diluted as needed, based on the anticipated water sample type, quality, and character (*e.g.*, organism density, turbidity). The goal is to obtain plates with counts within the acceptable counting range of the method. The acceptable counting range of membrane filter tests depends on the specific analytical technique and the target organism under study. Plates are incubated and target colonies are counted. A percentage of the target colonies may then be verified as specified by the method. Target colonies are detected by observing the presence of colonies that meet a specific morphology, color, or fluorescence under specified conditions. Colonies may be counted with the aid of a fluorescent light, magnifying lens or dissecting microscope. Results generally are reported as colony-forming units (CFU) per 100 mL. Organism density is determined by dividing the number of target CFU by the volume (mL) of undiluted sample that is filtered and multiplying by 100. If verification steps are performed, the initial target colony count is adjusted based upon the percentage of positively verified colonies and reported as a ''verified count per 100 mL'' (Standard Methods for the Examination of Water and Wastewater, 1998).

Membrane filtration is applicable to most tertiary treated wastewaters but has limitations where an underestimation of organism density is likely, such as water samples with high turbidity, toxic compounds, large numbers of non-coliform (background) bacteria. In addition, membrane filtration may have limitations where organisms are damaged by chlorine or toxic compounds, such as can be found in primary and some secondary treated wastewaters. To minimize these interferences, replicates of smaller sample dilutions/volumes may be filtered and the results combined. When the MF method has not been used previously on an individual water type, parallel tests should be conducted with a Multiple Tube Fermentation (MTF) to demonstrate applicability, lack of interferences, and at least comparable (*e.g.*, equivalent or better) recovery. For example, colonies from samples containing high-background levels or stressed organisms should be verified. If the MTF results are consistently higher than those obtained in MF tests, or there is an indication of suboptimal recovery, the user should use an appropriate recovery enhancement technique that the tester demonstrates is comparable to MTF. Further background information on MF tests is available in Standard Methods for the Examination of Water and Wastewater (1998).

In Multiple Tube Fermentation (MTF) tests, the number of tubes/wells producing a positive reaction provides an estimate of the original, undiluted density (*i.e.*, concentration) of target organisms in the sample. This estimate of target organisms, based on probability formulas, is termed the Multiple Tube Fermentation. MTF tests may be conducted in multiple-tube fermentation, multiple-tube enzyme substrate, or multiple-well enzyme substrate formats. In multiple-tube tests, serial dilutions may be used to obtain estimates over a range of concentrations, with replicate tubes analyzed at each ten-fold dilution/volume. The numbers of replicate tubes and sample dilutions/volumes are selected based on the expected quality of the water sample. Generally, for non-potable water samples, five replicate tubes at a minimum of three dilutions/volumes are used. Tubes are incubated, and positive results are reported and confirmed. Positive results are determined under specified conditions by the presence of acid and/or the production of gas using MTF tests, or by color change or fluorescence using enzyme substrate tests. Tests also may be conducted in a multiple-well format to determine MTF, using commercially prepared substrate media, multiple-well trays, and MPN tables provided by the manufacturer. Target organism density is estimated by comparing the number of positive tubes or wells with MPN tables. The MPN tables relate the number of positive tubes or wells to an estimate of the mean target organism density based on probability formulas. Results in both types of tests are generally reported as MPN per 100 mL.

The multiple-tube fermentation methodology is useful for detecting low concentrations of organisms (<100/100 mL), particularly in samples containing heavy particulate matter, toxic compounds (*e.g.* metals), injured or stressed organisms, or high levels of heterotrophic plate count bacteria (HPC). The membrane filtration technique may be more appropriate in instances where the toxins are water soluble; in such cases, the toxin may be eliminated while the organisms are retained on the filter. Multiple-tube tests are applicable to sewage sludge analysis. Since MPN tables assume a Poisson distribution, samples must be adequately shaken to break up any clumps and provide even distribution of bacteria. If the sample is not gently shaken, the MPN value may underestimate the actual bacterial density. The overall precision of each multiple-tube test depends on the number of tubes used and sample dilutions/volumes tested.

Unless a large number of tubes are used (five tubes per dilution/volume or more), the precision of multiple-tube tests can be very poor. Precision is improved when the results from several samples from the same sampling event are processed, estimated separately, and then mathematically combined using the geometric mean. Further background information on multiple-tube tests is available in the Standard Methods for the Examination of Water and Wastewater (1998).

A statistical comparison of results obtained by the MF and MTF methods showed that the MF method is more precise in enumerating target organisms than the MTF test, but differences in recovery were generally not statistically significant. However, based on susceptibility to interferences, MF tests may underestimate the number of viable bacteria, and the MTF method may overestimate the concentration because of the built-in positive bias of the method (Thomas, 1955). Because of susceptibility of some MF tests to interferences, verification of some MF results with confirmatory multiple-tube tests is critical. Additionally, some MTF tests require confirmation tests because of the false positive/false negative rates of the particular media. In general, although numerical results may not be identical, data from each method yield similar water quality information based on performance.

2. Methods for *E. coli* in Wastewater

EPA is proposing several methods for enumerating *E. coli* in wastewater. In Table 1, methods in the same row use the same technique, but are published by different entities. For example, ONPG–MUG is published in the ''Standard Methods'' manual and in the Association of Official Analytical Chemists (AOAC) manual, and is also available as a commercial product. Voluntary Consensus Standards (VCS) Methods are those developed or adopted by domestic and international voluntary consensus standard bodies. The American Public Health Association (APHA), American Water Works Association (AWWA), and Water Environment Foundation (WEF) jointly publish methods approved by a methods approval program in Standard Methods for the Examination of Water and Wastewater (''Standard Methods''). The Association of Official Analytical Chemists (AOAC) also publishes methods that have met the requirements of the AOAC methods approval program. EPA methods are those that have been developed and validated by the US EPA.

TABLE 1.—PROPOSED METHODS FOR *E. coli* ENUMERATION IN WASTEWATER

Technique	Method [1]	EPA method	VCS methods		Commercial example
			Standard methods	AOAC	
Membrane Filter (MF)	Modified mTEC agar	1603	.....	.....	
Multiple Tube Fermentation (MTF)	ONPG–MUG	.....	9223B	991.15	Colilert® [2]
	ONPG–MUG	.....	9223B	.....	Colilert-18® [2]

[1] Tests must be conducted in a format that provides organism enumeration.
[2] Manufactured by IDEXX.

a. Membrane Filter (MF) Test for E. coli: Modified mTEC Agar (EPA Method 1603). The modified mTEC agar method is a single-step MF procedure that provides a direct count of *E. coli* in water based on the development of colonies on the surface of a filter when placed on selective modified mTEC media (USEPA, 2004a). This is a modification of the standard mTEC media that eliminates bromcresol purple and bromphenol red from the medium, adds the chromogen 5-bromo-6-chloro-3-indoyl-β-D-glucuronide (Magenta Gluc), and eliminates the transfer of the filter to a second substrate medium. In this method, a water sample is filtered through a 0.45 μm membrane filter, the filter is placed on modified mTEC agar, incubated at 35 ± 0.5 °C for 2 h to resuscitate injured or stressed bacteria, and then incubated for 23 ± 1 h in a 44.5 ± 0.2 °C water bath. Following incubation, all red or magenta colonies are counted as *E. coli.*

b. Multiple Tube Fermentation Tests for E. coli: ONPG–MUG (Standard Methods 9223B, AOAC 991.15, Colilert®, Colilert–18®). ONPG–MUG tests are chromogenic/fluorogenic enzyme substrate tests for the simultaneous determination of total coliforms and *E. coli* in water. These tests use commercially available media containing the chromogenic substrate ortho-nitrophenyl-β-D-galactopyranoside (ONPG), to detect total coliforms and the fluorogenic substrate 4-methylumbelliferyl-β-D-glucuronide (MUG), to detect *E. coli.* All tests must be conducted in a format that provides quantitative results for ambient water. Colilert-18® should be used for testing marine waters with a minimum of a 10-fold dilution with sterile non-buffered, oxidant-free water. Media formulations are available in disposable tubes for the multiple-tube procedure or packets for the multiple-well procedure. Appropriate preweighed portions of media for mixing and dispensing into multiple-tubes and wells are also available. The use of commercially prepared media is required for quality assurance and uniformity.

For the multiple-tube procedure, a well-mixed sample and/or sample dilution/volume is added to tubes containing predispensed media. Tubes are then capped and mixed vigorously to dissolve the media. Alternatively, this procedure can be performed by adding appropriate amounts of substrate media to a bulk diluted sample (with appropriate dilutions for enumeration), then mixing and dispensing into multiple-tubes. The number of tubes, and number of dilutions/volumes are determined based on the type, quality, and character of the water sample. A multiple-well procedure may be performed with sterilized disposable packets. The commercially available Quanti-Tray® or Quanti-Tray®/2000 multiple-well tests uses Colilert® or Colilert-18® media to determine *E. coli* (IDEXX, 1999a,b,c). In these tests, the packet containing media is added to a 100-mL sample (with appropriate dilutions for enumeration). The sample is then mixed and poured into the tray. A tray sealer separates the sample into 51 wells (Quanti-Tray) or 96 wells (Quanti-tray/2000) and seals the package which is subsequently incubated at 35 ± 0.5 °C for 18 h when using Colilert-18® or 24 h when using Colilert®. If the response is questionable after the specified incubation period, the sample is incubated for up to an additional 4 h at 35 ± 0.5 °C for both Colilert® tests.

After the appropriate incubation period, each tube or well is compared to the reference color ''comparator'' provided with the media. If the sample has a yellow color greater or equal to the comparator, the presence of total coliforms is verified, and the tube or well is then checked for fluorescence under long-wavelength UV light (366-nm). The presence of fluorescence greater than or equal to the comparator is a positive test for *E. coli.* If water samples contain humic acid or colored substances, inoculated tubes or wells should also be compared to a sample water blank. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer.

3. Methods for Enterococci for Wastewater

EPA is proposing several methods for enumerating enterococci in wastewater. Brief descriptions of the proposed MF and MTF methods are provided below. In Table 2, methods in the same horizontal row use the same technique, but are published by different entities.

TABLE 2.—PROPOSED METHODS FOR *Enterococci* IN WASTEWATER.

Methodology	Method [1]	EPA method	VCS methods		Commercial example
			ASTM	AOAC	
Membrane Filter (MF)	mEI agar	1600			
Multiple Tube Fermentation (MTF)	MUG media		D6503–99		Enterolert™ [2]

[1] Tests must be conducted in a format that provides organism enumeration.
[2] Manufactured by IDEXX.

a. Membrane Filter (MF) Test for Enterococci: mEI Agar (EPA Method 1600). The mE–EIA agar method is a two-step MF procedure that provides a direct count of bacteria in water, based on the development of colonies on the surface of a filter when placed on selective mE agar (USEPA, 2004b). This medium, a modification of the mE agar in EPA Method 1106.1, contains a reduced amount of 2–3–5-triphenyltetrazolium chloride, and an added chromogen, indoxyl-β-D-glucoside. The transfer of the filter to EIA is eliminated, thereby providing results within 24 h. In this method, a water sample is filtered, and the filter is placed on mEI agar and incubated at 41 ± 0.5 °C for 24 h. Following incubation, all colonies with a blue halo, regardless of colony color that are greater than 0.5 mm in diameter, are counted as enterococci. Results are reported as enterococci per 100 mL.

b. Multiple Tube Fermentation (MTF) Tests for Enterococci: 1. 4-methylumbelliferyl-β-D-glucoside (MUG) Medium (ASTM D6503–99, Enterolert™). This method utilizes a medium containing the fluorogenic substrate 4-methylumbelliferyl-β-D-glucoside (MUG) to determine enterococci concentrations. Enterolert™ is a commercially available test that utilizes this substrate test for the determination of enterococci in water (IDEXX, 1999a). Enterolert™ tests are incubated for 24 h at 41 ± 0.5 °C and may use the same quantitative formats available for the Colilert® tests, cited earlier in Section III–A. After incubation, the presence of blue/white fluorescence, as viewed using a 6-watt, 365 nm, UV light, is a positive result for enterococci. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer. Enterolert™ is subject to the same interferences and cautions listed for the Colilert® tests. In addition, marine water samples must be diluted at least tenfold with sterile, non-buffered oxidant-free water (Enterolert™ is already buffered).

4. Methods for Fecal Coliforms in Sewage Sludge

EPA is proposing methods for enumerating fecal coliforms in sewage sludge (Table 3). Brief descriptions of the proposed MTF methods are provided below.

TABLE 3.—PROPOSED METHODS FOR FECAL COLIFORMS IN SEWAGE SLUDGE

Methodology	Method [1]	EPA method
Multiple Tube Fermentation (MTF).	LT–EC ..	1680
	A–1	1681

[1] Tests must be conducted in a format that provides organism enumeration.

a. Multiple Tube Fermentation (MTF) Tests for Fecal Coliforms:

1. LT–EC Medium (EPA Method 1680). The multiple-tube fermentation method for enumerating fecal coliforms in sewage sludge uses multiple-tubes and dilutions/volumes in a two-step procedure to determine fecal coliform concentrations (USEPA, 2004c). In the first step, or ''presumptive phase,'' a series of tubes containing lauryl tryptose broth (LTB) are inoculated with undiluted samples and/or dilutions/volumes of the samples and mixed. Inoculated tubes are incubated for 24 ± 2 h at 35 ± 0.5 °C. Each tube then is swirled gently and examined for growth (*i.e.*, turbidity) and production of gas in the inner Durham tube. If there is no growth or gas, tubes are re-incubated for 24 ± 2 h at 35 ± 0.5 °C and re-examined. Production of growth and gas within 48 ± 3 h constitutes a positive presumptive test for coliforms. Failure to produce gas is a negative reaction and indicates fecal coliform bacteria are not present. Turbidity without gas indicates an invalid test that requires repeat analysis.

Results of the MTF procedure using LTB/EC media are reported in terms of MPN/g dry weight calculated from the number of positive EC tubes and percent total solids (dry weight basis).

2. A–1 Medium (EPA Method 1681). The multiple-tube fermentation method for enumerating fecal coliforms in sewage sludge uses multiple-tubes and dilutions/volumes in a procedure to determine fecal coliform concentrations (USEPA 2004d). It should be noted that the Triton X–100 (polyethylene glycol p-isoloctylphenyl ether) is extremely volatile, and thus the medium must be used within one week (and preferably on the day of) preparation. In the first step, a series of tubes containing A–1 broth are inoculated with undiluted samples and/or dilutions/volumes of the samples and mixed. Inoculated tubes are incubated for 3 h at 35 ± 0.5 °C, then transferred to a water bath at 44.5 °C ± 0.2 °C. After 21 ± 2 h, tubes are examined for growth (*i.e.*, turbidity) and production of gas in the inner Durham tube. Production of growth and gas within 24 ± 4 h constitutes the presence of fecal coliforms. Failure to produce both turbidity and gas is a negative reaction and indicates fecal coliform bacteria are not present.

Results of the MTF procedure using A–1 media are reported in terms of MPN/g calculated from the number of positive A–1 tubes and percent total solids (dry weight basis).

5. Methods for *Salmonella* in Sewage Sludge

EPA is also proposing methods for enumerating *Salmonella* in sewage sludge (Table 4). Brief descriptions of the proposed MTF method are provided below.

TABLE 4.—PROPOSED METHODS FOR *Salmonella* IN SEWAGE SLUDGE

Methodology	Method [1]	EPA method
Multiple Tube Fermentation (MTF).	Modified MSRV.	1682

[1] Tests must be conducted in a format that provides organism enumeration.

a. Multiple Tube Fermentation (MTF) Tests for *Salmonella* in Sewage Sludge: Multiple Tube Fermentation (MTF) Test for *Salmonella* (EPA Method 1682). The multiple-tube fermentation method for enumerating *Salmonella* in sewage sludge uses multiple-tubes and dilutions/volumes in a multiple-step procedure to determine *Salmonella* concentrations (USEPA 2004e). In the selective phase, a series of tubes

containing tryptic soy broth (TSB) are inoculated with undiluted samples and/or dilutions/volumes of the samples and mixed. Inoculated tubes are incubated for 24 ± 2 h at 36 ± 1.5 °C. After incubation, six discrete, 30-µL drops from each TSB tube are spotted onto the selective Rappaport-Vassiliadis agar medium semisolid modification (MSRV). The drops are allowed to absorb into the agar for approximately 1 hour at room temperature, then incubated, inoculated side up, at 42 °C ± 0.5 °C for 16 to 18 hours in a humidity-controlled hot air incubator.

The plates are examined for the appearance of motility surrounding inoculations, as evidenced by a ''whitish halo'' of growth approximately 2 cm from the center of the spot. Growth from the outer edge of the halo is streaked onto labeled XLD plates for isolation with a sterile inoculating needle or loop. Two halos and chosen are stabbed using an inoculating loop into the halo's outer edge, which is then streaked onto individual XLD plates (one spot per XLD plate) that are then incubated for 18 to 24 hours at 36 °C ± 1.5 °C. After incubation, one of the plates is submitted to biochemical confirmation (the other is refrigerated for reference). Pink to red colonies with black centers on XLD plates are considered *Salmonella.*

In the confirmatory phase, isolated colonies exhibiting *Salmonella* morphology (pink to red colonies with black centers) are picked and inoculated into triple sugar iron agar (TSI) slants, lysine iron agar (LIA) slants, and urease broth, all of which are incubated for 24 ± 2 hours at 36 °C ± 1.5 °C. A positive TSI reaction is an acid butt (yellow in color) and an alkaline slant (red in color) with or without H_2S gas production. A positive LIA reaction is an alkaline butt (purple in color) and an alkaline slant (purple in color) with or without H_2S gas production. When H_2S gas production is present, the butts of both the LIA and TSI may be black, which would be considered a positive reaction for *Salmonella.* Urease is an orange medium and will change to pink or deep purplish-red if positive. A negative urease test is one that exhibits no color change after inoculation. *Salmonella* are negative for urease.

To confirm cultures via polyvalent O antiserum, growth on the slant portion of TSI (regardless of whether TSI is positive or negative) is emulsified using sterile physiological saline, and two discrete drops of emulsified growth are placed onto a slide. One drop of polyvalent O antiserum is to be added to the first drop of emulsified growth, and one drop of sterile saline is added to the second drop of emulsified growth as a visual comparison. The slide is observed under magnification for an agglutination reaction which indicates a positive result. In order for the original TSB tube to be considered positive for *Salmonella,* the associated inoculations should be MSRV positive, XLD positive, either TSI or LIA positive, urease negative, and polyvalent-O positive. Failure in any of these test constitutes a negative Salmonella reaction.

A total solids determination is performed on a representative sewage sludge sample and is used to calculate MPN/g dry weight. *Salmonella* density is reported as MPN / 4 g dry weight.

B. Request for Comment and Available Data

EPA is not proposing the use of EPA Method 1103.1 (mTEC) for *E. coli* or EPA Method 1106.1 (mE-EIA) for enterococci for use in wastewater because the validation test results for these methods showed that the false positive and false negative rates for these methods were unacceptably high. Specifically, the validation of Method 1103.1 had laboratory-specific rates combined over unspiked disinfected/secondary results ranging from 14.4% to 22.9% for false positives and from 8.9% to 16.9% for false negatives (USEPA 2004f). Additionally, the validation of Method 1106.1 had laboratory-specific rates combined over unspiked disinfected/secondary results ranging from 0.0% to 18.0% for false positives and from 55.4% to 60.5% for false negatives (USEPA 2004g).

EPA is not proposing to extend the holding time from 6 hours to 24 hours for fecal coliforms using Method 1680 (LTB/EC) from Class A aerobically digested sewage sludge or for *Salmonella* using Method 1682 (MSRV) from Class B thermophilically digested sewage sludge because the holding time studies for these methods showed significant differences in concentrations of these organisms using these methods after 24 hours holding time (USEPA 2004h).

EPA requests public comments on the proposed methods for the bacterial indicators of fecal contamination. EPA invites comments on the technical merit, applicability, and implementation of the proposed *E. coli* and enterococci methods for wastewater monitoring, and for fecal coliform and *Salmonella* methods for sewage sludge monitoring. Commenters should specify the method and bacteria/organisms to which the comment applies. EPA encourages commenters to provide copies of supporting data or references cited in comments. EPA also requests public comments on acceptable characteristics of these test methods for specific matrix applications, on comparability criteria to determine equivalency of alternative test methods, supporting data, and examples of any available alternative equivalency testing protocols. Additionally, EPA requests comments on any other applicable methods for analyzing *E. coli* and enterococci in wastewater and for fecal coliforms and *Salmonella* in sewage sludge and for holding times for the proposed methods in sewage sludge not included in today's proposal. Method descriptions and supporting data may be submitted for additional test procedures that are applicable to enumerating these bacteria in wastewater and sewage sludge, respectively.

C. Editorial Revision and Clarification to 40 CFR Part 136

40 CFR part 136, Table I currently includes microbial (bacterial, and protozoan) methods for use in both wastewater and ambient waters. For clarification purposes, EPA proposes to move those methods which are applicable to ambient waters to a new Table IG.

D. Sampling, Sample Preservation, and Holding Times for NPDES Compliance Monitoring: Revisions to 40 CFR Part 136, Table II

40 CFR part 136, Table II specifies sampling, preservation, and holding time requirements. This proposal would make additions to these tables for sewage sludge methods added to Table IA. In addition, clarification is provided for the holding time for bacterial tests.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Executive 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 proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to Executive Order 12866 review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.* This rule proposes to make available new test methods for *E. coli* and enterococci for use in wastewater monitoring programs, and new test methods for fecal coliform and *Salmonella* for use in sewage sludge monitoring programs, but EPA would not require the use of these test methods. This rule does not impose any information collection, reporting, or record keeping requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities for methods under the Clean Water Act, small entity is defined as: (1) A small business that meets RFA default definitions (based on SBA size standards) found in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population 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.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This proposed regulation would approve testing procedures for the measurement of *E. coli* and enterococci bacteria in wastewater, and fecal coliforms and *Salmonella* bacteria in sewage sludge. The inclusion of these test methods in 40 CFR 136.3 is intended to make these test methods available to States and others for use in wastewater and sewage sludge monitoring programs. EPA is not establishing any compliance monitoring requirements for these pollutants.

EPA analyzed the annualized cost estimates to regulated entities (small governmental jurisdictions that have publically-owned treatment works (POTWs) and small businesses with water quality-based discharge permits) for adoption of the newly proposed test methods for *Escherichia coli* (*E. coli*) and enterococci in wastewater and found that all incremental costs results are negative (a cost savings) to regulated firms. The cost savings for the adoption of wastewater testing procedures are as follows.

The savings for facilities to shift from fecal coliform testing to *E. coli* Method 1603 will range from $36 million to $226 million. The savings to shift to *E. coli* Method 1103.1 will range from $35 million to $220 million. The savings for facilities to shift from fecal coliform testing to enterococci Method 1600 will range from approximately $36 million to $225 million. The savings to those currently employing *E. coli* Method 1103.1 and shifting to *E. coli* Method 1603 will range from approximately $0.9 million to $5.8 million, and those currently shifting from enterococci Method 1106.1 to enterococci Method 1600 will range from $7,000 to $48,000.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, tribal, and local governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for the notification of 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 UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local, or tribal governments or the private sector. In fact, this rule should (on the whole) save money for governments and the private sector by increasing method flexibility, and allowing these entities to reduce monitoring costs by taking advantage of innovations. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule makes available testing procedures for *E. coli*, enterococci, fecal coliform, and *Salmonella* that may be used by a State, Territorial, Tribal or local authority for compliance with water quality standards (*E. coli*, enterococci) or sewage sludge (fecal coliforms, *Salmonella*) monitoring requirements when testing is otherwise required by these regulatory authorities. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

E. Executive Order 13132: Federalism

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

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule makes available testing procedures for *E. coli* and enterococci in wastewater, and for fecal coliforms and *Salmonella* in sewage sludge. There is no cost to State and local governments and the rule does not preempt State law. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. 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.''

''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and the Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. This rule makes available testing procedures for *E. coli* and enterococci in wastewater, and for fecal coliforms and *Salmonella* in sewage sludge. The costs to Tribal governments will be minimal (in fact, governments may see a cost savings), and the rule does not preempt State law. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Tribal governments, EPA specifically solicits comment on this proposed rule from Tribal officials.

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

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order 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. This action makes available testing procedures for *E. coli* and enterococci in wastewater, and for fecal coliforms and *Salmonella* in sewage sludge.

H. 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 under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard 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 proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. EPA's search of the technical literature revealed several consensus methods appropriate for enumerating *E. coli* and enterococci in wastewaters. Accordingly, methods for *E. coli* and enterococci published by Standard Methods for the Examination of Water and Wastewater, ASTM, and AOAC are included in this proposal and are listed in Table 1A at the end of this notice. No voluntary consensus standards were found for fecal coliforms

or *Salmonella* in sewage sludge. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards for enumerating *E. coli* or enterococci in wastewaters, and fecal coliforms and *Salmonella* in sewage sludge, and to explain why such standards should be used in this regulation.

IV. References

IDEXX. 1999a. Description of Colilert®, Colilert-18®, Quanti-Tray®, Quanti-Tray®/2000, Enterolert™ methods are available from IDEXX Laboratories, Inc., One Idexx Drive, Westbrook, Maine 04092.

IDEXX. 1999b. ''Quanti-Tray®: A Simple Method for Quantitation of Bacterial Density in Liquid Samples.''

IDEXX. 1999c. ''Quanti-Tray/2000®: Detection and Enumeration of Bacteria from High Bacterial Density Liquid Samples Without Dilution.''

USEPA. 2004a. Method 1603: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (Modified mTEC). December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–025.

USEPA. 2004b. Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI). December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–023.

USEPA. 2004c. Method 1680: Fecal Coliforms in Sewage Sludge by Multiple-Tube Fermentation Using Lauryl-Tryptose E. coli (LT–EC) Broth. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–026.

USEPA. 2004d. Method 1681: Fecal Coliforms in Sewage Sludge by Multiple-Tube Fermentation Using A–1 Broth. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–027.

USEPA. 2004e. Method 1682: *Salmonella* in Sewage Sludge by Multiple-Tube Fermentation Using Modified Semisolid Rappaport-Vassiliadis (MSRV) Medium. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–028.

USEPA. 2004f. Results of the Interlaboratory Validation of EPA Method 1103.1 (mTEC) for *E. coli* in Wastewater Effluent. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–02.

USEPA 2004g. Results of the Interlaboratory Validation of EPA Method 1106.1 (mE–EIA) for *E. coli* in Wastewater Effluent. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–02.

USEPA. 2004h. Assessment of the Effects of Holding Time on Fecal Coliform and Salmonella Concentrations in Biosolids. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–04–029.

List of Subjects in 40 CFR Part 136

Environmental protection, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 10, 2005.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

1. The authority citation for part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

2. Section 136.3 is amended as follows:

a. In paragraph (a) by revising Table IA.

b. In paragraph (a) by adding Table IG after the footnotes of Table IF.

c. In paragraph (b) by revising references 54, 55, 56 and 59, and adding references 63 through 65.

d. In paragraph (e) by revising the entry for Table IA and adding an entry for Table IG in Table II.

§ 136.3 Identification of test procedures.

(a) * * *

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th ed. [4]	Standard methods on-line [4]	AOAC, ASTM, USGS	Other
Bacteria: 1. Coliform (fecal), number per 100 mL.	Multiple Tube Fermentation (MTF), 5 tube 3 dilution, or.	p. 132 [3], 1680 [22 24], 1681 [23 24].	9221C E	9221C E–99	.....	
	Membrane filter (MF) [2], single step.	p. 124 [3]	9222D	9222D–97	B–0050–85 [5]	
2. Coliform (fecal) in presence of chlorine, number per 100 mL.	MTF, 5 tube, 3 dilution, or.	p. 132 [3]	9221C E	9221C E–99	.....	
	MF [12 16] single step [6]	p. 124 [3]	9222D	9222D–97	.....	
3. Coliform (total), number per 100 mL.	MTF, 5 tube, 3 dilution, or.	p. 114 [3]	9221B	9221B–99	.....	
	MF [2], single step or two step.	p. 108 [3]	9222B	9222B–97	B–0025–85 [5]	
4. Coliform (total), in presence of chlorine, number per 100 mL.	MTF, 5 tube, 3 dilution, or MF [2] with enrichment.	p. 114 [3], p. 111 [3]	9221B, 9222(B+B.5c).	9221B–99, 9222(B+B.5c)–97.	.....	
5. *E. coli,* number per 100 mL.	MTF, multiple tube/ multiple well,.	.....	9223B [12]	9223B–97 [12]	991.15 [11]	Colilert® [12 14], Colilert-18® [12 13 14]
	MF [2 6 7 8 9], single step	1603 [16 25]	.....	.....	.....	
6. Fecal streptococci, number per 100 mL.	MTF, 5 tube, 3 dilution,	p. 139 [3]	9230B	9230B–93	.....	
	MF [2], or	p. 136 [3]	9230C	9230C–93	B–0055–85 [5]	
	Plate count	p. 143 [3]	.....	.....	.....	
7. Enterococci, number per 100 mL.	MTF, multiple tube/ multiple well.	.....	.....	.....	D6503–99 [10]	Enterolert® [12 17]

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th ed. [4]	Standard methods on-line [4]	AOAC, ASTM, USGS	Other
	MF [2 6 7 8 9] single step ..	1600 [18 25]	.....	.....	.....	
8. Salmonella, number per 100 mL.	MTF multiple tube	1682 [24 26]	.....	.....	.....	
Aquatic Toxicity:						
9. Toxicity, acute, fresh water organisms, LC50, percent effluent.	Ceriodaphnia dubia acute.	2002.0 [19]	.....	.....	.....	
	Daphnia puplex and Daphnia magna acute.	2021.0 [19]	.....	.....	.....	
	Fathead Minnow, Pimephales promelas, and Bannerfin shiner, Cyprinella leedsi, acute.	2000.0 [19]	.....	.....	.....	
	Rainbow Trout, Oncorhynchus mykiss, and brook trout, Salvelinus fontinalis, acute.	2019.0 [19]	.....	.....	.....	
10. Toxicity, acute, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, LC50, percent effluent.	Mysid, Mysidopsis bahia, acute.	2007.0 [19]	.....	.....	.....	
	Sheepshead Minnow, Cyprinodon variegatus, acute.	2004.0 [19]	.....	.....	.....	
	Silverside, Menidia beryllina, Menidia menidia, and Menidia peninsulae, acute.	2006.0 [19]	.....	.....	.....	
11. Toxicity, chronic, fresh water organisms, NOEC or IC25, percent effluent.	Fathead minnow, Pimephales promelas, larval survival and growth.	1000.0 [20]	.....	.....	.....	
	Fathead minnow, Pimephales promelas, embryo-larval survival and teratogenicity.	1001.0 [20]	.....	.....	.....	
	Daphnia, Ceriodaphnia dubia, survival and reproduction.	1002.0 [20]	.....	.....	.....	
	Green alga, Selenastrum capricornutum, growth.	1003.0 [20]	.....	.....	.....	
12. Toxicity, chronic, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, NOEC or IC25, percent effluent.	Sheepshead minnow, Cyprinodon variegatus, larval survival and growth.	1004.0 [21]	.....	.....	.....	
	Sheepshead minnow, Cyprinodon variegatus, embryo-larval survival and teratogenicity.	1005.0 [21]	.....	.....	.....	
	Inland silverside, Menidia beryllina, larval survival and growth.	1006.0 [21]	.....	.....	.....	

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th ed.[4]	Standard methods on-line [4]	AOAC, ASTM, USGS	Other
	Mysid, Mysidopsis bahia, survival, growth, and fecundity.	1007.0 [21]	.....	.....	.....	
	Sea urchin, Arbacia punctulata, fertilization.	1008.0 [21]	.....	.....	.....	

[1] The method must be specified when results are reported.

[2] A 0.45-μm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] USEPA. 1978. Microbiological Methods for Monitoring the Environment, Water, and Wastes. Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati, OH. EPA/600/8–78/017.

[4] APHA. 1998, 1995, 1992. Standard Methods for the Examination of Water and Wastewater. American Public Health Association. 20th, 19th, and 18th Editions. Amer. Publ. Hlth. Assoc., Washington, DC *http://www.standardmethods.org*.

[5] USGS. 1989. U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples, U.S. Geological Survey, U.S. Department of Interior, Reston, VA.

[6] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Multiple Tube Fermentation method will be required to resolve any controversies.

[7] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[8] When the MF method has not been used previously to test ambient waters with high turbidity, large number of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[9] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current Standard Methods for the Examination of Water and Wastewater or EPA alternate test procedure (ATP) guidelines.

[10] ASTM. 2000, 1999, 1996. Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. American Society for Testing and Materials. 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[11] AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. Association of Official Analytical Chemists International. 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

[12] These tests are collectively known as defined enzyme substrate tests, where, for example, a substrate is used to detect the enzyme β-glucuronidase produced by *E. coli*.

[13] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 h of incubation at 35°C rather than the 24 h required for the Colilert® test and is recommended for marine water samples.

[14] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray®/2000 may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092.

[15] Subject total coliform positive samples determined by 9222B or other membrane filter procedure to 9222G using NA–MUG media.

[16] USEPA. 2004. Method 1603: *Escherichia coli* (*E. coli*) In Water By Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (modified mTEC). U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–04–025.

[17] A description of the Enterolert® test may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092.

[18] USEPA. 2004. Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI). U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–04–023.

[19] USEPA. October 2002. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. Fifth Edition. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA/821/R–02/012.

[20] USEPA. October 2002. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Fourth Edition. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA/821/R–02/013.

[21] USEPA. October 2002. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Third Edition. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA/821/R–02/014.

[22] USEPA. December 2004. Method 1680: Fecal Coliforms in Sewage Sludge by Multiple-Tube Fermentation Using Lauryl-Tryptose *E. coli* (LTEC) Broth. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–R–04–026.

[23] USEPA. December 2004. Method 1681: Fecal Coliforms in Sewage Sludge by Multiple-Tube Fermentation Using A–1 Broth. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–R–04–027.

[24] Recommended for enumeration of target organism in sewage sludge.

[25] Recommended for enumeration of target organism in wastewater effluent.

[26] USEPA. December 2004. Method 1682: *Salmonella* in Sewage Sludge by Multiple-Tube Fermentation Using Modified Semisolid Rappaport-Vassiliadis (MSRV) Medium December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–R–04–028.

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TABLE IG.—LIST OF APPROVED MICROBIOLOGICAL METHODS FOR AMBIENT WATER

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th ed.[4]	Standard methods on-line [4]	AOAC, ASTM, USGS	Other
Bacteria:	MTF [6 8 14] multiple tube	.....	9221B.1 / 9221F [11 13].	9221B.1 / 9221F–g599 [11 13].		
1. E. coli, number per 100 mL	multiple tube/multiple well.	.....	9223B [12]	9223B–97 [12]	991.15 [10]	Colilert® [12 16] Colilert-18® [12 15 16]
	MF [2 5 6 7 8], two step	1103.1 [19]	9222B / 9222G [18], 9213D.	9222B / 9222G–97 [18].	D5392–93 [9] ..	

TABLE IG.—LIST OF APPROVED MICROBIOLOGICAL METHODS FOR AMBIENT WATER—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th ed.[4]	Standard methods on-line [4]	AOAC, ASTM, USGS	Other
	single step	1603 [20], 1604 [21].				mColiBlue-24 [17]
7. Enterococci, number per 100 mL	MTF [6 8] multiple tube		9230B	9230B–93		Entero-lert® [12 22]
	multiple tube/multiple well.				D6503–99 [9].	
	MF [2 5 6 7 8] two step,	1106.1 [23]	9230C	9230C–93	D5259–92 [9]	
	single step, or Plate count.	1600 [24], p. 143 [3].				
Protozoa:						
8. Cryptosporidium	Filtration/IMS/FA	1622 [25], 1623 [26].				
9. Giardia	Filtration/IMS/FA	1623 [26]				

[1] The method must be specified when results are reported.

[2] A 0.45-μm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] USEPA. 1978. Microbiological Methods for Monitoring the Environment, Water, and Wastes. Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati, OH. EPA/600/8–78/017.

[4] APHA. 1998, 1995, 1992. Standard Methods for the Examination of Water and Wastewater. American Public Health Association. 20th, 19th, and 18th Editions. Amer. Publ. Hlth. Assoc., Washington, DC *http://www.standardmethods.org*

[5] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Multiple Tube Fermentation method will be required to resolve any controversies.

[6] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[7] When the MF method has not been used previously to test ambient waters with high turbidity, large number of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[8] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current Standard Methods for the Examination of Water and Wastewater or EPA alternate test procedure (ATP) guidelines.

[9] ASTM. 2000, 1999, 1996. Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. American Society for Testing and Materials. 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[10] AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. Association of Official Analytical Chemists International. 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

[11] The multiple-tube fermentation test is used in 9221B.1. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[12] These tests are collectively known as defined enzyme substrate tests, where, for example, a substrate is used to detect the enzyme β-glucuronidase produced by *E. coli.*

[13] After prior enrichment in a presumptive medium for total coliform using 9221B.1, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F. Commercially available EC–MUG media or EC media supplemented in the laboratory with 50 μg/mL of MUG may be used.

[14] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray® or Quanti-Tray® 2000, and the MPN calculated from the table provided by the manufacturer.

[15] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 h of incubation at 35 °C rather than the 24 h required for the Colilert® test and is recommended for marine water samples.

[16] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray®/2000 may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092.

[17] A description of the mColiBlue24® test, Total Coliforms and *E. coli,* is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

[18] Subject total coliform positive samples determined by 9222B or other membrane filter procedure to 9222G using NA–MUG media.

[19] USEPA. 2004. Method 1103.1: *Escherichia coli (E. coli)* In Water By Membrane Filtration Using membrane-Thermotolerant *Escherichia coli* Agar (mTEC). U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–04–024.

[20] USEPA. 2004. Method 1603: *Escherichia coli (E. coli)* In Water By Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (modified mTEC). U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–04–025.

[21] Preparation and use of MI agar with a standard membrane filter procedure is set forth in the article, Brenner *et al.* 1993. ''New Medium for the Simultaneous Detection of Total Coliform and *Escherichia coli* in Water.'' Appl. Environ. Microbiol. 59:3534–3544 and in USEPA. 2002. Method 1604: Total Coliforms and *Escherichia coli (E. coli)* in Water by Membrane Filtration by Using a Simultaneous Detection Technique (MI Medium). U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA 821–R–02–024.

[22] A description of the Enterolert® test may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092.

[23] USEPA. 2004. Method 1106.1: Enterococci In Water By Membrane Filtration Using membrane-Enterococcus-Esculin Iron Agar (mE–EIA). U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–04–022.

[24] USEPA. 2004. Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI). U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–04–023.

[25] Method 1622 uses filtration, concentration, immunomagnetic separation of oocysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the detection of *Cryptosporidium.* USEPA. 2001. Method 1622: *Cryptosporidium* in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–01–026.

[26] Method 1623 uses filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the simultaneous detection of *Cryptosporidium* and *Giardia* oocysts and cysts. USEPA. 2001. Method 1623. *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–01–025.

(b) * * *

REFERENCES, SOURCES, COSTS, AND TABLE CITATIONS:

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(54) USEPA. 2004. Method 1103.1: Escherichia coli (E. coli) in Water by Membrane Filtration Using membrane-Thermotolerant Escherichia coli Agar (mTEC). U.S. Environmental Protection Agency, Office of Water, Washington, DC December 2004, EPA–821–R–04–024. Table IG, Note 19.

(55) USEPA. 2004. Method 1106.1: Method 1600: Enterococci in Water by Membrane Filtration using membrane-Enterococcus-Esculin Iron Agar (mE-EIA). December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–R–04–022. Table IG, Note 23.

(56) USEPA. 2004. Method 1603: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (Modified mTEC). U.S. Environmental Protection Agency, Office of Water, Washington, DC December 2004, EPA–821–R–04–025. Table IA, Note 16, and Table IG, Note 20.

* * * * *

(59) USEPA. 2004. Method 1600: Enterococci in Water by Membrane Filtration using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI). December 2004. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–04–023. Table IA, Note 18, and Table IG, Note 24.

* * * * *

(63) USEPA. 2004. Method 1680: Fecal Coliforms in Sewage Sludge by Multiple-Tube Fermentation Using Lauryl-Tryptose E. coli (LT–EC) Broth. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–R–04–026. Table IA, Note 22.

(64) USEPA. 2004. Method 1681: Fecal Coliforms in Sewage Sludge by Multiple-Tube Fermentation Using A–1 Broth. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–R–04–027. Table IA, Note 23.

(65) USEPA. 2004. Method 1682: *Salmonella* in Sewage Sludge by Multiple-Tube Fermentation Using Modified Semisolid Rappaport-Vassiliadis (MSRV) Medium. December 2004. U.S. Environmental Protection Agency, Office of Water, Washington DC EPA–821–R–04–028. Table IA, Note 26.

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(e) * * *

TABLE II.—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter No./name	Container [1]	Preservation [2 3 17]	Maximum holding time [4 17]
Tables IA, IG—Bacteria Tests:			
1–5 Coliform, total, fecal, and E. coli	PP,G	Cool, < 10 °C [18] 0.0008% $Na_2S_2O_3$ [5 18]	6 hours [19], 24 hours [20]
6 Fecal streptococci	PP,G	Cool, < 10 °C, 0.0008% $Na_2S_2O_3$ [5]	6 hours [19]
7 Enterococci	PP,G	Cool, < 10 °C, 0.0008% $Na_2S_2O_3$ [5]	6 hours [19]
8 Salmonella	PP,G	Cool, < 10 °C [18]	6[19] or 24 hours [21]
Table IG—Protozoa Tests:			
9 Cryptosporidium	LDPE	0–8 °C	96 hours [17]
10 Giardia	LDPE	0–8 °C	96 hours [17]

* * * * * * *

[1] Polyethylene (P) or glass (G). For microbiology, plastic sample containers must be made of sterilizable materials (polypropylene or other autoclavable plastic).

[2] Sample preservation should be performed immediately upon sample collection. For composite chemical samples each aliquot should be preserved at the time of collection. When use of an automated samples make it makes it impossible to preserve each aliquot, then chemical samples may be preserved by maintaining at 4°C until compositing and sample splitting is completed.

[3] When any sample is to be shipped by common carrier or sent through the United States Mails, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirements of Table II, the Office of Hazardous Materials, Transportation Bureau, Department of Transportation, has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater); Nitric acid (HNO_3) in water solutions at concentrations of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric acid (H_2SO_4) in water solutions at concentrations of 0.35% by weight or less (pH about 1.15 or greater); and Sodium hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before analysis and still be considered valid. Samples may be held for longer periods only if the permittee, or monitoring laboratory, has data on file to show that for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under § 136.3(e). Some samples may not be stable for the maximum time period given in the table. A permittee, or monitoring laboratory, is obligated to hold the sample for a shorter time if knowledge exists to show that this is necessary to maintain sample stability. See § 136.3(e) for details. The term ''analyze immediately'' usually means within 15 minutes or less of sample collection.

[5] Should only be used in presence of residual chlorine.

* * * * * * *

[17] Holding time is calculated from time of sample collection to elution for samples shipped to the laboratory in bulk and calculated from the time of sample filtration to elution for samples filtered in the field.

[18] Sewage sludge samples collected for fecal coliform and *Salmonella* analysis do not require the addition of 0.0008% $Na_2S_2O_3$.

[19] Holding time for bacterial tests is 6 hours for transport of the sample to the laboratory, and an additional 2 hours to process the sample in the laboratory.

[20] An extended holding time of 24 hours is limited to sewage sludge Class A composted samples to be analyzed for fecal coliforms using either EPA Method 1680 (LTB/EC) or EPA Method 1681 (A–1) and Class B aerobically digested samples using EPA Method 1681 (A–1) only. Initial analysis of the sample in the laboratory must commence within 24 hours of sample collection.

[21] An extended holding time of 24 hours is limited to sewage sludge Class A composted samples to be analyzed for *Salmonella* using EPA Method 1682 (MSRV) only. Initial analysis of the sample in the laboratory must commence within 24 hours of sample collection.

[FR Doc. 05–16195 Filed 8–15–05; 8:45 am]

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Vol. 70, No. 157

Tuesday, August 16, 2005

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FEDERAL REGISTER PAGES AND DATE, AUGUST

44041–44218 1
44219–44462 2
44463–44846 3
44847–45272 4
45273–45522 5
45523–46064 8
46065–46402 9
46403–46740 10
46741–47076 11
47077–47710 12
47711–48056 15
48057–48268 16

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7916 46401
Executive Orders:
13222 (See Notice of August 2, 2005) 45273
Administrative Orders:
Memorandums:
Memorandum of July 4, 2005 44041
Memorandums of July 30, 2005 46741
Memorandum of August 5, 2005 46397
Presidential Determination:
No. 2005-31 of August 2, 2005 46395
Notices:
Notice of August 2, 2005 45273

5 CFR

213 44219
315 44219
337 44847
370 47711
576 46065
Proposed Rules:
591 44976
1201 48081
2634 47138

7 CFR

1 47077
247 47052
301 ..... 44222, 45523, 46065
400 44222
916 44243
917 44243
923 44249
946 44252
996 44043
Proposed Rules:
82 44525
762 ..... 46779, 47730
920 48082
1755 45314

9 CFR

77 47078
78 47078
Proposed Rules:
3 45322
304 47147
308 47147
310 47147
320 47147
327 47147
381 47147
391 48238
416 47147
417 47147
590 48238
592 48238

10 CFR

110 46066
170 46265
171 46265
1303 47079
Proposed Rules:
20 45571
32 45571
51 47148
150 45571

12 CFR

11 46403
25 44256
226 46066
228 44256
229 47085
335 44270
345 44256
Proposed Rules:
Ch. I 46779
Ch. II 46779
Ch. III 46779
Ch. V 46779
4 45323
19 45323
263 45323
264a 45323
308 45323
330 45571
336 45323
363 44293
507 45323
509 45323

13 CFR

Ch. III 47002, 47049

14 CFR

23 ..... 44463, 45275
36 45502
39 ..... 44046, 44273, 44274, 44276, 45526, 46067, 46069, 46072, 46074, 46076, 46743, 46747, 46752, 46754, 47086, 47716, 47720, 47722
61 45264
71 ..... 44465, 45275, 45527, 46078, 46754, 48057, 48238
73 ..... 44466, 45528
95 44278
97 47090
257 44848
1260 46079
Proposed Rules:
25 ..... 46099, 46100, 46102, 46104, 46106, 46108, 46110, 46112, 46113, 46115, 46785
39 ..... 44297, 45581, 45585,

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT AUGUST 16, 2005

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; published 6-17-05

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Communicable diseases control:
- Turtles intrastate and interstate requirements; technical amendment; published 8-16-05

Food for human consumption:
- Irradiation in production, processing, and handling of food—
  - Fresh or frozen molluscan shellfish; safe use of ionizing radiation; published 8-16-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Boeing; published 7-12-05

TREASURY DEPARTMENT

Foreign Assets Control Office

Burmese sanctions regulations; published 8-16-05

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Almonds grown in—
- California; comments due by 8-26-05; published 6-27-05 [FR 05-12623]

Apricots grown in—
- Washington; comments due by 8-26-05; published 6-27-05 [FR 05-12620]

Avocados grown in—
- Florida; comments due by 8-23-05; published 6-24-05 [FR 05-12616]

Cotton classing, testing and standards:
- Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Potatoes (Irish) grown in—
- Colorado; comments due by 8-26-05; published 6-27-05 [FR 05-12619]

AGRICULTURE DEPARTMENT

Forest Service

Oil and gas operations:
- Onshore Federal and Indian oil and gas leases; approval of operations (Order No.1); comments due by 8-26-05; published 7-27-05 [FR 05-14103]

AGRICULTURE DEPARTMENT

Farm Service Agency

Special programs:
- Interest Assistance Program; comments due by 8-22-05; published 6-22-05 [FR 05-12316]

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Reports and guidance documents; availability, etc.:
- National Handbook of Conservation Practices; Open for comments until further notice; published 5-9-05 [FR 05-09150]

COMMERCE DEPARTMENT

Industry and Security Bureau

Chemical Weapons Convention Regulations:
- Small business entities; economic impact; comments due by 8-22-05; published 7-21-05 [FR 05-14441]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Gulf grouper; comments due by 8-24-05; published 7-25-05 [FR 05-14604]
- Magnuson-Stevens Act provisions—
  - National standard guidelines; comments due by 8-22-05; published 6-22-05 [FR 05-11978]

Marine mammals:
- Commercial fishing authorizations; incidental taking—
  - Atlantic Large Whale Take Reduction Plan; comments due by 8-22-05; published 7-13-05 [FR 05-13795]
- Taking and importation—
  - BP Exploration; Beaufort Sea, AK; offshore oil and gas facilities; construction and operation; comments due by 8-24-05; published 7-25-05 [FR 05-14620]

COMMERCE DEPARTMENT

Patent and Trademark Office

Practice and procedure:
- Chemical and three-dimensional biological structural data in electronic format; acceptance, processing, use and dissemination; comments due by 8-22-05; published 6-21-05 [FR 05-12199]
- Patent search fee refund provision changes; implementation; comments due by 8-22-05; published 6-21-05 [FR 05-12198]

CONSUMER PRODUCT SAFETY COMMISSION

Flammable Fabrics Act:
- Mattresses and Mattress and foundation sets; flammability (open flame) standard; comments due by 8-22-05; published 6-23-05 [FR 05-12387]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:
- Combating trafficking in persons; comments due by 8-22-05; published 6-21-05 [FR 05-12099]
- Construction contracting; comments due by 8-22-05; published 6-21-05 [FR 05-12096]
- Contractor insurance/pension reviews; comments due by 8-22-05; published 6-21-05 [FR 05-12097]
- Describing agency needs; comments due by 8-22-05; published 6-21-05 [FR 05-12098]
- Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

Federal Acquisition Regulation (FAR):
- Past performance evaluation of orders; comments due by 8-22-05; published 6-21-05 [FR 05-12183]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:
- Vocational and adult education—
  - Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:
- Environmental Management Site-Specific Advisory Board—
  - Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:
- Test procedures and efficiency standards—
  - Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric rate and corporate regulation filings:
- Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

Electric utilities (Federal Power Act):
- Public utilities including regional transmission organizations; accounting and financial reporting requirements; comments due by 8-26-05; published 6-27-05 [FR 05-12626]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Indiana; comments due by 8-24-05; published 7-25-05 [FR 05-14600]

STATE DEPARTMENT

Visas; nonimmigrant and immigrant documentation:

Unlawful voters; comments due by 8-22-05; published 6-21-05 [FR 05-12219]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Generalized System of Preferences:

2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 8-22-05; published 7-21-05 [FR 05-14393]

Agusta S.p.A.; comments due by 8-23-05; published 6-24-05 [FR 05-12419]

Boeing; comments due by 8-22-05; published 7-6-05 [FR 05-13222]

Cessna; comments due by 8-22-05; published 6-21-05 [FR 05-12149]

General Electric Co.; comments due by 8-22-05; published 6-21-05 [FR 05-12173]

Lycoming; comments due by 8-22-05; published 7-22-05 [FR 05-14575]

McDonnell Douglas; comments due by 8-22-05; published 7-8-05 [FR 05-13436]

Sikorsky; comments due by 8-22-05; published 6-23-05 [FR 05-12417]

Turbomeca, S.A.; comments due by 8-23-05; published 6-24-05 [FR 05-12415]

Airworthiness standards:

Class E airspace; comments due by 8-26-05; published 7-12-05 [FR 05-13661]

Area navigation routes; comments due by 8-22-05; published 7-6-05 [FR 05-13266]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Designated seating positions and seat belt assembly anchorages; comments due by 8-22-05; published 6-22-05 [FR 05-12240]

TRANSPORTATION DEPARTMENT

Pipeline and Hazardous Materials Safety Administration

Pipeline safety:

Gas pipelines; polyamide-11 plastic pipe use; comments due by 8-22-05; published 6-22-05 [FR 05-12356]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Attained age of the insured under section 7702; comments due by 8-24-05; published 5-24-05 [FR 05-10166]

Dual consolidated losses; comments due by 8-22-05; published 5-24-05 [FR 05-10160]

Partnership equity for services; comments due by 8-22-05; published 5-24-05 [FR 05-10164]

Qualified intellectual property contributions; information returns by donees; cross-reference; comments due by 8-22-05; published 5-23-05 [FR 05-10228]

Safe harbor for valuation under section 475; comments due by 8-22-05; published 5-24-05 [FR 05-10167]

Section 367 stock transfers involving foreign corporations in transactions governed by section 304; comments due by 8-23-05; published 5-25-05 [FR 05-10267]

Section 752 assumption of partner liabilities; cross reference; comments due by 8-24-05; published 5-26-05 [FR 05-10265]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 3423/P.L. 109–43

Medical Device User Fee Stabilization Act of 2005 (Aug. 1, 2005; 119 Stat. 439)

H.R. 38/P.L. 109–44

Upper White Salmon Wild and Scenic Rivers Act (Aug. 2, 2005; 119 Stat. 443)

H.R. 481/P.L. 109–45

Sand Creek Massacre National Historic Site Trust Act of 2005 (Aug. 2, 2005; 119 Stat. 445)

H.R. 541/P.L. 109–46

To direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries. (Aug. 2, 2005; 119 Stat. 448)

H.R. 794/P.L. 109–47

Colorado River Indian Reservation Boundary Correction Act (Aug. 2, 2005; 119 Stat. 451)

H.R. 1046/P.L. 109–48

To authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming. (Aug. 2, 2005; 119 Stat. 455)

H.J. Res. 59/P.L. 109–49

Expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States. (Aug. 2, 2005; 119 Stat. 457)

S. 571/P.L. 109–50

To designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the ''Congresswoman Shirley A. Chisholm Post Office Building''. (Aug. 2, 2005; 119 Stat. 459)

S. 775/P.L. 109–51

To designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the ''Boone Pickens Post Office''. (Aug. 2, 2005; 119 Stat. 460)

S. 904/P.L. 109–52

To designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the ''Brian P. Parrello Post Office Building''. (Aug. 2, 2005; 119 Stat. 461)

H.R. 3045/P.L. 109–53

Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Aug. 2, 2005; 119 Stat. 462)

H.R. 2361/P.L. 109–54

Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Aug. 2, 2005; 119 Stat. 499)

H.R. 2985/P.L. 109–55

Legislative Branch Appropriations Act, 2006 (Aug. 2, 2005; 119 Stat. 565)

S. 45/P.L. 109–56

To amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes. (Aug. 2, 2005; 119 Stat. 591)

S. 1395/P.L. 109–57

Controlled Substances Export Reform Act of 2005 (Aug. 2, 2005; 119 Stat. 592)

Last List August 2, 2005

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